

Tyrone Noling: Innocent on Ohio's Death Row

The Wrongful Conviction of Tyrone Noling

Despite maintaining his innocence before, during, and since his trial, Tyrone Noling has been on death row for over 15 years for two murders he did not commit. In 1996, Tyrone was sentenced to death for the murders of Bearnhardt and Cora Hartig in rural Portage County, Ohio. Today, Tyrone remains on death row in danger of execution despite overwhelming evidence of innocence, including:

- (1) There is absolutely no physical evidence tying Tyrone to the murders;
- (2) All of the principal witnesses against Tyrone have recanted their testimony; and
- (3) Recently discovered forensic and witness evidence withheld at Tyrone's trial points to other viable suspects.

More evidence supporting Mr. Noling's innocence is still being sought. Mr. Noling is not the only party seeking renewed investigation into his wrongful conviction. In July 2010, then Governor of Ohio, Ted Strickland, and Attorney General Richard Cordray requested that the Portage County Prosecutor's Office perform DNA testing on a cigarette butt recovered at the scene of the crime that does not belong to Mr. Noling or his co-defendants. The Governor's request was flatly rejected by the Portage County Prosecutor's Office. Renewed focus on Mr. Noling's case is critical to proving his innocence and avoiding the ultimate injustice.

"Justice" At Any Cost

On April 7, 1990, Portage County Sheriff's Deputies were called to the rural Atwater, Ohio home of Cora and Bearnhardt Hartig. The Hartigs, who had no immediate family or close friends, had not been seen by neighbors for days. Upon arrival, the police discovered that both Hartigs had

been shot and killed at their kitchen table with a .25 caliber handgun; the perpetrator was seated across from the Hartigs when the fatal shots were fired. In the coming days, the authorities would focus almost exclusively on 18-year old Tyrone Noling and his three friends: Joey Dalesandro, Gary St. Clair, and 14-year old Butch Wolcott.

That the boys even became suspects was puzzling. The police had no physical evidence from the crime scene pointing them to any suspects, nor did they have any evidence that Mr. Noling or the other boys knew the Hartigs or had ever even been to Atwater. No eyewitness placed the boys at the scene. No property recovered from the boys' Alliance, Ohio hangout linked them to the Hartigs. The murder weapon was never recovered. DNA testing did not connect Mr. Noling or his friends to the crime. The only thing that the police did have was the fact that in early April 1990, Mr. Noling and his friends were involved in a handful of late-night thefts from automobiles and two bumbling home robberies. In one of those robberies, Mr. Noling accidentally discharged a .25 caliber firearm into the floor. Mr. Noling immediately checked on the well-being of the occupant, who described Mr. Noling as a "scared rabbit."

That .25 caliber gun did not match the Hartig murder weapon. Not only did these crimes take place in another town, but they were strikingly different from the cold-blooded murders of the Hartigs. In large part, the crime scene led former Portage County Sheriff Kenneth Howe to discard Mr. Noling and the other youths as viable suspects, stating: "It just didn't fit."

Perhaps as a result of lack of evidence and any clear link between Mr. Noling and the murders, the Prosecutor's Office brought in investigator Ron Craig who did, in fact, "clear the case." He did so without developing a single shred of new physical evidence indicating that Mr. Noling was guilty. Evidence developed since trial and included in Mr. Noling's subsequent pleadings suggests that Mr. Craig simply relied on coercing, threatening, and manipulating witnesses to build a case

against Mr. Noling.¹ Mr. Craig went so far as to send one key witness to a psychiatrist so that the witness could “recall” the memories of the murder that he had “repressed.” That witness, and the other alleged co-defendants, went on to incriminate Mr. Noling in the Hartigs’ murders. Mr. Noling was indicted for the killings in 1992, only to have the prosecution drop the case after he passed a polygraph examination and his co-defendant, Gary St. Clair, recanted a statement inculcating Mr. Noling in the Hartigs’ murders.

It took Portage County five years to create the case that ultimately led to Tyrone Noling’s wrongful conviction. Mr. Noling’s conviction and death sentence rested largely on the false confessions of his co-defendants. Those false confessions, however, never fit the Hartig murders. At trial, Mr. Noling’s co-defendants described a forceful home invasion robbery and a struggle between Mr. Noling and Mr. Hartig. This testimony was simply inconsistent with the actual crime scene. There was no sign of struggle in the Hartig home, the claim that Mr. Noling held a smoking gun after the killings was revealed through scientific testing to be a physical impossibility, and the purported location of the “missing” murder weapon was searched by the police who found nothing.

These false confessions also highlight the need for full DNA testing in Mr. Noling’s case. Twenty-five percent of DNA exoneration cases in the United States involve innocent defendants who made incriminating statements, who delivered outright confessions, or who pled guilty to crimes they did not commit.

In the more than fifteen years that Tyrone Noling has sat on Ohio’s death row, the prosecution’s tenuous case against him has crumbled. Today, the evidence—including potentially exculpatory DNA evidence – strongly suggests that the wrong man has been sitting on Ohio’s death row for 15 years.

¹ According to Dr. Richard Ofshe, a renowned false confession expert, Craig used psychologically coercive interrogation tactics to create a statement implicating Randy Resh and Bob Gondor, two Portage County men who were wrongly convicted of rape and murder. Resh and Gondor were exonerated after serving twelve years in prison for their wrongful conviction.

1) No Physical Evidence Has Ever Linked Tyrone Noling to the Hartig Murders

- Neither Mr. Noling's fingerprints, nor those of his alleged accomplices, were found in the Hartig home, despite uncontroverted evidence that the perpetrator touched many items and ransacked the home.
- Chemical analyses, as opposed to full DNA testing, of a cigarette butt found at the crime scene excluded Mr. Noling and his alleged accomplices.
- Tool marks on the bullets used to kill the Hartigs were not a ballistic match to the only .25 caliber handgun linked to Mr. Noling.

2) Each Accomplice That Testified Against Mr. Noling has Recanted

- Gary St. Clair recanted his inculpatory statements before Mr. Noling's 1995 trial and recanted again on the witness stand. Similarly, Joseph Dalesandro and Butch Wolcott took plea deals (Wolcott walked free) but then recanted their statements in post-conviction affidavits.
- All three co-defendants describe being threatened, coerced, and manipulated by the State and an investigator. Their assertions are supported by the opinions of Dr. Richard Ofshe, a nationally-recognized expert in identifying false confessions.

3) The Haphazard Alliance Robberies that Mr. Noling Did Commit Bear Little Resemblance to the Calculated Murders of the Hartigs

- Unlike the close-range gunshot murders of the Hartigs, there was no physical injury associated with the two Alliance robberies. During the first robbery, Mr. Noling carried an unloaded pistol. During the second robbery, Mr. Noling accidentally discharged a loaded weapon into the floor and immediately checked on the well-being of the robbery victim, who described Mr. Noling as a "scared rabbit."
- The types of items stolen during the Alliance robberies (e.g., watches, jewelry, etc.) were left untouched at the Hartig home. Mr. Hartig's wallet was still in his pocket. Mrs. Hartig still wore her rings. Cash was found in the home. And no electronics were identified as missing from the home.
- Mr. Noling did not know the Hartigs and the crime scene points to an assailant who was familiar to them. The police reports indicate that Cora and Bearnhardt Hartig were sitting at their kitchen table with a third person when they were shot, and that there were no signs of a struggle or forced entry.

4) Compelling Evidence, Including Evidence Withheld from Counsel, Suggests that Someone Else Murdered Cora and Bearnhardt Hartig

- **Daniel Wilson—Convicted Murderer, Executed June 3, 2009**
 - i. At the age of 14, Wilson broke into an elderly neighbor's home in Ohio and struck the man causing him to fall and break his hip. Wilson then ripped the phone cord out of the wall and left. The neighbor was not found for two days

and died as a result of his injuries and the lack of medical attention. *See Wilson v. Mitchell*, 498 F.3d 491, 496 (6th Cir. 2007).

- ii. In 1991, Wilson murdered college student Carol Lutz. He was executed in June 2009 for that murder.
- iii. Chemical analysis of a cigarette butt recovered at the crime scene points to Daniel Wilson as a possible DNA match. In an attempt to identify the true perpetrator, Mr. Noling's attorneys have petitioned the Court and the Prosecutor's Office to conduct more advanced DNA testing on the cigarette butts since the original chemical analysis – a simple secretor/non-secretor test – was rudimentary at best. To date, the Prosecutors Office has successfully blocked all attempts to do a full DNA analysis on the cigarette butt.
- iv. Unlike Mr. Noling, Wilson was very familiar with Atwater, Ohio, and in particular, the area around the Hartig home. In the years leading up to the murders, Wilson lived in a foster home just one mile from the Hartigs. He was a frequent visitor at the foster home up until the time of the murders, after which he stopped coming around.
- v. Police notes from 1990 indicates that Nathan Chesley stated that "his brother" committed the Hartig murders. Mr. Chesley was Daniel Wilson's foster brother. The Prosecution withheld this report from Mr. Noling's attorneys. Because this key piece of evidence was withheld, Mr. Noling's defense counsel never presented evidence of Mr. Wilson as a possible alternative suspect.
- vi. More recently, in March 2011, Mr. Chesley further confirmed the substance of his 1990 police report statements, stating that "Dan told me he did it...It's that simple. I know it's not to the court, but they're going to execute an innocent man." Indeed, Mr. Chesley went on to say, "I never met Tyrone – I don't know nothing about him[.] But I do know that Dan killed the Hartigs – there is no question."
- vii. Another of Mr. Wilson's foster brothers noted that Wilson drove a blue car. After the Hartig murders, witness Jim Geib told authorities that on the day of the Hartig murders he saw a dark blue, midsize car leaving "that general location [of the Hartig home]" at around 4:30 p.m.

- **The Hartigs' Insurance Agent Who Owed Them \$10,000**

- i. Just days before his murder, Bearnhardt Hartig told his family doctor that his "insurance agent" defaulted on a personal loan the Hartigs had given to him. Mr. Hartig stated that he planned on calling the agent to set up a meeting to confront him and demand immediate payment.
- ii. One of the Hartigs insurance agents owned a .25 caliber Titan handgun, one of only four models that the police identified as a possible murder weapon.

- iii. That insurance agent refused to take a polygraph exam requested by authorities.
- iv. Evidence in the record suggests that the Hartigs conducted business with their insurance agents at the kitchen table – the same place where the Hartigs appear to have been sitting when they were murdered.

Despite the troublesome aspects of Mr. Noling's case, he sits on Ohio's death row watching as the courts ignore the State's shaky case and the legal avenues available to obtain relief slowly disappear. Noling has yet to receive a hearing on the merits of his innocence claims, which are mired in procedural hurdles that thus far have proved insurmountable.

For more information about the Tyrone Noling case, including legal documents and supporting materials, please go to www.tyronenoling.com, or contact Kelly Culshaw in the Office of the Arizona Federal Public Defender at 602-382-2772 or by e-mail at Kelly_Culshaw@fd.org.