

**Statement from Attorneys for Ohio Death Row Prisoner Tyrone Noling in
Response to Court of Appeals Granting Access to Files Withheld by
Prosecution**

After almost thirty years of fighting to prove his innocence, late yesterday, the 11th District Court of Appeals granted Tyrone Noling access to records that could prove whether key evidence was withheld at his original trial. Mr. Noling was wrongfully convicted for the murders of Bearnhardt and Cora Hartig.

Mr. Noling's attorney, Brian Howe with the Ohio Innocence Project, stated: "There is no excuse for trying to hide evidence in a capital murder case, at any stage of the proceeding. Tyrone Noling is an innocent man on death row, and yesterday's decision represents an important step forward in his ongoing fight for a fair trial and to clear his name."

Mr. Noling is seeking a new trial based on exculpatory evidence he claims was not made available to his trial attorneys. This evidence shows investigators initially had linked other suspects to the Hartig murder. One suspect, Dan Wilson, confessed to his foster brother that he had killed the Hartigs. Prior to Mr. Noling's trial, investigators had noted that Wilson's blood type matched saliva found on a cigarette butt at the crime scene. Wilson was later convicted and sentenced to death for a different murder in Ashtabula. What's more, law enforcement had evidence that another suspect—Dennis VanSteenberg—had discarded his .25 caliber pistol when detectives began investigating him for the murder. After disposing of his own pistol, VanSteenberg borrowed a relative's gun to give to detectives for comparison. Although detectives eventually learned about the switched weapons, they do not appear to have followed up. The Hartigs were shot ten times with a .25 caliber pistol that has never been recovered. (pp. 3-7)

In 2014, the Eleventh District Court of Appeals ordered that additional evidence be taken to show whether the exculpatory evidence in question was in the prosecutor's discovery file at the time of trial. Specifically, the court held that "further proceedings are necessary to determine whether the evidence at issue was part of the [prosecutor's] file or otherwise available through the Sheriff's material at the time of trial." Despite the appellate court's order, the Portage County Prosecutor's office opposed releasing its files for examination, and Portage County Common Pleas Judge Becky Doherty denied Mr. Noling access to the files.

The Eleventh District held that the trial court's ruling was "fundamentally inconsistent" with the appellate court's previous order that Noling be given an opportunity to review the files, and noted that the trial court's refusal to allow Mr. Noling access was "for

reasons unknown” and “without substantive justification.” The Eleventh District decision reinforces its earlier order and ensures that Mr. Noling will be able to conduct discovery to prove whether this exculpatory evidence was disclosed to him at the time of his trial.

The Eleventh District’s decision can be viewed here:

<https://www.supremecourt.ohio.gov/rod/docs/pdf/11/2022/2022-Ohio-759.pdf>

Tyrone Noling Case Background

Despite maintaining his innocence before, during, and since his trial, Tyrone Noling has been on death row for over 20 years for two murders he did not commit. In April 1990, Cora and Bearnhardt Hartig were tragically shot to death in their home in Atwater, Ohio. 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. Primitive DNA analysis of a cigarette butt found at the crime scene excluded Mr. Noling and his alleged accomplices. No eyewitnesses placed Mr. Noling or his co-defendants at the scene of the crime. Yet in 1996, Mr. Noling was sentenced to death for the murders. Today, he remains on death row in danger of execution despite overwhelming evidence of his innocence, including:

1. There is absolutely no physical evidence tying Mr. Noling to the murders;
2. All of the State’s key witnesses against Mr. Noling have recanted their testimony; and
3. Recently discovered forensic evidence and statements withheld at Mr. Noling’s trial points to other viable suspects.

The lack of evidence led then-Portage County Sherriff Kenneth P. Howe to discard Mr. Noling and the other youths as viable suspects, saying, “It just didn’t fit.”

That the boys even became suspects is puzzling. The police had absolutely no physical evidence from the crime scene pointing to any of them. The only thing that the police did have was the fact that in early April 1990, Mr. Noling and his co-defendants were involved in a handful of minor thefts and two bumbling home robberies, including one in which Mr. Noling accidentally discharged a .25 caliber gun – a gun that did not match the Hartig murder weapon. Not only did these crimes take place in another town miles away from where the Hartigs lived, they were strikingly different in nature from the cold-blooded murders of the Hartigs.

Statements of the three young co-defendants were obtained by an investigator and used to build a case against Mr. Noling. However, evidence developed since trial indicates that the statements of Mr. Noling’s co-defendants were produced through coercive

interrogation tactics and possess indicia of false confessions. Experts have found that such coerced statements “should be classified as unreliable.” [<http://bit.ly/1rag5Fw>] [<http://bit.ly/23GZdHr>] Indeed, all of the co-defendants have since recanted their statements, and one did so on stand at the trial.

Despite the troublesome doubt about the reliability of Mr. Noling’s conviction, he has yet to receive a hearing on the merits of his innocence claims.

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