

For prisoner, verdict is vindication

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In new trial, he's found not guilty of 1995 Evanston killing

Anthony McClain gambled his freedom for a chance at vindication - and won.

McClain, in prison for 11 years, walked out of the Hamilton County Justice Center Monday evening, hours after a jury found him not guilty of murder.

The 46-year-old O'Bryonville man was retried last week for the 1995 killing of 17-year-old Phillip White in Evanston.

He had the chance to plead guilty to manslaughter, which likely would have meant release with time served. But McClain turned that offer down, instead seeking a jury's not-guilty verdict.

"It was a difficult decision, but I had no choice because I would have had to say I killed Phillip White when I didn't," McClain said. "I would rather spend the rest of my life in prison than say I killed somebody I didn't."

McClain said his emotions fluctuated Monday as he waited for his release: Happiness about going home. Sadness for what he missed. Anxiety about how different the outside world would be.

McClain said he wasn't bitter.

"That wouldn't do me any good," he said. "That would just eat me up."

Assistant Hamilton County Prosecutor Gus Leon said he believes McClain fired the fatal shots but said it was a difficult case to prove.

Much of the retrial - 10 years after the first jury heard the case - was done through transcripts. Leon alleged that McClain killed White for crack cocaine. No witnesses saw McClain with a gun, and McClain said he was in the area, but wasn't with White.

"There's no doubt in my mind he did it," Leon said. "But it's not our job to decide, that's the jury's job."

The verdict came back at 1:20 p.m. Monday after a weekend break in deliberations.

"You're free to go, Mr. McClain," Hamilton County Common Pleas Judge Patrick Dinkelacker said. "Take care of yourself."

McClain's wife, Shari Kemper, said she never doubted her husband's innocence.

"I've waited a long time for this," she said, tears running down her cheeks.

The battle to clear McClain's name cost the couple more than \$20,000, Kemper said.

McClain's lawyer, Clyde Bennett, said he's been waiting for this decision ever since Kemper came to him four years ago with evidence gathered by a private investigator.

The investigator discovered that a neighbor told police that she saw a tall, thin, young, white man with blond hair running by and heard him say, "I shot (him)."

McClain shares none of the physical traits she described.

Police originally talked to the witness but never forwarded her information to prosecutors, who therefore never told McClain's lawyer.

McClain got a second chance when an appeals court overturned his conviction last year and ordered a new trial based

on that evidence.

"I really felt he was innocent," Bennett said. "That's why it was so difficult to take the case forward when I knew he could have gotten out by pleading to manslaughter.

"He risked life in prison, and that scared me. Some people call it crazy, but he trusted the criminal justice system."

Outside the jail as rush-hour traffic zoomed by, McClain twirled his 10-year-old granddaughter around and hugged his two younger grandsons.

It was the first time he'd seen them outside the walls of prison.

"He missed so much, graduation, my first day of college, all of my children being born," McClain's daughter, Tiffany McClain, said as she watched her family reunite. "He's never going to miss anything else. Not if I can help it."

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CAPTION: For the Enquirer/Tony Tribble

CAPTION: Anthony McClain of O'Bryonville after his release Monday. He had been in prison since 1995.

CAPTION: Anthony McClain hugs his grandchildren Ki'aaron Nicholson, 10, and Brian Nicholson, 9, Monday

CAPTION: after his release from prison. After a decade in prison, he was found not guilty during a new trial.

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Abstract (Document Summary)

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