

May 24, 2016

The Honorable Edmund G. Brown, Jr.
Governor
State Capitol
Sacramento, CA 95814

Re: Clemency for Death Row Prisoner Kevin Cooper

Dear Governor Brown:

As you know, I served as a Justice of the California Supreme Court when you appointed me; I am a professor emeritus at UC Davis School of Law and a former law professor at UCLA, and University of New Mexico; I am the recipient of the Presidential Medal of Freedom and fighter for justice for all people of all races. Based on that background, I am writing to ask you to do justice for death row inmate Kevin Cooper. You can do so by granting a reprieve of Mr. Cooper's death sentence and undertaking a fair and impartial innocence investigation of Mr. Cooper's case.

There are so many factors in Mr. Cooper's case that cry out for justice. It is clear that Mr. Cooper was framed by law enforcement in large part because he is African American and was present in the wrong place at the wrong time. I have seen this scenario played out time and again, resulting in unjust convictions of innocent men of color who find themselves convenient suspects. I have seen it personally in my recent service on the Blue Ribbon Commission studying racism in the San Francisco Police Department. Such racism is a blight on our criminal justice system that needs to be uncovered, made public and eradicated so that public trust in the system may be restored.

During Mr. Cooper's prosecution, and for thirty years since, our criminal justice system has systematically denied Mr. Cooper access to evidence that could prove his innocence. This began with law enforcement's destruction of crucial evidence in 1983, such as convicted murder Lee Furrow's bloody coveralls and a bloody blue shirt found near the crime scene. It has continued through the unreasonable denial of the San Bernardino Sheriff's Department to share its deputies' interviews of potential witnesses, and more recently, through the State's refusal to allow examination of the records underlying a Scripps Laboratory test result in 2004, which the State's expert withdrew after that result showed Mr. Cooper's blood was planted on a tan t-shirt before DNA testing on it in 2002.

This Scripps result was the very test ordered by a 2004 *en banc* panel of the 9th Circuit Court of Appeals, which stayed Mr. Cooper's execution to permit forensic testing that would show that DNA testing in 2002 was falsified. See *Cooper v. Woodford*, 358 F.3d 1117 (9th Cir. 2004) (*en banc*). That the court-ordered testing has not been satisfactorily completed is shown by the fact that eleven 9th Circuit judges dissented from the denial of Mr. Cooper's habeas petition in 2009 and a twelfth earlier said that she questioned the 2002 DNA testing results. See *Cooper v. Brown*, 565 F.3d 581 (9th Cir. 2009) (Fletcher, J. dissenting); *Cooper v. Brown*, 510 F.3d 870 (9th Cir. 2007) (McKeown, J. concurring).

Further, subsequent advances in testing technology now afford opportunities not imagined in 2004. It is inhumane and contrary to the fair administration of justice to ignore Mr. Cooper's requests to test evidence that may prove Mr. Cooper's innocence once and for all and potentially implicate the guilty party(ies). This is especially true given the destruction and manipulation of evidence that has occurred in this case.

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The State's persistent refusal to permit testing that Mr. Cooper would pay for and that could exonerate him is shameful and undermines public confidence in the justice system. Shouldn't the State want to find the truth regardless of whether that truth is inconsistent with a conviction now over three decades old? Shouldn't the State want to prevent the execution of an innocent man who has spent over half his life proclaiming that innocence?

It falls upon you to afford Mr. Cooper an impartial innocence investigation, including access to evidence and the opportunity to test it so that public confidence in the criminal justice system may be restored.

Thank you for your consideration of this request.

Yours truly,



Cruz Reynoso