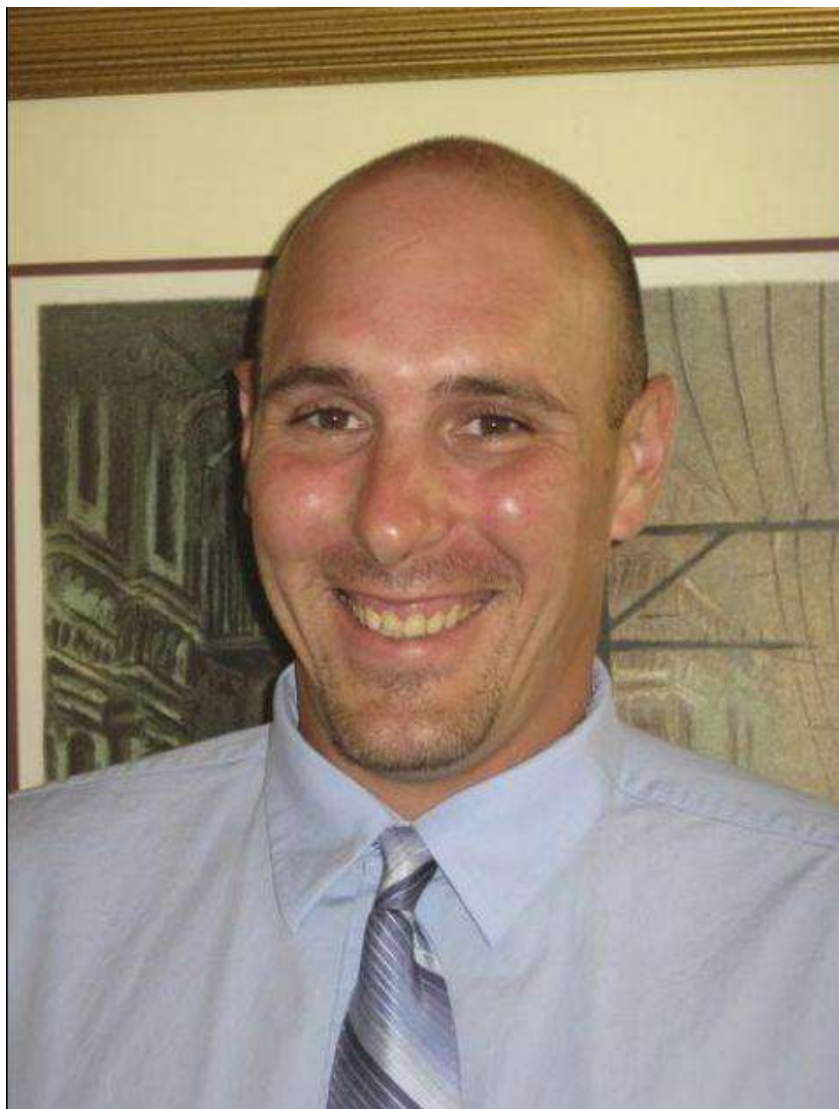


## Rape case ends after DNA test

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Brian Scott Harden

## A man's wife said he assaulted her twice; evidence said otherwise.

It was a smoking gun of sorts, a DNA-laced BB gun that was the centerpiece of a rape charge against a Bradenton man.

Brian Scott Harden's wife told prosecutors that Harden raped her twice -- including once at gunpoint. Harden was looking at spending the rest of his life in prison.

His case was marching along through the court system when his attorneys got a letter this year from the Florida Department of Law Enforcement, which inspected the BB gun.

There was DNA on the pistol, yes, but it did not belong to Harden. The fluid was that of another man, the felon who was dating Harden's 30-year-old wife.

"Brian was arrested by the police and exonerated by science," defense attorney Mark Lipinski said Friday.

This week, prosecutors dropped two rape charges against Harden, 32, saying the state had "no hope" of securing a conviction against him given the "depth and breadth" of false testimony from Harden's wife, who first sought rape charges in 2005. Another rape charge was added in 2006.

Harden said the thought of spending the rest of his life locked up gnawed away at him. When he closed his eyes, he saw jail bars.

"It's been a rough three years," Harden said in an interview Friday. "It's a roller coaster ride I will never forget -- and I hate roller coasters."

The state was left with the uncorroborated testimony from Harden's wife and a single, ominous voice message from Harden in which he said, according to court records: "Right now, I'm a monster and I've got to stop it."

Prosecutors filed the cases in part due to medical records from Harden's wife that showed evidence that authorities said was consistent with domestic violence victims, Assistant State Attorney Brian A. Iten said.

Harden's attorneys, Lipinski, Scarlett R. Guy and Robert L. Cook II, were thrilled the state dropped the charges. Cook said Friday that it is a rarity that DNA exonerates a criminal defendant.

“This was a big deal,” Cook said. “The DNA evidence was pretty tough to get around for the prosecutor.”

In November 2005, Harden’s wife filed court papers seeking an injunction against Harden. She said Harden had raped her a month earlier and at other unspecified times.

A Manatee County sheriff’s deputy went to talk to Harden’s wife the next day to check on her well-being, according to court records.

In a supplemental statement, Harden’s wife changed the date for the rape that she claimed happened in October 2005 and added another rape that she claimed happened in November 2005, prosecutors said.

“I suffered a sexual assault that was so horrible I cannot discuss it,” she wrote in an affidavit.

The alleged victim, who is identified only by her initials in court papers, told sheriff’s detectives that Harden held a gun to her head and forced her to have sex. Harden was accused of inserting the gun into his wife.

Harden’s wife maintained the story in a deposition in September last year. But after the DNA analysis on the gun came back, she changed her story.

Circuit Judge Diana Moreland allowed Brian Harden’s attorneys to re-interview the alleged victim in a deposition earlier this year.

“Had DNA never been done on the gun, would you have maintained that story that Brian Harden had sex with you ... and then assaulted you with the gun?” Lipinski asked the woman.

“Yes,” the woman said, according to a transcript of the deposition.

“You would have said that at trial, too?” the defense attorney asked.

“Yes,” she said.

“So you would have lied to the jury then?” Lipinski asked the alleged victim.

“Probably so,” the woman replied.

“So when the gun was found and DNA was done, you felt trapped in a lie, correct?” Lipinski asked.

“Well, yes,” the woman said.

Harden and his wife, who were high school sweethearts, are in the middle of a divorce that is not final. Harden has two daughters and a son.

The criminal case, however, is over.

To assure himself, Harden frequently verifies the status of the case online. “I keep checking the clerk’s site to see ‘closed,’” Harden said.

<https://www.heraldtribune.com/news/20080531/rape-case-ends-after-dna-test>