

WITNESS TO INNOCENCE

December 17, 2019

The Honorable Ron DeSantis, Governor of the State of Florida
The Capitol, 400 S. Monroe Street
Tallahassee, Florida 32399

Dear Governor DeSantis,

I am writing to you as someone who was nearly executed for a crime I did not commit. I was fully exonerated in 1993 and now I am the Executive Director of Witness to Innocence, an organization of men and women who have been exonerated from death row. Several of our members who were exonerated from death row in Florida delivered a letter to your office in October regarding the case of James Dailey. Though one might think his case has been fully reviewed by the courts, there is considerable new evidence pointing to Mr. Dailey's innocence which has not been, and will not be, considered by the courts at this time due primarily to procedural rules. We urge you not to sign another death warrant to execute Mr. Dailey and ask that you grant a clemency hearing before the temporary stay of execution is lifted on December 30th.

The 29 death row exonerees in Florida are living proof that our court system does make mistakes. If innocent people can make it onto death row, what would prevent an innocent person from being executed? A clemency hearing at this stage should serve exactly that purpose. This executive authority is an important expression of the separation of powers and acts as a safeguard against unjust outcomes. It would allow the new evidence of innocence to be considered.

The new evidence casts grave doubt on the reliability of Mr. Dailey's conviction and death sentence, including:

- Law enforcement never found any physical, forensic, or eyewitness evidence connecting Mr. Dailey to the 1985 murder of Shelly Boggio.
- The conviction and death sentence in Mr. Dailey's case was based largely on the unreliable testimony of Paul Skalnik, a serial jailhouse "snitch," child sex offender, and con man. Though facing a 20-year sentence, Mr. Skalnik was released five days after Mr. Dailey was sentenced to death. The Assistant State Attorney who called Mr. Skalnik as a witness against Mr. Dailey later stated that she would no longer use testimony from Mr. Skalnik because she could not trust that his statements are truthful and reliable.
- The same Assistant State Attorney recently admitted Mr. Dailey's case was purely "circumstantial." She told the Tampa Bay Times: "It was a circumstantial case, it's not like there was an upstanding citizen eyewitness to the case. So speculation is all we have as to what happened."

- Mr. Dailey's co-defendant, Jack Percy, has confessed at least four times to being solely responsible for the tragic murder of Shelley Boggio, including in a sworn affidavit.

As we said to you in our October letter, the same types of evidence that led each of us to be exonerated are also present in James' case. The only difference allowing us to be spared from execution while James' is set to be killed, is whether or not the evidence had the chance to be fully reviewed.

Florida leads the nation in exonerating innocent people wrongfully convicted and sentenced to death. I do not believe this means Florida leads the nation in wrongful convictions, because, sadly, such injustices are coming to light at alarming rates across the nation. What this statistic means to me is that Florida is leading the nation in identifying these mistakes and taking appropriate action.

The 29 Florida death row exonerations include:

David Keaton (1973), Wilbert Lee (1975), Freddie Pitts (1975), Delbert Tibbs (1977), Annibal Jaramillo (1982), Anthony Brown (1986), Joseph Brown (1987), Anthony Peek (1987), Juan Ramos (1987), Willie Brown (1988), Larry Troy (1988), Robert Cox (1989), James Richardson (1989), Bradley Scott (1991), Andrew Golden (1994), Robert Hayes (1997), Joseph Green (2000), Frank Smith (2000), Joaquin Martinez (2001), Juan Melendez (2002), Rudolph Holton (2003), John Ballard (2006), Herman Lindsey (2009), Seth Penalver (2012), Carl Dausch (2014), Derral Hodgkins (2015), Ralph Wright (2017), Clemente Aguirre-Jarquín (2018) and Clifford Williams (2019).

The state government has a responsibility and an obligation to ensure no innocent people are executed and Florida should continue to boldly do just that. To sign a death warrant for James Dailey and move forward with his execution in a case with such extreme doubt would be a step in the wrong direction.

You have stated that the rule of law is society's sacred bond. The exercising of your executive authority, in a matter of life or death, would seem to me to be one of the most sacred bonds within our society. At this stage in Mr. Dailey's case, it is our responsibility to ensure that our rule of law is thorough, accurate, and just.

On behalf of all of the death row exoneree members of Witness to Innocence, I again urge you to grant a clemency hearing for Mr. Dailey.

Sincerely,



Kirk Bloodworth
Executive Director

CC: Caroline Goodner, Capital Punishment Research Specialist
Florida Commission on Offender Review