

Hank Skinner Asks Governor Perry to Grant Thirty-Day Reprieve of Execution

Reprieve Letter Requests Stay of Wednesday's Execution in Order to Allow Time for DNA Testing

Also Today, the Innocence Project Separately Urged TX Court of Criminal Appeals to Stay Mr. Skinner's Execution in Order to Give Full Consideration to His Claim for DNA Testing

(Monday, November 7, 2011, Austin, Texas) Today, attorneys for Hank Skinner formally asked Governor Rick Perry to exercise his “authority to grant a 30-day reprieve of execution” so that Mr. Skinner “can obtain the DNA testing that he has pursued for more than a decade, and which could resolve once and for all longstanding and troubling questions about the reliability of the verdict in his case.”

Texas is poised to execute Mr. Skinner on Wednesday, November 9, despite having adamantly refused to allow scientific testing of all the evidence in his case. Much of that evidence has never been subjected to DNA testing. The letter points out that since his arrest on January 1, 1994, “Mr. Skinner has always and consistently maintained that he did not commit the crimes for which he was convicted. Physical evidence from the crime scene, witness accounts, and expert testimony all demonstrate that Mr. Skinner was so severely impaired at the time of the murders” that he could not have committed the murder of his girlfriend Twila Busby and her two sons. “Forensic DNA testing has a very strong likelihood of either confirming or disproving his claim of innocence.”

Today's letter urges Governor Perry to listen to the growing chorus of voices insisting that Mr. Skinner not be rushed to the death chamber, and demanding that state authorities stop the November 9 execution and undertake DNA testing of all key items of evidence. Those who have spoken out in support of postponing Mr. Skinner's execution include

- current and former elected officials, former judges, prosecutors and law enforcement officers in Texas;
- twenty-six wrongly convicted prisoners released from death rows around the U.S.;
- editorial boards in Texas and across the country;
- the Secretary General of the Council of Europe and the French Ministry of Foreign Affairs;
- and over 120,000 people from around the world who have signed a petition in support of DNA testing.

Even three of the jurors who sat in judgment of Mr. Skinner at his original trial have come forward to ask for the testing. This outpouring of support for DNA testing reflects a powerful public consensus that DNA evidence should be tested when it is available. In Texas, 85 percent of people polled believe that prisoners should have access to DNA testing if it may prove their innocence.

The evidence that Mr. Skinner seeks to test, and which has never been tested for DNA, includes: a man's windbreaker found next to Ms. Busby's body, which had blood spatter, perspiration stains and human hairs on it, and did not belong to Mr. Skinner; two knives, at least one of which was a likely murder weapon; scrapings from Ms. Busby's fingernails, which may contain her assailant's blood or skin cells; and swabs from a rape-kit; and a hand towel found at the crime scene. The State's refusal to allow DNA testing is particularly troubling given the presence of another suspect -- a man with a violent criminal history who stalked Twila Busby, showed no emotion when told of the deaths, and then immediately after the crime was seen manically scrubbing the interior of his beat-up pickup truck down to the metal floorboards in an apparent effort to eliminate evidence.

The State of Texas, which for more than a decade has fought Mr. Skinner's efforts to obtain DNA testing, came within an hour of putting him to death in March 2010 before the U.S. Supreme Court stopped the execution. In March 2011, the Court ruled that Mr. Skinner was entitled to seek access to the evidence for DNA testing by suing the Gray County District Attorney under a federal civil rights law. That case was returned to the federal court in Amarillo, Texas, but proceedings are currently stayed pending the outcome in the state courts.

In May, the Texas Legislature, with overwhelming bipartisan support, adopted reforms that promised to increase access to post-conviction DNA testing. Governor Perry signed that bill into law, and it took effect September 1. Mr. Skinner promptly filed a motion under the new law in state district court to compel DNA testing of key pieces of never-before-tested evidence. Late last week, the trial court denied Mr. Skinner's motion without comment. On Friday, Mr. Skinner asked the Texas Court of Criminal Appeals to stop his execution long enough to allow meaningful consideration of his appeal of the trial court's denial of DNA testing.

The reprieve letter delivered to Governor Perry cites ample precedent for granting a thirty-day reprieve, including Governor Perry's own record of granting such a request in an earlier case. In December 2004, he temporarily reprieved Frances Newton, a death row inmate claiming innocence. In 2000, under former Governor Bush's administration, Ricky McGinn was granted a reprieve in order for DNA testing to take place.

The letter urges Governor Perry "to follow the same sensible path [he] followed in the Newton case in 2004, and which former Governor Bush had blazed in the McGinn case in 2000: take the time necessary to be *scientifically* certain of Mr. Skinner's guilt before permitting him to be executed. That is a judicious and deliberate decision that all Texans—in whose name Mr. Skinner will otherwise be put to death on November 9—will understand and support."

Also today, the Innocence Project filed a friend-of-the-court letter on behalf of Mr. Skinner with the Texas Court of Criminal Appeals urging them to stop Mr. Skinner's November 9 execution. The Innocence Project encouraged the Court to give Mr. Skinner's case thorough review in deciding whether he gets DNA testing under the state's recently amended DNA testing law. The Innocence Project emphasized that in other cases, including the recent Michael Morton case, prosecutors fought testing but DNA evidence ultimately proved innocence and helped identify the true perpetrator.

The Innocence Project warns: "No member of the judiciary or the public can predict with any certainty whether Mr. Skinner will ultimately join the ranks of the exonerated if he is granted DNA testing. But one thing is clear at this juncture: without a stay of execution, his application for DNA testing will not be given the serious and careful consideration by the courts of this State that it deserves."

To speak with Mr. Skinner's attorneys and other experts, or for more information, please contact: Laura Burstein, [202-626-6868](tel:202-626-6868) or laura.burstein@ssd.com.

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