

AFFIDAVIT OF KATHLEEN JOY HORVATH IMEL

1. I, Kathleen Joy Horvath Imel, am over the age of eighteen, am competent to testify, and have personal knowledge of the matters stated herein.

2. I served as a juror in the 2003 criminal trial of Derek Tice in Alexandria, Virginia, and I was asked to determine whether Derek Tice participated with several others in the rape and murder of Michelle Bosko.

3. At trial, the Commonwealth's evidence consisted largely of Derek's statement to police made after what I now understand to have been a long and coercive interrogation and the testimony of a co-defendant, Joseph Dick. By far, the most important evidence to our jury was Derek's confession and Joseph Dick's testimony.

4. During the trial, I was troubled by several weaknesses in the Commonwealth's case. First, there was absolutely no physical evidence linking Derek Tice to the crime, and furthermore, the only person linked to the crime by DNA evidence was Omar Ballard. It seemed highly unlikely that the victim could have been raped by up to eight men without there having been DNA evidence from Derek Tice or any of the co-defendants other than Ballard. I recall being frustrated that defense counsel did not question the witness who presented the DNA evidence strongly enough about how improbable it would have been for eight men to rape and murder a woman with only one of them leaving behind any DNA. Second, it seemed highly unlikely that the crime scene could have been as neat and undisturbed as it was left, if this crime were committed by eight men as alleged by the prosecution. Third, the complexity of the case, involving eight defendants and a confusing sequence of events, only part of which was revealed to the jury, left us with many unanswered questions about how and when each defendant was implicated and how that may have affected the confessions of Derek Tice and Joseph Dick. The

statements made by Derek Tice and testimony by Joseph Dick were inconsistent with each other and with the evidence. The order in which critical events occurred, such as when the various defendants were questioned, when they confessed, when DNA evidence was ascertained, etc., were nearly impossible to keep track of and defense counsel was not helpful in making the sequence of events clear to the jury. The overwhelming amount of detail, plus the many holes in the information provided at trial, obscured the most important facts of the case. The jury asked if we could have a transcript of the trial proceedings so that we could re-construct a timeline of events and a chart of all parties involved or implicated, in an effort to understand more completely how Derek Tice came to be identified and charged. We were told that we must rely upon the jury's collective memory instead. Interestingly, the clemency petition and supporting exhibits filed by Derek Tice, Danial Williams, and Joseph Dick, which I have reviewed, include just such a timeline that would have helped the jury to sort out the salient details of this case.

5. When I entered jury deliberations, I was convinced that I would vote to acquit, and I remember that several other jurors said they felt the same way. But, in the face of Derek's confession and Joseph Dick's testimony, I found myself just barely over the "beyond the reasonable doubt" barrier.

6. Recently, I was asked to review additional evidence that I did not have before me during the trial. I have reviewed this additional evidence thoroughly and completely, and I find it exonerating. It fills many of the holes in the Commonwealth's case that I had identified during the trial but had no evidence to fill, and it places the evidence I did hear in a very different light.

7. When I voted to convict Derek, I did not know the following information about which I have recently learned by reading the clemency petition and supporting exhibits filed on behalf of Derek Tice, Joseph Dick and Danial Williams:

- Detective Ford, the key investigator who obtained the confessions from the four Navy men, has a history of obtaining false confessions. This information alone would have been compelling to me and to other jurors, particularly because a key question we discussed often was how so many men could have possibly confessed to such a horrible crime if they were innocent.
- Joseph Dick, who testified that both he and Derek were present at the crime and committed the rape and murder, actually had an alibi that has since been proven to be reliable. His supervisor has stated that Joseph was on duty aboard his ship, and could not have been in Michelle Bosko's apartment on the night that Ms. Bosko was murdered. The existence of Joseph's alibi was never raised during the trial.
- Joseph Dick intended to testify that he was not involved in the crime and that his prior statements implicating himself and Derek were false, but Joseph was visited by the prosecution prior to his testimony in Derek's trial, and he believed that if he did not maintain the false story that he, Derek and the others were involved in the crime, he could face the death penalty.
- An expert in police interrogations and confessions has concluded that the confessions of these four sailors were coerced by the police and are false. Had such an expert witness been presented to the jury at trial, I am confident that we would have reached a decision to acquit, as a number of us were troubled by the inconsistency of the confessions and the lack of physical evidence. Without information from an expert that 1) false confessions are not uncommon, and 2) often bear the hallmark of discrepancies between the defendants' statements and physical evidence, the jury was left only with the fact of the confessions themselves. Not being experts, the jury lacked the expert background to understand how this was psychologically possible, plus we did not have the information about how the confessions were obtained.
- An expert in crime scene reconstruction has concluded that only one person committed this crime and that the confession of Omar Ballard is the only confession that is consistent with the crime scene. His conclusion only serves to reinforce my initial problems with the prosecution's case against Derek Tice.
- Omar Ballard intended to testify truthfully at Derek's trial that he had murdered Michelle Bosko alone, but prior to his testimony, he was pressured to remain silent at trial, which he did. Had Ballard testified that he had acted alone, his testimony, along with the physical evidence, would have given more weight to the likelihood that Derek Tice was innocent.

8. Although the jury heard about Omar Ballard's letter in which he said he killed Ms. Bosko, we did not hear the contents of the letter and did not actually get to read the letter for ourselves. I have now read the letter, and I find it very disturbing. During jury deliberations, I

observed that Omar Ballard was more likely to have acted alone rather than participate in this crime with seven other men he didn't even know. The details of his letter and the chilling manner in which he admitted that he killed Michelle Bosko and wanted to kill other women as well have reinforced my initial impression of him. Had I been allowed to read this letter as a juror, I would have had valuable information to support my assumptions about him, which would have strengthened my initial conviction to acquit Derek of the charges.

9. Had I heard and seen any of the foregoing evidence during the trial, I would not have convicted Derek Tice of the rape and murder of Michelle Bosko. Instead, I would have been convinced, as I am now, that Derek and the other three sailors are innocent.

10. Taking this new information into account with the evidence I heard at trial, I now firmly believe that Derek Tice, Eric Wilson, Joseph Dick, and Danial Williams are all innocent of this crime. I would like to add my voice to the chorus of voices seeking the release of these innocent men.

11. I ask the Governor of Virginia to grant clemency to Danial Williams, Joseph Dick, Derek Tice, and Eric Wilson. It is with deep sadness and regret that I recognize that the jury played a key role in Derek Tice serving a life sentence in prison. I am outraged that many people who were entrusted with investigating and finding the truth about this crime apparently went out of their way to cover up the truth, to interfere with witness testimony and to mislead the jury. Had the jury been presented with the full evidence of the case, Derek Tice would not be in prison today. I understand that the Governor of Virginia is now the only person who can release Danial Williams, Joseph Dick, and Derek Tice. I believe that clearing the names of all four of these innocent men is the only right and just thing to do, and I urge that the Governor swiftly grant them clemency.

I hereby swear that the foregoing is true and correct.

Kathleen Joy Horvath Imel
Kathleen Joy Horvath Imel

Sworn and subscribed to before me this

21 day of December, 2005.

Stephanie E. Bruce
Notary Public

STEPHANIE E. BRUCE
Notary Public - State of Kansas
My Appt. Expires 10/25/07