



The Senate of The State of Texas

SENATOR RODNEY ELLIS
District 13

PRESIDENT PRO TEMPORE
1999 - 2000

COMMITTEES:

Chair, Government Organization
Criminal Justice
Transportation & Homeland Security
State Affairs

March 23, 2010

Hand delivered

The Honorable Rick Perry
Governor of Texas
c/o Office of the General Counsel
1100 San Jacinto St., Suite 412
Austin, TX 78701

RE: Request for a 30-day reprieve from execution of death sentence and DNA testing for Henry Watkins Skinner, scheduled to be executed on Wednesday, March 24, 6 p.m.

Dear Governor Perry:

As you are probably aware, Henry W. "Hank" Skinner is scheduled to be executed tomorrow night, March 24, at 6 p.m. It has come to my attention that there are numerous problems with Mr. Skinner's case that raise serious questions regarding the fairness of his trial and whether or not he is guilty.

I ask that you give Mr. Skinner a 30-day reprieve to assure his guilt and ensure that the State of Texas does not execute an innocent man.

There are many troubling problems with Mr. Skinner's case, so I will only address a select few. Most troubling is that there is DNA evidence in this case that has never been tested. Mr. Skinner has been asking for DNA testing of numerous items for over a decade, and to date none of that evidence has been tested. Such items include: a man's windbreaker found next to the victim's body, which had blood splatter, perspiration stains and human hairs on it; two knives, at least one of which was a likely murder weapon; a bloody towel; the victim's fingernails, which may have blood under them; swabs from a rape-kit that could reveal the victim's attacker; and hairs found in one of the victim's hands that have not been destroyed by previous testing.

Any of these seven items could prove Mr. Skinner's innocence — or guilt — yet it is evidence that has never been presented in a court of law.

Also troubling is Mr. Skinner's level of intoxication at the time of the crime, which appears to have been under-reported by the defense expert. Skinner was passed out from a combination of vodka and codeine just 90 minutes prior to the murders. The expert at trial said Skinner would have been physically and mentally incapable of carrying out the murders because his blood alcohol level was .21 percent at the time — almost three times the drunk driving standard in Texas — and his blood codeine level

was .4 mg/l — two and a half times the normal therapeutic dose. A recent review of that analysis by Dr. Harold Kalant, one of the world's foremost experts on the effects of drugs and alcohol on the body, found that Skinner was probably even more intoxicated.

Since the trial, the key witness has testified that all of the incriminating aspects of her trial testimony were not true, and that she made them up because she was afraid that if she told the truth she would be charged with being an accessory to murder.

Finally, we also now know that there is strong evidence that Robert Donnell was the actual killer. Mr. Donnell, the victim's uncle, had a violent criminal history and an incestuous relationship with the victim, stalked her at a party on the night of the murder, and left the party shortly after she did. Donnell also wore a windbreaker like the one found at the murder scene. Within days of the murders, he gave his truck a near-fanatical cleaning. DNA evidence may or may not implicate Mr. Donnell (now deceased), but we'll never be certain without testing.

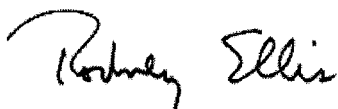
One other aspect that concerns me, as a longtime advocate for better defense representation for the poor, is what I have read about Mr. Skinner's appointed lawyer. The trial judge appointed a longtime political friend, Harold Lee Comer, to defend Skinner. Comer used to be the district attorney and had twice personally prosecuted Hank Skinner for car theft and assault. This created a potential conflict for Comer, and state law required the judge to hold a hearing on the issue and give Skinner an opportunity to request a new lawyer if a conflict existed. That hearing never happened. How a lawyer who previously prosecuted his client can be appointed defense counsel in a capital case is unfathomable. While appellate courts have ruled on this issue, it should give you pause before sending this man to his death.

Last week you delivered a posthumous pardon for Timothy Cole to Ruby Session, his mother. Tim's brother, Cory Session, said at the press conference with you, "If you're waiting on DNA testing, hold on, do as Tim did, don't surrender, don't you give up." Mr. Skinner only has one more day to "hold on." Whether or not he gets that DNA testing is in your hands, Governor.

While I understand that Mr. Skinner was convicted of a brutal triple murder, remember that eleven other people on Texas' death row have been convicted of brutal murders over the years before they were exonerated. Timothy Cole was convicted of a brutal crime — rape — and he was exonerated too. Unfortunately Tim's exoneration came ten years too late.

In honor of Tim Cole, I ask that you give Mr. Skinner a 30-day reprieve so that DNA testing can be performed and we can be absolutely certain that Mr. Skinner is truly guilty - before it's too late.

Sincerely,



Senator Rodney Ellis