

MIDWEST INNOCENCE PROJECT

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Victim of 1982 Murder Requests Clemency for Innocent Man Rodney Lincoln from Missouri Gov. Jay Nixon

*Midwest Innocence Project files motion for transfer of Lincoln's case
to the Supreme Court of Missouri*

Kansas City, Mo. (Dec. 8, 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 five states, announces the submission of a petition by M.D.* — the remaining surviving victim of a 1982 murder — for a pardon or executive commutation of Rodney Lincoln's sentence from Missouri Gov. Jay Nixon. Additionally, the MIP filed a motion for the transfer of Lincoln's case to the Supreme Court of Missouri, after the Missouri Court of Appeals (Western District) denied a motion to rehear or transfer the case on Nov. 22.

"I do not know what else to do. I am the only witness to this crime, and I know that Rodney Lincoln is innocent, but prosecutors and judges will not listen to me because of technicalities that I do not understand," said M.D. "I am the only living survivor, and I alone bear the responsibility of speaking for my mother and my sister."

Lincoln has served 34 years in prison for the murder of JoAnn Tate and the assault of her two young daughters, M.D. and R.T.* in 1982 and has consistently maintained his innocence, despite testimony to the contrary from M.D., then seven years old. Lincoln's first trial resulted in a hung jury in 1982 and 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" Lincoln. DNA testing of the hair later proved it was not Lincoln's and additional new evidence supported that the identification by M.D. was manipulated.

"Because of the tactics used, M.D. had no choice but to identify Lincoln," said Tricia Bushnell, 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 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.

In November 2015, M.D. watched a television show that included unreleased crime scene photographs. According to M.D., the photographs were difficult to see and she experienced immediate flashbacks.

"Like many victims of trauma, the flashbacks I had were very real and emotionally difficult," said M.D. "The television program included a photograph of another suspect in the attacks, a photograph that I had never seen before. I had a visceral reaction to that image. I knew at that moment that my identification of Rodney Lincoln was false. I also knew I had to do something about it."

As M.D. informed people about her flashbacks, courts and law enforcement officials deemed her "unreliable." When M.D. finally presented her story an evidentiary hearing on March 17 and 18 in Cole County (Mo.) Court, Circuit Judge Daniel Green denied Lincoln's petition for habeas relief on June 16, four months after the hearing.

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“I told the Court...Rodney Lincoln is innocent. He was not in our apartment that night,” said M.D. “I cannot have peace until this wrong is righted. I told the truth. I begged, I pleaded and ultimately I was ignored — dismissed as unreliable and confused.”

Concurrent with M.D.’s petition for clemency, the MIP filed a motion for the transfer of Lincoln’s case to the Supreme Court of Missouri, after the Missouri Court of Appeals (Western District) denied a motion to rehear or transfer the case on Nov. 22.

“Because the Missouri Supreme Court has not recognized a freestanding claim of actual innocence in cases where the death penalty has not been imposed, we are not at liberty to expand Missouri habeas jurisprudence to permit consideration of the claim in this case,” Appellate Judge Cynthia L. Martin wrote in the court’s ruling.

“The literal holding of the court is that innocence is not a good enough reason to release a prisoner,” said Sean O’Brien, founder of the MIP and professor at the University of Missouri (Kansas City) School of Law. “That cannot be the law of a just society and we will continue fighting.”

According to the motion, the Supreme Court of Missouri needs to determine whether it is “a miscarriage of justice to incarcerate a person after all evidence against him has been review and repudiated.” Additionally, the motion asks the Court to review whether the State’s suppression of evidence showing M.D. was coached and identified other men as “the bad man” violated Mr. Lincoln’s constitutional rights.

“The state’s case was never strong. The first jury to hear the case could not reach a verdict and the second jury’s verdict finding Lincoln guilty of manslaughter reflects the likelihood of a compromise verdict,” the motion read.

In the meantime, 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, continue to diligently fight for Lincoln’s freedom.

“Mr. Lincoln’s case highlights the mountains we have to move to correct an injustice,” said Bushnell. “As members of a society that allow this to happen, it’s our obligation to do everything we can to correct it.”

Additionally, the victims’ advocacy group Healing Justice Project recently filed a brief asking the Supreme Court of Missouri to take Lincoln’s case.

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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