

In August of 1977, seventy-four year old Henry Cordle was murdered in his room at the YMCA in downtown Toledo, Ohio. Partially blind and very slightly built, he had 37 wounds, some defensive, three deep stabbing wounds. There were no witnesses.

On September 10 of that year, Michael Morris, a resident of the Y who had not been seen there since the date of the murder, was arrested. Most, if not all, of the residents of the Y had been interviewed about the murder. One of those residents was an 18-year-old named Michael Ustaszewski.

Morris, having been told by the police that Ustaszewski had suggested that he (Morris) should be interviewed, implicated Ustaszewski in the crime. Morris said that while he *was* involved in the robbery, it was Ustaszewski who actually killed Cordle. On September 11, 1977 Ustaszewski was arrested.

Ustaszewski [hereafter, Michael], asserting his innocence but wanting to help, admitted that he and Morris *had* talked about committing some robberies. But, he said, they hadn't taken place. Both young men had been released from the Ohio Youth Commission earlier that year.

Michael, not wanting to tell the police that he had been working as a male prostitute on the night of the murder, got caught up in providing different stories about where he had been. When he realized he was really in trouble and told them the truth – three weeks after the weekend of the murder – he was confused about whom he had been with and when. By the time he realized that he had been with a “trick” at the Commodore Perry hotel, the police weren't interested in tracking the man down to try to confirm the story.

Both men were charged with aggravated murder and were tried separately. Carl Kuhnle was appointed to represent Michael. In late November, the state requested a continuance and released Michael on his own recognizance (ROR'd). There was no physical evidence tying him to the crime and, as above, no eyewitnesses, except for the co-defendant. This was problematic for the state.

Michael had been in jail with a man named Carl E. Griesinger, Jr. for a month or so. According to Griesinger, during this period Michael had repeatedly stated to Griesinger that he was innocent. When he was ROR'd, an officer brought Michael to the jail to collect his things. At that point, according to Griesinger, Michael awakened him and told

## Michael Ustaszewski Story — Imprisoned For A Murder Committed By Another Man

By Melissa Sheridan Embser-Herbert, Ph.D., J.D.

him that he had, in fact, committed the crime. Griesinger's attorney was Paul Geller, the same man who was representing Michael Morris.

Griesinger had been arrested for the first degree felony of aggravated robbery. On November 14, 1977 – two weeks *before* Michael was ROR'd - Griesinger entered a plea of not guilty to the first degree felony. On December 7, 1977 - nine days *after* Michael was ROR'd and, allegedly, made his confession to Griesinger – Griesinger was able to change his plea to guilty for the fourth-degree felony of grand theft. At his own trial, Griesinger insisted that he had been offered nothing in exchange for the opportunity to plead guilty to a reduced charge. About two weeks later at Michael's trial, Griesinger insisted that he had been offered nothing in exchange for his testimony.

The coroner, testifying for the prosecution, stated that one of the knives owned by Michael could *not* have made some of the wounds. The defense made little of that issue and the knives were, judging by the state's paperwork, never tested for blood residue. A pair of jeans containing two small drops of what was identified as blood was taken from Michael's room at the Y. But, the technician was unable to identify whether the blood was human or animal and, thus, was also unable to type the blood. In addition, Kuhnle made no attempt to raise the question of how someone could wound a person 37 times and get only two small drops of blood on his pants. Neither did he raise the question of why someone who committed murder would keep the pants, unwashed, in his room in the same building where the murder occurred.

Michael was convicted solely on the basis of the testimony of Morris and Griesinger – the co-defendant and a jailhouse informant. Other information had certainly been inflammatory and contributed to his conviction, but none directly implicated him in the crime. For example, the lead detective, Thomas Ross, testified that Michael had told him about planning robberies. Michael was, to the jury, nothing more than a former juvenile delinquent now working as a male prostitute and showing no indication of avoiding criminal activity.

Michael appeared in court several times

while released on his own recognizance. When I asked him why he didn't run he said, “Because I didn't do it.” He really didn't believe it possible to be convicted for something you didn't do. On December 19, 1977 his jury trial began. On December 21, he was convicted of aggravated murder and sentence to life. Morris had been convicted and sentenced the life the week prior.

By his own accounts, Michael was a troubled young man. He had been handed over to the state as a small child. He “grew up” in and out of foster homes and state facilities. But, he has insisted from the day of his arrest that he had nothing to do with this crime. He was implicated by his own honesty with the police about the fact that he and Morris had talked about robberies. He never resisted and never refused to cooperate.

I know about his case because my parents had befriended Michael when he was an adolescent, several years prior to his arrest for Cordle's murder. I had already been off to college when my parents met him. My father, now deceased, attended his trial and was shocked when he was convicted on the basis of the above evidence. Below is my description, based on the trial transcripts, of Michael's exchange with the judge at the end of his trial.

After the jury was excused, Judge Ayers said, “Michael Ustaszewski, do you have anything to say why sentence of the Court should not be pronounced against you, or do you have anything to offer in mitigation of punishment?” Michael replied, “Yes, Your Honor.”

Ayers responded, “Anything that you wish to say the Court will listen to.” Michael said simply, “I'm innocent. I wasn't there. I don't know what happened, and that's it.”

The judge said, “All right. Anything else you wish to say?” Michael responded, “I believe there is some people missing, Calvin Ellis, and several other people. I don't understand, man.” The judge said, “Thank you.”

Judge Ayers then sentenced Michael to be committed to the Ohio State Penitentiary for the rest of his natural life and told him that he was also to pay the costs of the prosecution. He told Michael to be seated and Michael asked, “Can I say another thing?” The judge said, “Certainly you may.”

Michael said, “I ain't never in my life killed nobody or had anything to do with it.”

**Ustaszewski cont. on p. 4**

## Ustaszewski cont. from p. 3

The judge advised Michael of his right to appeal and asked Kuhnle to file the notice of appeal on Michael's behalf. Ayers stated that the recognizance bond was cancelled and directed that Michael be taken into custody. Again, Michael spoke. "So that means I got to go to prison for the rest of my life for something I ain't did?" The judge: "Michael, you will be eligible for a parole hearing at the end of fifteen years." Michael: "Fifteen years? I'm innocent."

Michael was eighteen years, six months, and twenty days of age.

I recently received the Toledo police investigative file – or the parts that they were willing to provide. It is clear that several people who *should* have been called as witnesses for the defense were not. For example, information provided to the police by a resident of the Y named Percy Wright would have raised questions about the truthfulness of Morris' testimony. He was not called as a witness. Another man, Joe Soinski, and Morris had tried to sell a knife to a desk clerk. He also provided information to the police about some odd events at the Y during the night of the murder. He was not called as a witness. His parents said he had left town to join the circus. A desk clerk from the Y, Harold Beat, had been interviewed and told of an African-American man running through the lobby in the middle of the night. If that man was Morris, that too would have called into questions the truthfulness of Morris' testimony because the time of that event contradicted Morris' testimony. Beat was not called as a witness. Another man, Duane "Cotton" Russell, could have testified that he sold Michael one of his knives in September, weeks after the murder. He could not be located. A friend of Michael's, John Miller, was with him at the time of his arrest. By his own estimate, he was with Michael "about 75%" of the time. They were "boyfriends," of a sort. He, too, told police that Michael had purchased one of the knives only days before his arrest. He was not called as a witness.

Rather, the defense called *one* witness, June Kramer, a desk manager from the Y. She testified about Michael receiving his daily stipend and as to her opinion of his pleasant character. She did *not* testify about the fact that, on August 24, she had received a call from a voice she identified as belonging to an African-American man saying, "Is this the desk clerk?" Kramer said, "Yes, it is." The caller then said, "You keep your mouth shut, baby," and hung up the phone. Did the

defense attorney know about this call? If so, did he assume it wasn't important because Morris, and African-American was involved and the call would do nothing to suggest that Michael was not? If so, that was a mistake. Other aspects of Morris' testimony would suggest he would have been too frightened to make such a call.

The defense attorney did not call Michael to testify on his own behalf. Given his age and education, this might have been wise. We'll never know.

The big questions are: Was the defense attorney just horribly incompetent? Did the prosecution withhold evidence that would have thrown the co-defendant's story into question? Or, was it a little bit of both? That is, ineffective assistance of counsel *and* Brady violations (prosecutor malfeasance)?

Refusing to admit his guilt, Michael has been denied parole eight times.

In addition to the above information, during his more than 33 years of incarceration several inmates have approached Michael saying that they knew he was innocent. In one case, an inmate named Bobby Hendrix had been in group therapy with Morris and listened to Morris talk about his having killed Cordle. Another inmate, Frank Poole, had been a cellmate of Morris. His statement indicates that Morris said he wanted to come forward and let people know that Michael was innocent. Poole indicated that he wanted to talk with Michael's attorney, but, no longer having an attorney Michael contacted an attorney in Columbus. He never responded. Another inmate, Leslie Huggins, gave a statement indicating that he had known Morris before the arrest and suggesting that he knew that Michael Ustaszewski had not been involved. None of these statements resulted in further inquiry. At one point, according to Michael, he confronted Morris in the dining hall at one facility and Morris said that he intended to "come clean" regarding Michael's innocence. That has never happened. (Note: The original inmate statements are available online at [www.justice-for-michael.blogspot.com](http://www.justice-for-michael.blogspot.com). Click on "Documents" under "Labels" in the right sidebar.

Michael was represented by the Ohio Innocence Project in his application for DNA testing of the evidence. Although they lost initially, on appeal the state was told that they actually had to *try* to locate the evidence. In one more bizarre piece of the story, the special agent for the prosecutor's office was a man named Thomas Ross, the man who had been the lead detective on the original case.

His affidavit (also available as a PDF document) stated that the property room journal noted, "On January 24, 1979, per the prosecutor's office, all evidence was destroyed." The Court of Appeals affirmed Michael's conviction on February 9, 1979 – sixteen days *after* the evidence was allegedly destroyed. Because there was, allegedly, no evidence, there could be no DNA testing, the Ohio Innocence Project withdrew from representation.

My parents had stayed in touch with Michael over the years, and in October 2007 we called the prison chaplain to have him tell Michael of my father's death. I had always heard about his story, but had never met him and didn't know any details. I became intrigued with the fact that someone had served 30 years for a crime he still said he did not commit. So in early 2008 I started investigating Michael's case. I went into it with an open mind, not knowing what I would learn. After reading the trial transcripts of both Michael Ustaszewski and Michael Morris, exchanging letters with Michael (Ustaszewski), visiting with him at Marion for a total of about ten hours, and obtaining/reading the investigative file, I came to the conclusion that he is in fact innocent of the crime for which he has been convicted.

Many of the key persons are now certainly deceased. I know that this is true of the trial judge, Charles W. Ayers. For others, I have made this assumption. Harold Beat, for example, would now be around 106 years of age. But, many others seem to be living. I have tried to identify the whereabouts of as many people as possible.

Michael Ustaszewski is now 52. Refusing to admit his guilt, he has been denied parole eight times. Interestingly, the parole board's most recent denial comments that he "has done over 32 years, has decent programs and only one ticket that resulted in segregation since last hearing," provided as rationale for their decision the circumstances of the crime and his having been in trouble as a juvenile. Thus, their rationale for denial is about things that can never be changed.

Michael has exhausted all legal avenues for justice, save the identification of new evidence. Michael's only hope is for one of the many people who, no doubt, know something (new) about the errors at trial or about the actual crime to come forward. It is my hope that someone might read this and know *something* or *someone* or be able to assist in some way.

Additional details and documents are available at, [www.justice-for-michael.blogspot.com](http://www.justice-for-michael.blogspot.com).

**Ustaszewski cont. on p. 5**

## Ronnie Milligan Paroled Based On Evidence He Is Innocent After 30 Years On Nevada's Death Row

Ronnie Milligan was convicted and sentenced to death for the 1980 murder of 77-year-old Zolihon Voinski near Valmy, Nevada.

In 1980 Milligan was 29 and recently honorably discharged from the Navy, when he decided to travel from Tennessee to California with a group of people. Milligan spent much of the trip in a drunken stupor. The group encountered Ms. Voinski in the small town of Valmy, about 200 miles northeast of Reno. Needing money someone in the group got the idea of robbing her by disabling her car by removing the coil so it wouldn't start, and then offering to drive her to an auto parts store in Winnemucca about 40 miles away.

Outside of Valmy something went very wrong because of instead of just stealing Ms. Voinski's money she was brutally murdered. She was robbed of \$20 and some travelers checks.

The group was captured the day of Ms. Voinski's murder. In 1980 Milligan and two others were tried for the murder in Winnemucca, the county seat of Humboldt County.

Milligan testified at his trial that he was in an alcoholic blackout during the entire peri-

### Ustaszewski cont. from p. 4

There is also a Facebook group, "Justice for Michael Ustaszewski."

Michael can be reached at:

Michael W. Ustaszewski A150-384  
Marion Correctional Institution  
PO Box 57  
Marion, OH 43301-0057

Michael can also be reached via the JPay system: [www.jpays.com](http://www.jpays.com).

As Michael's outside contact, I can be reached at:

Melissa Embser-Herbert  
Hamline University  
PO Box 162  
Saint Paul, MN 55104

Or email me at, [acjustproj@gmail.com](mailto:acjustproj@gmail.com)



Ronnie Milligan

od of time the group was in Valmy and that he had no memory of anything about Ms. Voinski. The state's star witness was group member Ramon Houston who testified Milligan was the killer. Houston wasn't charged in the murder and he was released shortly after Milligan's trial. Milligan's two co-defendants also testified he murdered Ms. Voinski. Milligan's co-defendants weren't convicted of capital murder and were eventually released on parole.

After Milligan had spent 26 years on death row the Nevada Supreme Court ruled in another case that a different aggravating factor was required during a sentencing hearing than the one relied on to convict a person of capital murder. The Court applied the ruling retroactively. Since Milligan's capital conviction and death sentence both relied on the single aggravating factor of the robbery, he was granted a new sentencing hearing.

The lawyer appointed for the hearing, David Lockie, conducted a reinvestigation of Milligan's case.

Key new evidence was discovered, including a letter written by Houston in which he disclosed that not only did Milligan not murder Ms. Voinski, but he wasn't even with the group when she was murdered since they left him in Valmy because he was drunk and unconscious. A handwriting expert verified from samples of Houston's handwriting that he wrote the letter.

It was also discovered that when Houston was arrested he had Ms. Voinski's purse, and her blood was on him and his clothes. While none of her blood was on Milligan or his clothes. It was also discovered that the night of Houston's arrest his clothes were washed by Humboldt County sheriff deputies.

There was also the new evidence of an affidavit by one of Milligan's co-defendant's that he wasn't present when Ms. Voinski was murdered, and that the three other people arrested came up with the idea to pin the murder on him when they found out he had no memory of anything that happened on the day of the murder.

Lockie also had Dr. Donal Sweeney, an expert on blackout caused by alcohol consumption review the evidence. Dr. Sweeney

determined that in his expert opinion Milligan was probably in a blackout during the period of time that Ms. Voinski was murdered.

During Milligan's sentencing hearing in September 2010 Lockie presented the new evidence to Humboldt County District Judge Richard Wagner. Judge Wagner expressed "grave reservations" that Milligan was guilty based on the new evidence of his innocence, and he said Milligan's conviction was a miscarriage of justice. However since the hearing was only to resentence Milligan Wagner couldn't overturn his conviction. What Wagner did do was after overturning Milligan's death sentence and resentencing him to a term of life with the possibility of parole, he determined Milligan was eligible for parole and ordered the state's Parole Board to "immediately release" him from custody. Until the hearing Milligan was on death row.

However, the state Parole Board didn't comply with Judge Wagner's order. What they did do was schedule a parole hearing for Milligan in January 2011. During that hearing Milligan testified he had no memory of anything that happened on the day Ms. Voinski was murdered. There was also evidence presented that Milligan had a positive record during his 30 years on death row and that prior to his murder conviction he only had a misdemeanor arrest that didn't result in any charges. The board was also presented with Milligan release plan of living with the Brothers of the Holy Rosary in Reno and attending Truckee Meadows Community College.

On February 10, 2011 the Parole Board announced its decision that it was ordering Milligan's release on parole.

Although it is not known if he will do so, it is possible Milligan could prevail in overturning his conviction if he were to file a habeas corpus petition based on the new evidence of his actual innocence of having nothing to do with any of the events surrounding Ms. Voinski's robbery and murder. He was simply a convenient patsy taken advantage of by the actual murderer and his accomplices. Ronnie Milligan is now 60 years-old, and he spent more than half his life on death row for the murder of a woman he never even met.

Sources:

Court ruling frees former Nevada death row inmate, Las Vegas Review-Journal, Sept 24, 2010.

Nevada state board grants death row inmate parole, Las Vegas Sun, February 10, 2011