

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS, MISSOURI
22ND JUDICIAL CIRCUIT

FILED
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22ND JUDICIAL CIRCUIT
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RODNEY LINCOLN,)
Movant,)
)
)
vs.)
)
STATE OF MISSOURI,)
Respondent.)

Case No. 22821-2021

Division 3

AMENDED MOTION FOR RELEASE

COMES NOW, Rodney Lincoln, by and through undersigned counsel and submits the following Motion for Release based upon exonerating DNA results. This Motion is filed pursuant to R.S. Mo. § 547.037. The previously filed Brief in Support of Motion for Release provides the specific grounds supporting Petitioner's actual innocence of his convictions in this case for manslaughter and two counts of first degree assault.

1. The State prosecuted Mr. Lincoln twice. The first trial commenced on August 8, 1983 with jury selection. On August 17, 1983, the jury retired to deliberate at 10:12 a.m. At 7:40 p.m., the Court instructed to the jury to stop deliberating until the following morning. Legal File on Appeal (L.F.), Page 8. On August 18, 1983, the jury resumed deliberation at 8:45 a.m. At 10:09 a.m. the Court gave the jury the hammer instruction. L.F. 7. At 12:00 p.m. the Court declared a mistrial and discharged the jury. Id. The first trial resulted in a hung jury.

2. In the second trial began on October 3, 1983. L.F. 6. On October 7, 1983, the jury convicted Mr. Lincoln of manslaughter and two counts of first degree assault in the City of St. Louis, Missouri. Trial Transcript 964. On November 4, 1983, the Court sentenced Mr. Lincoln to fifteen years in Count I for manslaughter and to sentences of life in Counts II and III for Assault in the First Degree, the counts to be served consecutively to each other. L.F. 2.

3. The State's case rested on the key piece of evidence: a hair collected, from a blanket found in the children's room, attributed to Mr. Lincoln through hair comparison analysis. The State's theory during both trials was that a sole perpetrator murdered Joanne Tate and assaulted her two daughters.

4. Through a stipulation agreed upon by both parties, DNA testing occurred testing various pieces of evidence including the rape kits, fingernail scrapings, several hairs collected from the victims during the SAFE exam, the State's key piece of evidence, the hair found on the blanket, several knives used by the perpetrator, a tissue, a blood sample from the kitchen sink, and the door frame.

5. The specific list of items tested and the results of this testing are clearly set forth in the Stipulation to Post-Conviction DNA Results and the exhibits attached thereto as agreed upon by the parties and filed simultaneously with this motion. Said stipulation is hereby incorporated by reference.

6. The results of the DNA testing show not only that the hair attributed to Mr. Lincoln does not match his DNA profile, but instead shows an unknown third party's DNA profile. Further, hair collected from victim, Renee Tate, reveals

an additional unknown third party DNA profile that does not match Mr. Lincoln or any of the victims. Finally, Mr. Lincoln's profile is not included in any of the items tested pursuant to the motions for DNA testing herein.

7. This exculpatory DNA evidence conclusively proves that the only physical evidence purporting to link Mr. Lincoln to the crime was completely inaccurate. Therefore, the jurors' decision was based on scientifically inaccurate testimony by expert witnesses. The only other evidence consists of the dubious identification of seven-year old Melissa Davis, who suffered severe physical trauma, multiple surgeries, and subsequent heavy medication while trying to assist the police in their investigation.

8. At all points up to her identification of Mr. Lincoln, a month after the offense, she said the name of the attacker was "Bill." Only after shown two photos, one of her cousin and the other of Mr. Lincoln, did she identify Mr. Lincoln. Her identification process not only contained numerous inconsistencies but violated known protocols for handling eyewitness identification evidence.

9. Based upon the lack of any physical evidence and the flawed identification, Mr. Lincoln is actually innocent of the convictions in this case of manslaughter and of two counts of assault. Had a jury been informed of these exculpatory DNA results, there is a reasonable probability of a different result.

10. Mr. Lincoln requests that this Court grant his motion for release.

WHEREFORE, Movant requests this Court issue findings of fact and conclusions of law, and order Movant's release him from the sentence in the case

and the custody of the Department of Corrections.

Respectfully Submitted,

/s/ Laura E. O'Sullivan

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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was delivered by hand this 12th day of September, 2013, to counsel for Respondent:

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/s/ Laura E. O'Sullivan _____
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