



ORRICK, HERRINGTON & SUTCLIFFE LLP
THE ORRICK BUILDING
405 HOWARD STREET
SAN FRANCISCO, CALIFORNIA 94105-2669

tel +1-415-773-5700
fax +1-415-773-5759

WWW.ORRICK.COM

October 8, 2013

Norman C. Hile
(916) 329-7900
nhile@orrick.com

VIA FACSIMILE (415) 455-5025

Brandy Ebert
Litigation Coordinator
San Quentin State Prison

Re: Request to Film Statement of Kevin Cooper C-65304-4-EB-82-S

Dear Ms. Ebert:

I am an attorney who represents Kevin Cooper. Mr. Cooper's inmate number is above. He is under sentence of death and is housed at San Quentin.

In 2011 on Mr. Cooper's behalf, I filed a petition with the Inter-American Commission on Human Rights (IACHR), which is an agency of the Organization of American States, alleging human rights violations in the prosecution which led to Mr. Cooper's conviction and sentence of death and in the way in which he has been imprisoned for the past 28 years on death row. Over the past two years the IACHR accepted Mr. Cooper's petition, ruled that its allegations and proof are admissible and asked for a merits briefing. Mr. Cooper filed that brief along with certain evidence on August 30, 2012. On September 27, 2013, the IACHR ordered a hearing on Mr. Cooper's petition. That hearing will occur on October 28, 2013 at 11:30 a.m. in Washington D.C. A copy of the correspondence setting that hearing is enclosed.

In order to present Mr. Cooper's case to the IACHR, since he cannot be present in person, I need to record a statement from him. In order to record his statement, I am scheduling a legal visit with him on October 23 at 8 a.m. At that visit, I request that I be permitted to film his statement by use of a video camera. San Quentin does not need to arrange for anything other than to permit me to enter the visiting area with a video camera. If a room larger than a legal visit cell can be made available for the filming, that would make filming much easier, but I will make do with the visiting cell if that is all that can be made available.

Please let me know as soon as possible whether the prison will allow me, as Mr. Cooper's attorney, to bring a video camera into the prison on October 23 to film this statement for his IACHR hearing. It will not disrupt the prison in any way, we do not need to have a court reporter or notary public present, and members of prison staff can be present outside the cell or any room made available during the filming if there is truly any need for them to be there.



Brandy Ebert
October 8, 2013
Page 2

You can reach me by email at nhile@orrick.com or at my office: (916) 329-7900.

I look forward to discussing this issue further with the appropriate party.

Very truly yours,

Norman C. Hile

Enclosure

cc: Kevin Cooper
Katie DeWitt



ORRICK, HERRINGTON & SUTCLIFFE LLP
400 CAPITOL MALL
SUITE 3000
SACRAMENTO, CALIFORNIA 95814-4497

tel +1-916-447-9200
fax +1-916-329-4900
WWW.ORRICK.COM

October 15, 2013

Katie C. DeWitt
(916) 329-7923
kdewitt@orrick.com

VIA FACSIMILE (415) 455-5025

Brandy Ebert
Litigation Coordinator
San Quentin State Prison


Re: Request to Film Statement of Kevin Cooper C-65304-4-EB-82-S

Dear Ms. Ebert:

This letter confirms our conversation today regarding our request to film Mr. Cooper during a legal visit on October 23, 2013. I understand that this request is still being processed, but that as an alternative it is permissible to bring a sealed tape cassette with us to the visit on October 23, 2013, and that, we will be permitted to utilize a prison tape recording machine to make an audio statement by Mr. Cooper for use at the October 28, 2013 hearing before the Inter American Commission on Human Rights during that legal visit.

If you would please confirm the appropriate size of sealed cassette that should be brought to the visit that would be tremendously helpful.

Very truly yours,



Katie C. DeWitt

cc: Chelsea Henricus
Kevin Cooper
Norm Hile



ORRICK, HERRINGTON & SUTCLIFFE LLP
400 CAPITOL MALL
SUITE 3000
SACRAMENTO, CALIFORNIA 95814-4497

tel +1-916-447-9200
fax +1-916-329-4900
WWW.ORRICK.COM

October 16, 2013

Katie C. DeWitt
(916) 329-7923
kdewitt@orrick.com

VIA FACSIMILE (415) 455-5025

Brandy Ebert
Litigation Coordinator
San Quentin State Prison

Re: Request to Film Statement of Kevin Cooper C-65304-4-EB-82-S and Rejection of Appeal
Log Number CSQ-I-13-02698

Dear Ms. Ebert:

This letter reiterates our position that it would be highly preferable to film Mr. Cooper's statement for the Inter American Commission on Human Rights at the upcoming legal visit on 10/23/13 and specifically requests that the prison confirm in writing whether it will accommodate this request.

I also request your guidance regarding the latest rejection of Mr. Cooper's 602 appeal arising from an incident that occurred in May of 2013, which states that the appeal is "rejected not cancelled." It further repeats prior objections that the appeal concerns an anticipated action and makes a general allegation. It was my understanding that the warden had directed that this appeal be processed as written. However, this does not appear to have happened based upon the latest rejection, which I am attaching to this letter.

As you know, this appeal has been rejected multiple times on various bases of questionable merit and has never actually been processed on the substantive merits of Mr. Cooper's claims. These repeated rejections will not deter Mr. Cooper from continuing to submit his appeal until it is actually decided, thus allowing him to exhaust his administrative remedies with respect to the incident where Officer Simon subjected Mr. Cooper to the unreasonable risk of harm from individuals known to be hostile to Mr. Cooper in retaliation for Mr. Cooper's pending petition before the Inter American Commission on Human Rights and participation in the *Morales v. Cates* litigation. These actions also violated numerous prison regulations as set forth in the California Code of Regulations. The factual and legal basis for Mr. Cooper's claims, including the specifics regarding the incident that did occur in May of 2013 (and thus is not prospective in nature) are detailed in Mr. Cooper's 602 appeal paperwork.

Again, I respectfully request your assistance in obtaining the decisions necessary to allow Mr. Cooper to exhaust his administrative appeals. These repeated rejections of Mr. Cooper's appeal on illusory bases are interfering with Mr. Cooper's due process rights to have his 602 appeal heard and

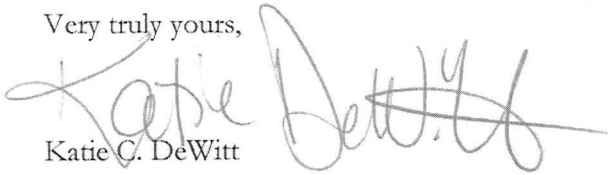


Brandy Ebert
October 16, 2013
Page 2

decided. Further, Mr. Cooper has received no assures that action has been taken to safeguard his wellbeing from future acts of retaliation.

I very much appreciate your prompt attention to these matters and look forward to discussing them with you soon.

Very truly yours,


Katie C. DeWitt

cc: Kevin Cooper
Norm Hile

DIVISION OF ADULT INSTITUTIONS

San Quentin State Prison

San Quentin, CA 94964



October 17, 2013


Katie C. DeWitt
Orrick, Herrington & Sutcliffe, LLP
400 Capitol Mall
Suite 3000
Sacramento, CA 95814-4497

RE: Inmate Cooper, C-65304

This letter is in response to your letter received via fax dated October 15, 2013 offering as an alternative to your earlier request to video tape a statement made by Inmate Cooper, C-65034 during an upcoming legal visiting scheduled for October 23, 2013; to instead be permitted to audio record a statement made by Inmate Cooper. Your request is granted as audio recordings are permitted in the visiting room as a regular practice in the following manner:

A CSP-San Quentin cassette recorder will be provided to you; however you must bring in your own unopened/ sealed cassette tape. The CSP-San Quentin cassette recorders utilize the normal size cassette tape.

If you have any questions, I may be reached at 415-454-1460 extension 5757.


Brandy Ebert
Correctional Counselor II (Specialist)
Litigation Coordinator
CSP-San Quentin
1-415-454-1460 extension 5757
1-415-455-5025 (fax)

CC: Inmate Cooper, C-65304
Central File



ORRICK, HERRINGTON & SUTCLIFFE LLP
400 CAPITOL MALL
SUITE 3000
SACRAMENTO, CALIFORNIA 95814-4497

tel +1-916-447-9200
fax +1-916-329-4900
WWW.ORRICK.COM

October 17, 2013

Katie C. DeWitt
(916) 329-7923
kdewitt@orrick.com

VIA FACSIMILE (415) 455-5025

Brandy Ebert
Litigation Coordinator
San Quentin State Prison

Re: Request to Film Statement of Kevin Cooper C-65304-4-EB-82-S and Rejection of Appeal
Log Number CSQ-I-13-02698

Dear Ms. Ebert:

I am in receipt of your fax dated October 17, 2013 in which you indicate that you are accepting my offer to make an audio tape recording of Mr. Cooper in place of my prior request to film him at my upcoming visit on October 23, 2013. I would like to make clear that I did not request to audio record Mr. Cooper as an alternative to taking a video statement of him. That alternative was presented by you in our phone conversation on October 15, 2013 in the event that my video request was denied. I repeated my desire to videotape Mr. Cooper in my letter to you yesterday, specifically stating:

"This letter reiterates our position that it would be highly preferable to film Mr. Cooper's statement for the Inter American Commission on Human Rights at the upcoming legal visit on 10/23/13 and specifically requests that the prison confirm in writing whether it will accommodate this request."

While I am pleased that we will be able to take Mr. Cooper's audio statement for the IACHR, videotaping Mr. Cooper so that the Commission may actually see Mr. Cooper while he is speaking would be superior means of communicating his message.

Please confirm whether our request to videotape a statement by Mr. Cooper on October 23, 2013, has been denied.

/

/

/

/



Brandy Ebert
October 17, 2013
Page 2

I very much appreciate your prompt attention to these matters and look forward to discussing them with you soon.

Very truly yours,



Katie C. DeWitt

cc: Kevin Cooper
Norm Hile