



KENNETH MAGIDSON
DISTRICT ATTORNEY
HARRIS COUNTY, TEXAS

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Public Information Office: 713-755-3320
Donna Hawkins
George Flynn

Hearing Set for Tomorrow:

DNA Results Prompt DA to Seek Freedom for Convicted Inmate

(Houston, TX) – Harris County District Attorney Kenneth Magidson announced Thursday that prosecutors will request to have Ricardo Rachell freed and his sexual assault conviction reversed, after DNA tests showed he did not commit the crime.

The request will be made jointly with defense lawyer Deborah Summers. They will ask 185th District Judge Susan Brown, who presided over the trial, to allow Rachell to be released on bond as he begins the legal process required to overturn the 2003 jury verdict. Brown is scheduled to hear the motion Friday (tomorrow, Dec. 12).

Rachell, 51, has served five years of the 40-year sentence assessed by a jury on his conviction of aggravated sexual assault of an eight-year-old boy in 2002.

“As soon as the evidence was found to exonerate him, we have acted as swiftly as possible to see that justice is done in this case,” District Attorney Magidson said.

The case is among about 540 that have been reviewed – or are currently under review -- by the DA’s Office since 2001. That year, the Texas Legislature enacted a law to establish procedures for convicts to seek DNA testing. The case reviews have led to the release of three other inmates convicted by Harris County courts.

Under terms of the 2001 law, Rachell filed his request for DNA analysis in April 2007. After reviewing the case, the DA’s Office asked for tests to be ordered. Results showed his DNA did not match that of the rapist.

The Houston Police Department had collected DNA evidence during the investigation, but no DNA issues emerged in the trial. Two eyewitnesses, including the victim, had identified Rachell as the assailant. The DNA was not analyzed until his later request for testing was granted.

Magidson said a mistake was made in not having the “rape kit” analyzed prior to the trial. The DA’s Office did not oppose the testing request by Rachell.

The District Attorney said the case demonstrates that the system and process for writs – the post-appellate challenges of convictions – do work. “We feel confident that, with our assistance, he will be able to gain his freedom,” Magidson said.

The DA’s Office will also support any request by Rachell for a full pardon.

Investigators have reopened the 2002 rape investigation. They have identified a suspect in the case, who has not yet been charged.

Magidson pledged to continue the thorough reviews and investigations prompted by convicts’ DNA testing requests. The Office will also continue its agreement with the Innocence Project for DNA testing in cases presented by the Innocence Project.

(End)

[A summary of the chronology of events can be accessed on the DA’s Web site, at this link: <http://app.dao.hctx.net/NewsRoom.aspx?id=49>]

