

NC man serving life for murder with little evidence

Tests confirm his DNA wasn’t at the scene of 2007 stabbing

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Prosecutors said Stephen Yarborough was sexually assaulted, then fatally stabbed in 2007. His home was filled with physical evidence: a bloody palm print. Blood on his eyeglasses. Stains on his underwear. Two cigarette butts from an ash-tray that had spilled onto the floor.

Much of that evidence was tested for DNA. None of it matched the man serving life in prison for the crime.



Thorpe

When Yarborough’s rape kit was finally analyzed with the latest technology 15 years later, Dominaque Thorpe’s DNA wasn’t there, either.

But under North Carolina law, those results haven’t helped him at all.

That’s because a state law says it’s up to a judge to decide whether the results of post-conviction DNA tests are “favorable” or “unfavorable” to the defense. If a judge finds them unfavorable, the conviction and sentence stand.

Similar laws are on the books in 20 other states.

In Thorpe’s case, no foreign DNA at all was found in the victim’s rape kit. After North Carolina Superior Court Judge John M. Dunlow “considered the testimony ... considered the exhibits offered by the state and the defendant, considered all submissions of the parties and the arguments of counsel, and reviewed the official file,” he decided the lack of DNA was unfavorable to the defense.

One of Thorpe’s attorneys, Christine Mumma of the North Carolina Center on Actual Innocence, disagreed. She said the absence of DNA is favorable to her client because it undermines the theory of the case prosecutors presented to the jury – one that had “a violent oral and anal rape” as part of the murder, she said.

“There was never a question in our minds that it was favorable,” she said. “When we got the order, we were shocked and concerned that there was a bigger problem.”

Under state law, Thorpe can’t appeal the judge’s finding. Still, on April 24, he petitioned the state Supreme Court to reverse it and classify the results as favorable. If the court rules in his favor, the original judge would be required to enter an order that “serves the interest of justice,” such as ordering a new trial, dismissing the charges or handing down a new sentence.

Thorpe’s story illustrates the numerous roadblocks people who claim innocence in cases with backlogged rape kits can face, even in states such as North Carolina that have received federal grants to deal with the problem.

Testing rape kits with new technology

Since 2015, the federal program, known as the Sexual Assault Kit Initiative, has awarded about \$350 million to 90 state and local agencies to test hundreds of thousands of untested and partially tested rape kits that had piled up nationwide for decades.

Some of the agencies used part of their grant funding to reanalyze partially tested kits with the latest technology.

In many older cases, the evidence initially was screened using serology, a method that detects the presence of fluid such as semen. If there was a negative result, DNA testing was not done. That was common practice around the country in the early days of DNA technology, when more genetic material was needed to develop a DNA profile. Now, scientists need just a few cells from skin or even sweat to develop one.

North Carolina has retested such kits in cold cases, leading to at least three convictions. But people claiming wrongful conviction can’t access the new testing unless a judge approves.

In other states, grant recipients have automatically tested backlogged kits despite a previous confession, guilty plea or conviction, or if the suspect’s DNA already was in the national database. North Carolina is among at least 10 states where that didn’t happen. About 5% of North Carolina’s overall backlog – 832 kits – were not tested because someone already had been convicted of the crime.

There are no exceptions for inmates like Thorpe, who has steadfastly maintained his innocence. They must reach an agreement with the prosecution or get a court order for DNA testing. In Thorpe’s case, the Center on Actual Innocence spent \$11,500 on the testing, Mumma said.

“They falsely put a charge on me for something I had no knowledge of,” Thorpe told USA TODAY in a December 2024 phone interview from prison.

Before the 2016 trial that resulted in his conviction and life sentence, Thorpe (whose first name is sometimes spelled



Attorney Christine Mumma is shown with Quentin Royster, one of three men convicted in connection with the 2007 death of Stephen Yarborough in North Carolina. There was no physical evidence tying Royster or his co-defendants to the crime. PROVIDED BY CHRISTINE MUMMA

Dominique in records) refused a plea deal that would have allowed him to be released from prison after about 15 years to 19 years.

“I didn’t take it because I didn’t do anything,” said Thorpe, who has resolved earlier criminal charges with plea agreements. “I would have taken it if I would’ve done it, but I’m not taking a plea for something I didn’t do.”

Alternative suspects

Back in August 2007, Yarborough, 46, lived in a white house near a convenience store in a rough area of the small town of Roxboro, North Carolina. He was a loving uncle to two nephews, once surprising them at Easter with baskets on their porch and eggs hidden around the yard, his sister testified at Thorpe’s trial. He was well-liked by his neighbors and by the people who worked with him.

“He was cool,” one woman recalled during Thorpe’s trial. “He was the dollar store man. If you needed something at the dollar store, he was there. He would bring broken things home or things that were outdated. He would give them to us for real cheap prices.”

Another witness testified about Yarborough’s generosity. “Steve was a good person,” the man recalled. “He would give the shirt off his back.”

Yarborough’s body was discovered in the bathtub of his home on Aug. 26, 2007. He had been stabbed 20 times and his body had begun to decompose. Blood throughout the house led police to believe Yarborough was killed in the living room and dragged into the bathroom.

A former boyfriend, Maurice Paylor, reported finding the body. The lead investigators on the case, Keith Daye of the Roxboro Police Department and Phillip Stevens of the North Carolina Bureau of Investigation, questioned Paylor at least six times.

They learned that Paylor and Yarborough had gotten into a fistfight in the parking lot of the Dollar General shortly before the murder. By then, Paylor had a girlfriend. Yarborough told the woman about his past relationship with Paylor, and Paylor punched Yarborough several times, police and court records show. Police got warrants to search the woman’s house, where Paylor was living, and her car, but found nothing tying him to the murder.

“If we wanted to really charge somebody and had a good case, it would have been Maurice Paylor,” said Daye, who now investigates homicides for the Granville County Sheriff’s Office. “We had so much circumstantial evidence against Maurice. I told him, ‘I could charge you right now and get a conviction.’”

But there was no physical evidence and no motive, Daye told USA TODAY.

“Maurice loved that guy,” Daye said. “And Steve was the gravy train. Anything Maurice needed, he would call Steve.”

The DNA of a second suspect, Winston Williams, was found on one of the cigarette butts. Another man’s DNA was found on the other.

Williams had been living with Yarborough until June 2007. Yarborough kicked him out for letting people smoke crack in the house, and Williams threatened Yarborough with a knife, according to police and court records. Williams told police he hadn’t been inside the house since. That would mean no one had emptied the ash-tray for 2½ months.

The stains on Yarborough’s underwear didn’t contain enough DNA for a full profile, but the partial one developed from them

did not exclude Williams, who was not charged. It did exclude Thorpe, the man convicted.

Later, while Williams was in prison for a different crime, a man who had shared a cell with him wrote a letter to the district attorney, saying Williams seemed very interested in the DNA testing that had been done in the case. Williams, the man claimed, said he had spent Yarborough’s last night with him. The two argued, the cellmate said, and when Williams woke up in the morning, Yarborough was dead.

Prosecutors did not respond to the letter, so the man contacted the defense attorney. The judge did not allow the cellmate to testify at Thorpe’s trial.

Daye did testify. On the stand and during his interview with USA TODAY, the detective said he believed the murder was committed by a third suspect: Jerome Lamberth.

Lamberth had previously lived with Yarborough, and left town shortly after the homicide. At least six different people provided police with information tying Lamberth to the crime, Daye said, and clothing found in Yarborough’s home was the perfect fit for Lamberth.

“We were comfortable that this guy did it, and we wanted to find him,” Daye told a reporter.

But they couldn’t. They tracked Lamberth to an address in Virginia, but he wasn’t there. They put out an alert, but it turned up no sign based on his name, Social Security number or birth date, leading them to believe he had gone into hiding and perhaps changed his name. His car was found in a Roxboro scrapyard. Lamberth was never charged.

Man in prison previously cleared

Daye and Stevens worked the case for about five years. Early in the investigation, they questioned Thorpe and the two other men later charged in the case, Quentin Royster and Kenneth Snead.

The detectives cleared all three.

“There was no physical evidence that linked them to the murder,” Daye said. “It just wasn’t there.”

What’s more, the number of stab wounds indicated a crime of passion, the investigators believed – but Thorpe, Royster and Snead barely knew Yarborough.

At the time, all three men were addicted to crack. Thorpe and Royster hustled for a local dealer, Kimwon Street, serving as middlemen between him and his customers. They were paid in drugs, Street testified at Thorpe’s trial.

Snead was never even a suspect, Daye told USA TODAY. Royster had a credible alibi.

Daye testified at a post-conviction hearing that he became even more convinced of Royster’s innocence after arresting him for a different crime months after Yarborough was killed.

“I started reading his arrest warrant. He thought it was the murder warrant,” Daye recalled from the stand. “And I couldn’t even read it because he stood up and kept yelling, ‘I’m not a killer, Keith Daye, I’m not a killer!’ So that was kind of convincing to me.”

As for Thorpe, Daye called him “a menace” to the community.

“During the investigation, there was circumstantial evidence that put Dominaque in the area during the time of the murder,” Daye told USA TODAY. “As a matter of fact, Dominaque stayed in the area while we were processing the crime scene, riding his (moped) around in circles 50 yards from the crime scene.”

Thorpe was questioned several times, Daye said, but never wavered in his insistence that he had not gone into Yarborough’s house the night of the murder.

“I knew Dominaque very well. I had arrested him on several things,” Daye said. “He would rob people, and beat up people, but I didn’t think he had the instinct of a killer.”

The case went cold.

Informant’s tip reopens the case

In 2012, Daye resigned from the Roxboro Police Department, and Detective Ricky Hughes took over the case.

Less than a year later, Hughes got a call from the jail, records show. A woman named Blanche Smith, who had been arrested on a drug charge, wanted to give him information on dealers in hopes of getting a break.

The detective asked if she knew anything about Yarborough’s murder.

“When I took the case over, I lived it. I ate it. I slept it,” Hughes testified at Thorpe’s trial. “Anybody that I would talk to, I’m going to ask them about Steve Yarborough’s murder.”

Smith told Hughes she had seen Thorpe holding a bloody shirt the day after the murder. She said she ran into him in New York a couple of months later and asked about it. Thorpe told her he was there when Royster “messed up” Yarborough with an ice pick, she said.

Even though the medical examiner determined that the wounds had been made

with a “sharp cutting instrument” – more consistent with a knife than an ice pick – the investigation was reopened.

The theory prosecutors later presented to jurors was that Thorpe and Royster needed money for crack, and Yarborough agreed to pay them for sex. The two repeatedly went back and forth from a cookout at Street’s house to Yarborough’s house for more cash. When he stopped paying, they forced him to perform oral sex, raped him and killed him, prosecutors alleged. Snead, prosecutors alleged, attempted to cover up for the other two.

All three men pleaded not guilty.

At Thorpe’s trial, Smith acknowledged that she had received more than \$1,000 from Roxboro Police, which she said she used for expenses such as the phone bill, the electric bill and a new bed. Hughes testified that the money came from a fund “for paying confidential and reliable informants.”

Other key witnesses for the prosecution were two men who had been jailed with Thorpe at different times. One claimed Thorpe confessed to killing Yarborough over “drugs and money and things of that nature,” and that the murder included “some type of sexual situation.”

The other said he overheard Thorpe bragging that he had violently sexually assaulted Yarborough. The man also claimed he heard Thorpe say, “I had to kill him. Couldn’t leave no witness behind.” Under questioning by the prosecutor, the informant said he had not received anything in exchange for his testimony. But under cross-examination by the defense, the man acknowledged he was released from jail 44 minutes after he implicated Thorpe even though he had nine days left on his sentence.

The medical examiner testified that there were no injuries to Yarborough’s penis or anus. She did note “shallow, tearing lesions” in the corners of his mouth.

Street, the drug dealer, also testified against Thorpe. Street said he heard Thorpe and Royster discussing going to Yarborough’s house for money. Street also testified that he had seen the two men sitting on Yarborough’s porch drinking beer during the late night or early morning hours before the body was found.

Street has since recanted.

Questions after guilty verdict

After the jury found Thorpe guilty, his co-defendants were allowed to enter Alford pleas to lesser charges, meaning they maintained their innocence but conceded prosecutors likely had enough evidence to convict them. Royster served four years in prison and was released. Snead was locked up for 31 months. He later died by suicide.

Mumma signed up to represent both Thorpe and Royster after receiving a letter from Royster in 2018. She hired an expert who said Yarborough’s death occurred at least 24 to 48 hours before his body was found – not 17 hours, as the prosecution claimed. If the expert’s time frame is correct, that means Yarborough would have been dead long before the cookout began.

“In my opinion, it’s not possible to get that level of decomposition that we saw at the crime scene in so short of time without accelerating factors, and those factors were not present,” the expert, Dr. Christena Roberts, testified at a post-conviction hearing. “Certainly, I wouldn’t expect this level of decomposition in just 17 hours.”

During the same hearing, Thorpe’s trial attorney testified that she didn’t ask for any additional testing of the rape kit evidence collected from Yarborough’s body prior to trial. She didn’t present the results of the DNA testing that was done on the underwear or the cigarette butts, which excluded Thorpe.

Even though the rape kit had been only partially tested at the time of the crime, Thorpe’s criminal conviction meant he wasn’t automatically entitled to additional testing once the technology had advanced. In North Carolina, in cases such as his, the defendant must prove new rape kit evidence would be material to the case before a judge will order testing. In Thorpe’s case, the prosecution agreed to the testing without conceding that point. The judge signed off on the deal, paving the way for the updated DNA analysis.

The favorability of evidence isn’t always obvious. Someone else’s DNA in a rape kit would seem favorable on its face, but prosecutors could argue it came from a consensual partner – or even a second rapist.

What’s more, it’s possible for a rape to occur without DNA being found in the rape kit. Therefore, the absence of the defendant’s genetic material doesn’t automatically mean he didn’t commit the crime.

That’s what the prosecution argued in Thorpe’s case.

“These results ... provide nothing new and they take away nothing from what existed at the time of the defendant’s trial,” Assistant District Attorney Hollie McAdams said at a 2023 post-conviction hearing. “The defendant was tried and convicted of the offense of murder, not the offense of rape. This set of results does not change anything.”