



NEW YORK POST

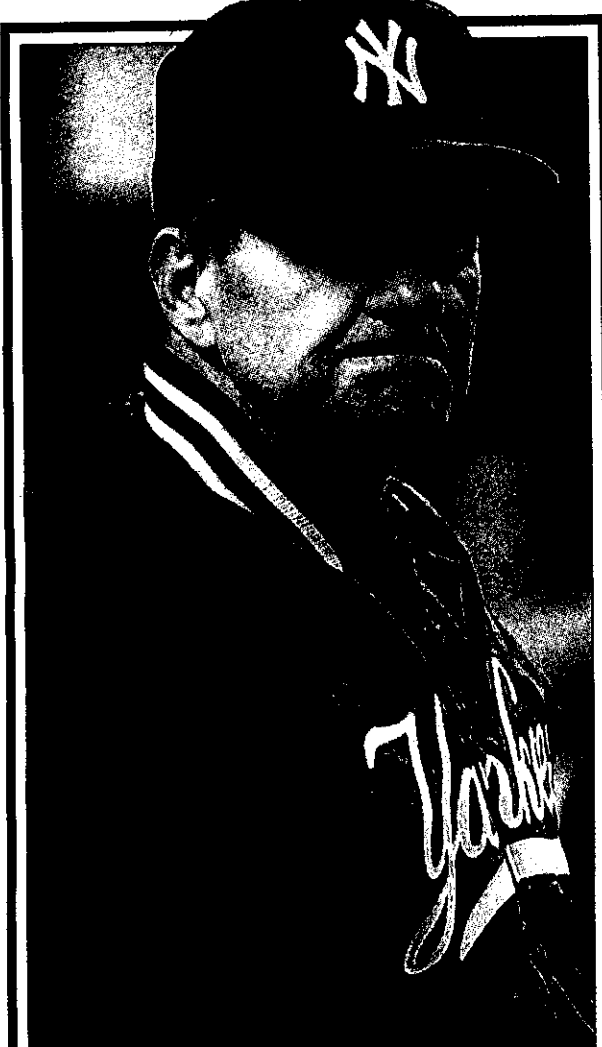
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or die**

YANKS ON THE BRINK: SPORTS

FREE AT LAST



Scott Fappiano leaves prison last night at end of long ordeal.

**'Rapist' cleared by
DNA after 21 yrs.**

DNA evidence obtained from an old pair of sweatpants set wrongly convicted rapist Scott Fappiano, 44, free yesterday after more than two decades in jail.

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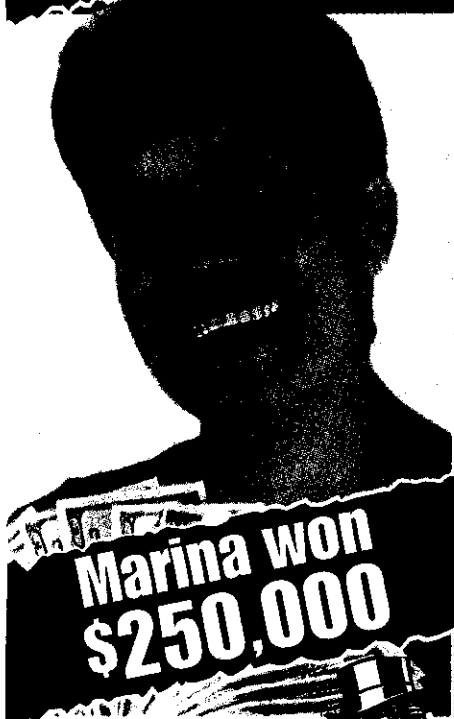
10 MILLION **SCRATCH N' WIN** **NEW CARD TUESDAY**

TODAY'S NUMBERS: PAGE 20

WILLION
SCRATCH
N' WIN



Grace won
\$250,000



Marina won
\$250,000

NEW
CARD
TUESDAY

TODAY'S NUMBERS: PAGE 20

DNA 'miracle' clue springs man wrongly jailed for '83 horror rape

By ALEX GINSBERG
and MARSHA KRANES

DNA evidence obtained from a 23-year-old pair of sweatpants set a wrongly convicted rape suspect free yesterday after more than two decades in prison.

Scott Fappiano was a Brooklyn street tough and wiseguy wannabe on probation for a juvenile sex offense in December 1983 when a rape victim — a cop's wife — picked out his mug shot and identified him as the man who had repeatedly attacked her while her husband was forced to watch.

Yesterday, with no prison walls staring at him for the first time since his 1985 conviction, Fappiano, 44, hugged his mother and admitted he had done bad things in his youth.

"I owed them a few years or something, but not 22 years," he said. "I knew I didn't do that."

At an Italian restaurant in Bay Ridge last night, Fappiano was surrounded by a couple of dozen friends and relatives, and said he wanted to pick his life up where it left off.

"I missed having a family," he said with big smile. "I feel like I never left. Maybe I'm in shock. I feel like I could go on like tomorrow is just another day."

Fappiano, the nephew of three Gambino-family capos, had insisted from the outset that he was innocent.

He convinced all but one juror of it at his first trial. The result: a mistrial and a second trial.

But none of the jurors at his retrial believed him, and in September 1985 he was convicted of first-degree rape, sodomy, sexual abuse and burglary and sentenced to 20 to 50 years in prison.

At age 23, Fappiano was sent upstate to Attica. While there, he worked for \$1.05 a day as a porter, kitchen worker and inmate-grievance representative; was occasionally thrown into solitary confinement for fighting, gambling or smuggling contraband; and participated in an "aggression-replacement training program" — all the while maintaining his innocence.

When he was arrested in late 1983, Fappiano was a familiar figure in Bensonhurst. He was a short, tough kid with an attitude who ran with a rough-and-tumble crowd with Mafia aspirations — and, in his case, Mafia ties.

He had three uncles who rose to trusted positions in the Gambino crime family.

One, capo-turned-canary Frank "Frankie Fap" Fappiano, is a confessed hit man who last year provided chilling testimony at John "Junior" Gotti's rack-

eteering trial.

Another, uncle-by-marriage Michael "Mikey Scars" DiLeonardo, also turned stoolie. A capo and once Gotti's best friend, he was a star witness against him at his recent trial.

His third Mafia uncle, Frank DeCicco, was "Dapper Don" John Gotti's first underboss.

Having three "made" members of the mob as uncles may have put Scott Fappiano at risk when cops were trying to solve the 1983 rape.

"I always suspected that Scott became a suspect and was vigorously prosecuted partially because of his name," said lawyer Anthony Fusco, who represented him at his first trial.

Fappiano's lawyer at his second trial agreed. "We always felt they flaked him," said Luther Williams, using an old cop term for framed.

The rape that sent Fappiano to Attica took place early in the morning on Dec. 1, 1983.

A man, armed with a gun, broke into a Bensonhurst apartment while an NYPD cop and his wife — identified in court papers only as "F.S." and "T.S." — were in bed, and their newborn was asleep in another room.

After jolting the couple awake, the intruder tied the cop with a telephone cord, ordered his wife to un-




Paul Martinis

Then and now

1985		2006
Edward Koch	Mayor	Michael Bloomberg
\$1.20	Gallon of gas	\$2.25
1,553	Dow Jones Industrial Average	11,866
"We Are The World" by USA for Africa	#1 Song	"SexyBack" by Justin Timberlake
Kansas City	World Series Champ	Hopefully New York!

TASTE OF FREEDOM: Scott Fappiano savors a plate of ziti yesterday with nephew Scott Fappiano Jr. and mom Rose Fappiano, who couldn't contain her excitement (top right) when he was released. Inset, a young Scott before he was arrested.



Sally Brompton 

♍ SCORPIO (Oct. 24-Nov. 22)

If you have a genuine reason to apologize for something you said or did then do so. If, however, someone else thinks you need to apologize but you disagree you must not back down, no matter how much pressure you may come under over the next 24 hours. It's the principle that matters: never admit guilt when you are innocent.

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What The Post astrologer saw in the stars for Scott Fappiano yesterday.

dress, and then raped her repeatedly — as her husband was forced to watched.

It ended after 45 terrifying minutes.

When the rapist was finished, he agreed to let his victim, T.S., use the bathroom.

She managed to escape. She ran, naked to a neighbor's apartment, banged on the door and screamed for help. Her assailant fled before police arrived.

The devastated woman put on clothes, including a pair of white sweatpants, and was taken to a hospital, where a rape kit was put together. The white pants were taken as evidence after semen was found on them.

T.S. told detectives her assailant was a white man of Italian descent, about 5-foot-10 with black hair and brown eyes.

Later in the day, she was taken to the 67th Precinct station house, where she picked out one mug shot — Scott Fappiano's. He was on probation on a sex-misconduct rap.

Five days later, T.S. returned to the pre-

dict and picked 5-foot-5 Fappiano out of a lineup.

DNA testing was not an option at the time — but none of the fingerprints found in the couple's apartment matched his. The blood type found on a semen-stained towel didn't match his.

But F.S. took the stand and identified Fappiano as her attacker, and he was convicted at his second trial.

Five years later, at Attica, Fappiano read about DNA testing — then a very new science. He filed a motion on his own to have the evidence in his case tested.

The Brooklyn District Attorney's Office agreed and sent T.S.'s sweat pants to Lifecodes Inc., a DNA lab.

The lab removed swatches from the pants — but the results were inconclusive.

The sweatpants were returned to the DA's Office, along with other evidence.

Fappiano spent another 13 years in prison

before his break came. In 2002, The Innocence Project agreed to represent him.

Its lawyers contacted the Brooklyn DA and got him to agree to search for any physical evidence that could be tested.

An exhaustive search followed — but nothing could be found.

The Innocence Project didn't give up. And in what project lawyer Nina Morrison called "something of a small miracle," Lifecodes' DNA samples were located.

The lab had been acquired by another company — and two test tubes of DNA that had been extracted from T.S.'s sweat pants were found in its Maryland warehouse.

DNA tests were performed on their contents. DNA from one male and one female was found but no match with Fappiano's.

As soon as the results were known, the DA filed a motion in Brooklyn Supreme Court to set Fappiano free.

At 12:30 p.m. yesterday, Judge Priscilla Hall did just that.

"Scott, we made it," shouted his joyful mother, Rose Fappiano, as 40 relatives and friends cheered.

Four hours later, Fappiano was surrounded by jubilant family and friends in a courthouse corridor.

All smiles, he stood before a microphone and said, "I'm just happy that it's over."

He said "there were times when I gave up hope that I wasn't going to be exonerated but I never gave up hope that I was coming home."

While his mom spoke, other relatives passed around yesterday's Daily Horoscope from The Post.

Under Scorpio, Fappiano's sign, it said, "Never admit guilt when you are innocent."

Additional reporting by Murray Weiss and Erin Calabrese