

# Ohioans to Stop Executions

## Criminal Justice Issues and Prisoners' Rights

<https://otse.org/ohio-supreme-court-rules-tyrone-noling-can-pursue-dna-testing-appeal-long-running-death-row-innocence-case/>

## Policy Issue Resources

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[Hannah Kubbins](#) / December 21, 2016

(Columbus, Ohio, December 21, 2016) Today, the Ohio Supreme Court ruled in favor of death row prisoner Tyrone Noling, clearing the way for Mr. Noling's pursuit of DNA testing and results to prove his innocence. At issue in *Ohio v. Noling* was a state law allowing non-capital defendants to appeal denials of requested DNA testing, while denying death row prisoners the same process.

The Ohio Supreme Court found that the state law violated the due process and equal protection rights of death row prisoners as well as the constitutional prohibition on cruel and unusual punishment, stating: Of all cases that cry out for certainty, it is cases that result in the extinguishing of a human life. (p. 8)

The Court will now hear the merits of Tyrone Noling's appeal from the order denying his application for DNA testing. Today's opinion can be accessed here: <http://bit.ly/2h1FawK>

The Ohio Supreme Court took a much-needed step towards ensuring that all of Ohio's prisoners receive appellate review when their requests for DNA testing are denied. DNA testing has been responsible for 10 of Ohio's 56 exonerations and it is a critical tool for Tyrone Noling, who has already served over twenty years on death row for a crime he did not commit, said Carrie Wood, attorney for Mr. Noling and Assistant State Public Defender, Office of the Ohio Public Defender.

Mr. Noling continues to seek DNA testing of key evidence, access to the national ballistics database, as well as results of DNA testing in his case which the state has refused to release. Our hope is Mr. Noling will be granted access to the information and testing needed to resolve his case fairly, Ms. Wood said.

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 1996, Mr. Noling was sentenced to death for the murders of Bearnhardt and Cora Hartig in rural Portage County, Ohio. Today, he remains on death row in danger of execution despite overwhelming evidence of innocence, including:

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 young friends at the scene of the crime.

The lack of evidence led then-Portage County Sheriff 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 friends were involved in a handful of minor thefts and two bungling home robberies, including one in which Mr. Noling accidentally discharged a .25 caliber gun. This gun that did not match the Hartig murder weapon. Not only did these crimes take place in another town miles away, they were strikingly different in nature from the cold-blooded murders of the Hartigs.

Statements of the three young witnesses were obtained by an investigator and used to build a case against Mr. Noling. However, evidence developed since trial indicates that the statements of these witnesses were produced through coercive interrogation tactics and possess indicia of false confession. Experts have found that these statements should be classified as unreliable. [<http://bit.ly/1rag5Fw>] [<http://bit.ly/23GZdHr>]

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.

### Legal Posture of Mr. Noling's case:

For many years, Mr. Noling has been litigating for DNA testing and results which would prove his innocence. More information about the extensive litigation history is available here: <http://www.tyronenoling.com/case-history>.

The Ohio Supreme Courts recent ruling clears the way for it to consider granting the following, which Mr. Noling currently seeks:

### **Key Legal Filings in Mr. Nolings Case**

The Memorandum in Support of Jurisdiction of Appellant Tyrone Noling addresses issues related to Mr. Nolings request for DNA testing, access to the national ballistics database, and his request for the results of previously conducted DNA testing, which can be accessed here: <http://bit.ly/1qT78jx>

For more information about the evidence of innocence, read an executive summary of the case. [http://www.tyronenoling.com/wp-content/uploads/2013/07/Noling\\_executive\\_summary.pdf](http://www.tyronenoling.com/wp-content/uploads/2013/07/Noling_executive_summary.pdf)

A short video about Mr. Nolings case can be accessed here: <https://vimeo.com/193942101>

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