

## **A RULING AGAINST HOPE - EVEN IN QUESTIONABLE CASES, OBSTACLES TO NEW TRIAL CAN BE INSURMOUNTABLE**

Detroit Free Press (MI) - Monday, November 8, 2004

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I saw **Darrell Siggers** behind bars for the third time on Thursday. Outwardly, he looked like the same man I first met in the Macomb Correctional Facility more than two years ago. But he wasn't. I saw it in his eyes. **Siggers** had lost much of the hope that had steeled and sustained him the last three years.

"I know now that I might die in prison," **Siggers** told me in the old Wayne County Jail, where he is awaiting transfer back to prison. "But what choice do I have but to go on? Without hope, I can't. Without that, they might as well give me the death penalty and get it over with."

**Siggers**, now 40, is serving a life sentence for the 1984 murder of James Montgomery in Detroit.

Based on new evidence, a team of attorneys, working hundreds of hours for free, filed a motion last year seeking a new trial for **Siggers**. But last week, Wayne County Circuit Judge Vera Massey Jones denied the motion at an evidentiary hearing, arguing that the new witnesses weren't credible.

Attorneys for **Siggers** are considering an appeal, but the case continues to expose some cracks in the criminal justice system.

I wrote about **Siggers** in November 2002, and again last year. The columns raised doubts about the verdict, which a jury took three days to reach. Key witnesses told me they withheld evidence during the trial, either out of fear of the killer or pressure by police, or to uphold the street code of silence. **Siggers** also got the kind of lousy defense some poor people get from underpaid court-appointed lawyers in Michigan.

After the first column ran, F. Martin Tieber, one of the nation's top criminal appellate attorneys; David Santacroce, a professor at the University of Michigan Clinical Law Program; and Jennifer Morris, a recent law school graduate, got on the case. Later, Kim Thomas, a clinical assistant professor of law, and law school students Darcie Tilly and Liz Seger joined them.

They put four witnesses on the stand at last week's hearing, including inmate Darryl Dulin, who said he was sitting in a car parked on Philip Street on Feb. 16, 1984, when he saw a man known as Toby Red, about six feet away, cock a rifle and shoot Montgomery. Massey Jones questioned how Dulin could be sure it was Toby Red, who reportedly was wearing a hoodie, on a dark street.

But in 1984, the two eyewitnesses testifying against **Siggers** were about 50 feet away, on the same dark street, and they were drunk. How could they have been sure?

Massey Jones didn't allow the law students to question the witnesses, even though they had prepared for it. She scolded **Siggers**' lawyers repeatedly, especially Santacroce, accused them of producing a flyer put out by a prison innocence project, and, in her concluding remarks, said she expected the hearing to be more like "CSI." But this was a hearing based on testimony, not a crime scene investigation with conclusive physical evidence.

I talked to the judge on Thursday. She couldn't comment on much of this because of a possible appeal, but she said again that she found the witnesses' stories incredible. Asked about her perceived petulance toward **Siggers**' team, she reminded me that she had also reproached assistant prosecutor Jason Williams, who successfully argued the case for Wayne County. "I think I'm evenhanded," she said.

Personalities aside, the key question was whether Massey Jones found the witnesses credible. To be fair, even though I believe **Siggers** is innocent, I think a judge could have ruled, with reason, either way on the request for a new trial.

Exonerating the wrongfully convicted without DNA evidence is practically impossible. Many innocence projects won't even take non-DNA cases. New DNA technology, which has freed more than 100 prisoners, exposes some flaws in the legal system, but it offers no remedy in most innocence cases.

**Siggers**' hearing also underscored some class issues in the system. The young prosecuting attorney challenged witnesses who knew **Siggers** but said they hadn't known his last name when the murder took place. And he repeatedly questioned why they hadn't told police what they knew. These are reasonable questions for most people. But young men in the street life are frequently known by nicknames only, and few of them volunteer anything to Five-O.

**Siggers**' wife, Tina, told me she wasn't giving up. "I love my husband, and I will not leave him," she said. "He's innocent. I will fight for his freedom for the rest of my life. God will have the last word."

**Siggers** takes solace in that. His strength has inspired those close to him.

All things considered, he has done a lot with his life in the last 20 years, but he wants to do much more. **Siggers** entered prison, he once told me, as a "functionally illiterate man-child who could live only day by day, trapped in a culture of crimes and drugs, and in the ghetto of my own mind."

In prison, **Siggers** educated himself, earning a GED and a two-year college degree. He works in the prison law library and can write a legal brief as well as most attorneys.

Moving forward now, with far less hope, won't be easy. Education opened a new world for **Siggers**, but he can enter it only in his mind.

The truth is locked inside him, and it may never be enough to set him free.

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Caption: Photo J. KYLE KEENER/Detroit Free Press

**DarrellcSiggers** , who has served 20 years of a life sentence for a 1984 murder that new evidence shows he probably did not commit, sits behind bars at the old Wayne County Jail, awaiting return to Mound Correctional Facility. After a hearing last week, Wayne County Circuit Judge Vera Massey Jones denied a motion for a new trial.

Edition: METRO FINAL

Section: EDP; EDITORIAL

Page: 10A

Index Terms: column

Record Number: 0411678774

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