

MIDWEST INNOCENCE PROJECT

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Innocent Man Rodney Lincoln Files Petition with Missouri Court of Appeals, Western District

*Not one shred of evidence remains to support
Mr. Lincoln's conviction, continued incarceration*

Kansas City, Mo. (July 12, 2016) – The [Midwest Innocence Project](#) (MIP), a not-for-profit corporation dedicated to the investigation, litigation and exoneration of wrongfully convicted men and women in Missouri, Kansas, Arkansas, Iowa and Nebraska, announces the filing of a petition today on behalf of Mr. Lincoln in the Missouri Court of Appeals, Western District. This petition is an appeal based on the denial of Mr. Lincoln's petition for habeas relief by Cole County (Mo.) Circuit Judge Daniel Green.

At an evidentiary hearing on March 17 and 18, 2016, Mr. Lincoln's legal team asked Judge Green to overturn Mr. Lincoln's conviction and order his immediate release. Mr. Lincoln has served 34 years in prison for the murder of JoAnn Tate and the assault of her two young daughters in 1982 and has consistently maintained his innocence. Mr. Lincoln's supporters packed the courtroom for the two-day hearing. Among them was M.D.*, Tate's daughter and surviving victim, and her family. M.D.'s coached identification of Mr. Lincoln was used as evidence to convict him.

M.D. testified that her original description of her attacker, "That the man drove a Volkswagen, his name was Bill, that he had been to Hollywood, that he worked on my Mom's car a few days before he killed her," (*Hr. Tr.*, p. 30, Lines 7-9), was the most accurate. This description does not match Mr. Lincoln in any way, and M.D. has been actively calling for Mr. Lincoln's release since November of 2015. "For the first time in my life, everything is lined up: my gut, my brain, all of it. Rodney Lincoln was never there. He didn't do this," said M.D. in an affidavit recanting her identification of Mr. Lincoln. M.D. continues to support Mr. Lincoln's claim of innocence. The following testimony was presented at the hearing:

Q. "When are you look back on those memories [of the attack] now, is Rodney Lincoln there?"

A. "No. And I want to know how he got there. Someone needs to answer for that. Because I gave [law enforcement] all the right information." (March 17 Hr. Tr. p. 96, Lines 5-9)

Mr. Lincoln's first trial resulted in a hung jury in 1982. The jury at his next trial convicted him after the City of St. Louis presented evidence of M.D.'s identification and a hair found at the crime scene, which the prosecutor said "matched" Mr. Lincoln's hair. DNA testing of the hair has since proven that it was not Mr. Lincoln's, and additional new evidence supports a finding that the identification by the victim was manipulated.

Eyewitness misidentification is a leading cause of wrongful convictions, contributing to more than 70 percent of the DNA exonerations around the country according to the Innocence Project. Evidence presented at the hearing showed that M.D. identified Mr. Lincoln after investigators questioned her for several months, including during a month-long stay in the hospital. M.D. has since retracted her earlier identification.

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“Because of the tactics used, M.D. had no choice but to identify Mr. Lincoln,” said Tricia Bushnell, legal director of the MIP. “While in the hospital, investigators told her ‘the bad man’ was behind a door and that if she did not identify ‘the bad man,’ he would walk free.” Investigators then showed M.D. two photos — one of Mr. Lincoln and one of a relative. The MIP team also discovered that records never presented at trial revealed that on several occasions, social workers and state actors also worked with the prosecutor’s office to prepare M.D. for trial, including identifying the chair “the bad man” would sit in and rehearsing M.D.’s testimony for trial.

M.D.’s family members also testified for the defense. Her uncle, Nathaniel Clenney, and her cousin, Jacqueline Barton, testified how difficult it was for M.D. to come forward, and that they, too, had long harbored doubts about Mr. Lincoln’s guilt. The court also heard testimony from Mr. Lincoln’s daughter, Kay Lincoln, describing the emotional phone call she received from M.D. stating that she had made a mistake.

“This is a devastating outcome for Mr. Lincoln and his family, as well as for M.D. and her family,” said Sean O’Brien, founder of the MIP and professor at the University of Missouri (Kansas City) School of Law. “But we will keep fighting.”

The MIP first took on Mr. Lincoln’s case in 2005, and in 2010, MIP attorneys Tiffany Murphy and Ken Blucker initiated litigation to test several pieces of evidence for DNA. Another MIP attorney, Laura O’Sullivan, continued the litigation at the Missouri Court of Appeals, Western District. Though the DNA tests excluded Mr. Lincoln as a contributor to evidence from the crime scene, Jennifer Joyce, a City of St. Louis prosecutor, maintained that Mr. Lincoln was guilty on the strength of the eyewitness identification of Mr. Lincoln by M.D.

Since then, Bushnell and the MIP legal team of Rachel Wester, Penelope Kress and Summer Farrar, along with O’Brien and his students at the University of Missouri (Kansas City) School of Law, gathered the facts and told the story of what happened to Tate and her two daughters, M.D. and R.T.,* on the night of April 27, 1982.

“Mr. Lincoln’s case highlights the significant time and money it takes to correct an injustice,” said Bushnell. “The only way we can work so hard to free people like Mr. Lincoln is because of donations from supporters of the wrongfully convicted.”

For those interested in supporting the MIP, please donate at www.themip.org.

**The initials M.D. and R.T. are being used to protect the identities of Tate’s daughters.*

About the Midwest Innocence Project

The Midwest Innocence Project is a not-for-profit corporation dedicated to the investigation, litigation and exoneration of wrongfully convicted men and women in Missouri, Kansas, Arkansas, Iowa and Nebraska. The Midwest Innocence Project was founded at the University of Missouri – Kansas City (UMKC) School of Law in 2000 as a 501(c)(3) nonprofit corporation and operates today as an independent organization in partnership with the University of Missouri (Kansas City) and (Columbia) Schools of Law, the University of Kansas and local legal communities. The MIP is a licensed organization of the Innocence Project founded at Benjamin N. Cardozo School of Law at Yeshiva University in 1992 and works with 68 similar organizations around the world in coordinating legal work and education efforts. For more information, please visit www.themip.org.

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