

IN RE: CLEMENCY APPLICATION  
OF TYRA PATTERSON

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AFFIDAVIT OF NANCY DAY

I, Nancy Day, under penalty of perjury and having been sworn to tell the truth, state the following:

1. I'm a fifty-four year-old woman who lives in Montgomery County, Ohio.
2. I have personal knowledge of the facts stated below and am of sound mind.
3. In 1995 I served on the jury in *State v. Tyra Patterson*, 94-CR-2753 that convicted Tyra Patterson of aggravated robbery and aggravated murder. The charges all came from the shooting death of Michelle Lai.
4. Although I had serious doubts about Tyra's guilt, I felt that we had no choice but to convict her based on the evidence that was presented to us.
5. My gut told me that Tyra just found herself at the wrong place at the wrong time. However, a few factors led me to vote to convict Tyra despite my serious concerns.
6. First, the jury instructions made it clear to me that if Tyra was in the vehicle with the other defendants, she should be found just as guilty as them. The way the law was explained to us made it seem as though we had no choice but to convict Tyra of robbery and murder.
7. Further, we were presented with Tyra's videotaped confession and Holly Lai's testimony that Tyra snatched the necklace from one of the victims.

8. I don't recall the defense presenting us with alternative explanations as to why Tyra was at the scene of the crime.
9. Although this evidence seemed damning of Tyra, I still had doubts about convicting her. I felt like she was a young woman who unexpectedly found herself in a tragic situation.
10. On June 11, 2013, I met with Kris Burgess and Donna Harati, two law clerks working with David A. Singleton, one of Tyra's lawyers. Mr. Burgess and Ms. Harati played me a recording of the 911 call Tyra made after the shooting. I was surprised to learn of the call because neither the defense nor the prosecution presented us with the call during the trial.
11. The 911 call should've been played at trial because I believe it's strong evidence of Tyra's innocence. She would've never called 911 if she thought she'd done something wrong. I think the call is compelling evidence that Tyra was trying to do the right thing after unintentionally finding herself at the scene of a crime.
12. The fact that Tyra didn't give her name correctly at the beginning of the call does not undermine the significance of the call for me in any way. Mr. Burgess and Ms. Harati told me that according to Tyra's version of events, she had picked up a necklace that had been thrown on the ground by one of the other defendants. I can understand that Tyra must have been extremely scared while making that 911 call. She was trying to do the right thing, but she didn't want to place herself at the scene of the crime because she was scared of being charged with a serious crime. Plus, she

had just witnessed someone getting shot. It's clear to me that Tyra tried to distance herself from the scene of the crime only because she was scared.

13. If I had heard the 911 call at trial, it almost certainly would've given me a reason to follow my instincts and vote not guilty.
14. Further, Mr. Burgess and Ms. Harati presented me with the transcript of Holly Lai's testimony in Kellie Johnson's trial. In this testimony, Holly Lai states that it was Kellie Johnson who snatched the necklace. This testimony directly contradicts Holly Lai's testimony during Tyra's trial that it was Tyra who snatched the necklace.
15. I'm shocked that the defense didn't present us with the contradictory testimony. Had I been presented with the transcript from the Kellie Johnson trial, I would've had another reason to validate my doubts and vote not to convict Tyra.
16. Finally, I'm convinced that Tyra's videotaped confession was a false confession.
17. It's easy for me to imagine Tyra making a false confession given the circumstances she was in. She was young and scared, and I think it's possible that the police intimidated her. I know that false confessions occur more frequently than they should.
18. If I had been presented with expert testimony on false confessions during the trial, I would've felt more comfortable expressing my doubts about Tyra's confession to the other jurors.

19. I didn't feel comfortable convicting Tyra in 1995, but I felt that I had no choice. I didn't sleep well for weeks after the trial because I just didn't feel right about the conviction.

20. Had I been presented with the 911 call, Holly Lai's testimony, and expert testimony on false confessions, I would've felt confident that I did have a choice to find Tyra not guilty, and I probably would've voted to acquit her. I hope Tyra can leave prison soon.

Nancy L. Day  
Nancy Day

Sworn to and subscribed in my presence this 13 day of June, 2013.



**ANGELINA N. JACKSON**  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Date. Section 147.03 O.R.C.

[Signature]  
Notary Public