William T. Montgomery: A Case of Innocence
Executive Summary

William T. Montgomery is an innocent man on Ohio's death row, convicted of a crime he did not commit in 1986 based entirely on the testimony of one man, the co-defendant, Glover Heard. Forensic and other evidence suggests that the State of Ohio wrongfully convicted Mr. Montgomery on a mountain of Heard's lies, prosecutorial misconduct and contradictory facts. Mr. Montgomery's conviction defies logic but contains all the hallmarkings of wrongful convictions: prosecutorial misconduct, improper forensics, snitch testimony and an unfair trial. In 1992, as part of a public records request, defense counsel discovered exculpatory evidence had been withheld from Montgomery at the time of his trial in 1986. Counsel for Montgomery sought a new trial from a federal court, which was granted by the US District Court for the Northern District of Ohio in 2007. The state appealed that decision to a three-judge panel on the US 6th Circuit Court of Appeals which upheld the new trial in September 2009. However the Ohio attorney general again appealed to the full 6th Circuit. The *en banc* court overturned the district court's grant of a new trial in 2011 paving the way for Mr. Montgomery's execution.

The newly discovered exculpatory evidence--that seven witnesses observed one of the victims days after the state contends she was killed--entirely undermines the state's timeline of events and theory of the case. Forensic evidence supports the fact that the victim, Debra Ogle, could not have been killed when the state's star-witness, a co-defendant who was offered a plea deal removing the death penalty in exchange for testimony implicating Montgomery, says she was killed. When defense counsel secured the ruling for a new trial in the US District Court in 2007, the state proceeded to pressure witnesses into recanting, 23 years after the crime, that witnesses were mistaken and actually saw Debra Ogle's 14-year old younger sister driving a car.

There are copious amounts of evidence available today that demonstrate William T. Montgomery could not have committed the murders of Cynthia Tincher and Debra Ogle. In addition, there are scores of troubling facts that raise grave doubt as to the reliability of the conviction, that alternative suspects were known but ignored by investigators creating tunnel vision, and that the only shred of evidence implicating Montgomery comes from one man, co-defendant Glover Heard, who told at least five different versions of events, and was given a deal by prosecutors in exchange for his testimony implicating William T. Montgomery.

No court has ever considered all the evidence that exists today that William T. Montgomery is actually innocent. It is alarming and appalling that, at best, William T. Montgomery was convicted on a false set facts and, at worst, is an innocent man who is about to be executed in a few short weeks.

Background

In early March 1986 William T. Montgomery was moving to California. As he was preparing to move from Ohio to California, he was making the rounds to say goodbye to friends and acquaintances. WT stopped by the apartment of Debra Ogle and Cynthia Tincher, two

acquaintances he knew the afternoon of Friday, March 7. WT let his friends know he was moving to California and wished them well. This was the last time WT saw Debra Ogle or Cynthia Tincher.

Later that same Friday evening, WT and three others went out to a club to celebrate WT's upcoming move and new job. WT wore a blue pinstriped jacket and jeans. WT bought drinks and paid cover charges for his entire party including Lauren Kyser, Glover Heard and Bruce Ellis. The four were out celebrating until approximately 2:30 am when they went to WT's uncle's home on Holyoke Ave.

On the morning of Saturday, March 8 someone shot and killed 19 year-old Cynthia Tincher. At approximately 7:15 am witnesses saw a man running from Tincher's car wearing a dark jacket with the hood pulled tight around his face at the intersection of Wenz and Angola Roads. Police discovered Tincher at approximately 7:30 am at the intersection of Wenz and Angola. Tincher's step-father, a Toledo Police officer, was one of the first people to arrive on the scene.

When Debra Ogle did not show up for work on March 8, she was considered missing. Debra Ogle was later seen on two occasions by seven witnesses who knew her from Rogers High School after 1:00 am on March 12. First she was seen driving a blue Ford Escort, then again as a passenger in the same Ford Escort with a white man with long side-burns driving. One witness, David Ingram, at approximately 1:30 am made a police report that he and six others saw Ogle and that she did not appear to be distressed. Ingram and the others said that Ogle waived to them. Twenty-three years later, prosecutors pressured witnesses who saw Debra Ogle on March 12 to recant their account to say they were mistaken and saw Debra Ogle's younger sister on March 12.

The sighting of Debra Ogle on March 12 is significant because the state's entire theory of the murders, which comes exclusively from the testimony of co-defendant Glover Heard, was that Ogle was killed first and Tincher was killed second to cover up the first murder. The fact that numerous witnesses who knew Ogle saw her twice on March 12 disproves Heard's account and the entire basis for Montgomery's conviction and death sentence.

New Evidence

William T. Montgomery has been on death row for over thirty years for allegedly murdering Cynthia Tincher and Debra Ogle in a single series of events in Lucas County March of 1986. The prosecution's theory has always been that on March 8 Mr. Montgomery murdered Debra Ogle first, and Cynthia Tincher was murdered second that same day in order to cover up the tracks of Debra Ogle's murder.

Once the appeal reached federal court, Judge Solomon Oliver ordered a new trial because at the time of trial, and for six years after the conviction, the prosecution did not disclose a police report indicating a witness, who knew Debra Ogle, reported seeing her still alive days after the prosecution theorized she had been murdered by Mr. Montgomery. On appeal, the original

appellate panel of the Sixth Circuit Court of Appeals agreed with Judge Oliver and affirmed the order of a new trial. The government, however, pursued review by the entire appellate court and by a 10-5 majority (three out of fifteen judges being the difference between life and death for Mr. Montgomery), Judge Oliver's new trial order was reversed. Thus, a total six federal judges believe Mr. Montgomery did not receive a fair trial and should not be executed based solely on the police report that was not disclosed at trial.

But the appellate court that narrowly overruled Judge Oliver made its decision without considering a crucial piece of scientific evidence that confirmed the significance of the withheld police report and established scientific proof that the prosecution's trial timeline was false. Through his own efforts decades after being convicted, Mr. Montgomery obtained an expert forensic report that confirmed the fact that had been suggested by the suppressed police report – that Debra Ogle was still alive days after the prosecution claimed she had been murdered by Mr. Montgomery. The expert forensic pathology report from Independent Forensic Services, LLC (S. Eikelenboom-Schieveid, M.D., Forensic Medical Examiner, and Jon J. Nordby, Ph.D., D-ABMDI, Final Analysis Forensics) explained that while Ms. Ogle's body was found on March 12, she could not have been murdered on March 8 and left in the woods for four days as the prosecution argued at trial. The report opined:

1. Warming of her body should have led to decomposition, but none was noted.
2. The lividity found in her body shifted as she was moved. This could not have happened if she had lain dead in the woods for four days.
3. There was no damage to her body from animal activity or insects and this would also have occurred had she been dead in the woods for four days.

The expert report noted the testimony of the pathologist who performed the autopsy on Ms. Ogle made absolutely no mention of any decay or degradation of her body. At that time, the weather reports indicated the temperatures in Northwest Ohio ranged from a little below freezing to well above it. The median temperature for those days was always above freezing. But there is no indication Ms. Ogle's body had been exposed to the elements for any length of time. The report went on to opine that the State's theory was contrary to science because, within three days there would have been substantial changes in a corpse, much less a corpse left in a field. There would have been changes in the color of the skin, and attacks by wildlife would have marked the corpse. None of these observations were reported by the pathologist which contradicts the conclusion that her body lay in the woods for four days.

Notably, the state appellate court determined that Mr. Montgomery and his attorneys were "unavoidably prevented" from developing this expert report at the time of trial, but due to the procedural hurdles faced by Mr. Montgomery during his federal habeas appeal, the federal appellate court did not consider the expert report at the same time the court considered whether the withheld police report warranted a new trial.

While the two pieces of evidence have never been considered by court at the same time, the combined effect of the police report plus the expert report raises serious questions of actual innocence for Mr. Montgomery. While Mr. Montgomery was with Ms. Ogle and Ms. Tincher prior to their murders, so was another man named Glover Heard. Notably, Ms. Ogle's wallet was recovered by the police in Mr. Heard's dresser drawer and the police also found Ms. Ogle's car less than a block away from Mr. Heard's residence. But Mr. Heard, whose story changed five times, made a deal with the prosecution and pointed the finger at Mr. Montgomery in order for Heard to avoid the death penalty.

The citizens of the State of Ohio should be alarmed and appalled that, at best, a man who was convicted on a false set facts and, at worst, an innocent man is about to be executed in a few short weeks.