

# Two men cleared after wrongful imprisonment for rape

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Two men wrongfully imprisoned for a 1991 rape were cleared by a Manhattan judge Monday, following an admission by their accuser last month that the sex attack never happened.

“There’s nothing that anybody in the system can do to make up for what you’ve been through,” Judge Mark Dwyer told Gregory Counts and Van Dyke Perry before dismissing and sealing their cases in Manhattan Supreme Court.

Counts and Perry – who served a combined 37 years in prison — were brought to tears in the courtroom as their cases were finally tossed for good. Counts, 45, spent 26 years in prison, while Perry, 47, served 11 years.

“These men were convicted of kidnapping, rape and sodomy, because of testimony of a complainant who recanted her testimony just two weeks ago,” Manhattan DA Cy Vance Jr. told Dwyer, as he asked the judge to “right an injustice.”

“She admitted she fabricated her account,” Vance said of the unnamed woman who claimed Perry, Counts and another man brutalized her in a car in Central Park. “Her boyfriend forced her to lie, and the reason was that her boyfriend was trying to avoid paying a debt to Mr. Counts.

“They were imprisoned during the prime of their lives for a crime that they didn’t commit,” said Vance, adding that new DNA evidence and a joint investigation by his office and defense attorneys aided the exoneration.

But he said the statute of limitations had run out for his office to pursue charges against the woman or her boyfriend for false report.

After the hearing, Perry said he planned to seek civil justice with a lawsuit. He was paroled in 2001, and promptly left New York City for Washington state.

“I’m not staying in New York, they got me for a crime I didn’t do,” the father of six said as he left court. “It’s going to be haunting me forever.”

Counts finally walked free last fall, and has had trouble holding down a job since, he said.

“I did 27 years for something I didn’t do,” said Counts, tears in his eyes. “I can’t describe what I went through.

“But I don’t have hate for nobody, I can’t be angry,” he said. “I’m not going to waste my life being bitter.”

Both men spent years appealing their convictions while imprisoned, to no avail.

It wasn’t until Counts, in solitary confinement, was passed a copy of lawyer Barry Scheck’s book, “Actual Innocence.” He wrote Scheck, who would later become his lawyer.

“We are grateful to the New York County District Attorney’s Office for working collaboratively with us and moving to quickly restore justice to Mr. Counts and Mr. Perry,” Scheck said in a statement Monday.

Prosecutors opened an investigation into the case last year before the woman recanted, when DNA evidence from a rape kit didn’t match either Counts or Perry.

As both men walked out of the 13th-floor courtroom, their friends and family erupted in applause.

Their case is the ninth overturned by the Manhattan DA’s Conviction Integrity Unit since it was established in 2010.