

November 21, 2005

REPLY PETITION
FOR
EXECUTIVE CLEMENCY

On behalf of

STANLEY TOOKIE WILLIAMS

Respectfully Submitted To The Honorable Arnold Schwarzenegger
Governor Of The State Of California



[Clemency] is a part of the Constitutional scheme. When granted it is the determination of the ultimate authority that the public welfare will be better served by inflicting less than what the judgment fixed.

Justice Oliver Wendell Holmes (1927)

Preface To Reply

The petition seeking clemency on behalf of Stanley Tookie Williams was delivered to the Governor's Office on November 8, 2005. In the following week, the police and a prison official engaged in conduct which can only be characterized as dishonorable and contrary to everything that justice in this country represents.

On Tuesday, November 15, 2005, a representative from the Fontana Police Department told print and television media that a warrant had been issued for one Lafayette Jones, a known sex offender, for raping a 13 year old child. The police identified Mr. Jones as the son of Stanley Tookie Williams.

This was a lie. The media attention which followed on television, in print, and on the internet has parroted this lie -- showing pictures of Stanley Tookie Williams and focusing on the relationship to Stanley Tookie Williams. The effect of the story and the imagery was to falsely link Stanley Tookie Williams to an alleged rapist in the mind of the public at exactly the time his clemency petition is pending.

With minimal effort we have determined that Lafayette Jones is the 36 year old son of a 59 year old man named Stanley Williams, not 52 year old Stanley Tookie Williams whose clemency request is pending.

The attached declaration of Janice Anderson, Lafayette Jones' mother, exposes this false but broadly publicized police accusation:

I, Janice Anderson, hereby declare under penalty of perjury:

The man known in the news media as Lafayette Jones who is a fugitive from a rape charge is not the son of Stanley Tookie Williams. I am Jones' mother. (Ex. 1)

Also attached is the declaration of our investigator, Raymond Stevens, who spoke with Mrs. Anderson. Mrs. Anderson informed Mr. Stevens that she had contacted the Fontana Police immediately after hearing the false report that her son's father was Stanley Tookie Williams. She was told by a police sergeant that "it did not matter." The sergeant excused the lie as a purported police tactic.

Mrs. Andersen further informed Mr. Stevens that she and her husband “are very concerned about these false reports not only because of the damage it is doing to Stanley Tookie Williams but also to their son Lafayette Jones.” They are “both very upset that the police and the news media were continuing to report falsely that Lafayette Jones was the son of Stanley Tookie Williams even after they had both been informed by her and other relatives that this was not true.” (Ex. 2)

This was followed two days later, on Thursday, November 17, 2005, by statements from Vernell Crittendon, the spokesperson for San Quentin State Prison, that he suspected “Stanley Williams of orchestrating gangland crimes from his cell.” This inflammatory allegation, which was indiscriminately repeated in the print and television media, and on the internet, is false and is flatly contradicted by official San Quentin documents to which Mr. Crittenden certainly has complete access.

An official San Quentin Institutional Classification Committee (ICC) Summary dated August 5, 2004, reported upon an interview of Stanley Williams and a review of his conduct as a prisoner at San Quentin. Among other things, it states:

Lt. G. Fuller stated that during his assignment in East Block he has not observed Williams in any gang involvement. ICC commended Williams on his positive program over the last ten years. Williams thanked ICC for their respectful treatment.

The ICC Summary also notes that Stanley Williams’ last disciplinary infraction was on July 6, 1993. (Ex. 3)

This San Quentin report is supported by statements from the Los Angeles Police Department whose spokeswoman, April Harding, recently stated there is no evidence of any illegal gang activity on Stanley Williams’ part. (Ex. 4)

Daniel Vasquez, warden at San Quentin from 1983 to 1993, was recently quoted as saying, in reference to Crittendon’s statements, that he had never seen such an inflammatory statement in a news release from the prison, and that it was “like they’re trying to drum up business for death row.” (Ex. 4)

This type of conduct from law enforcement is incompatible with justice. To the contrary, it is official misconduct.

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, California 95814

Dear Governor Schwarzenegger:

The choice is life or death.

The decision falls entirely upon you as Governor. Its consequences are irreversible. Stanley Williams will die by lethal injection, or he will live to pursue his work of helping others.

The landscape of this petition is clear. California has the death penalty, although the administration of justice and the manner in which the death penalty is being applied are currently the subject of review by a non-partisan commission.¹ The constitutional power of the chief executive to grant clemency and commute a death sentence to life in prison is clear. The petitioner, Stanley Williams, has been convicted of four murders which he denies. The truth of his personal redemption, and his unceasing and successful efforts to reach our youth, is beyond challenge. It is within this landscape that your decision, and the message it sends, must rest.

The easier course would be to follow the practice of your predecessor and avoid personal responsibility by resolutely deferring to the result of the judicial process. We do not see you as that kind of man or Governor. We read of your life and of your decision to enter the arena of public service as motivated by a desire to improve the lives of Californians. We see a man with the courage to speak his own mind and to follow his own heart. You could not otherwise have forged the life you have led.

We understand that your obligation as Governor is to decide what is in the best interest of the people of the State you govern. We have detailed our view -

¹ This petition seeks clemency, not delay. Yet there is an obligation to note that the Legislature, as early as January 2006, will vote on Assembly Bill 1121 which would immediately suspend all executions pending the report of the California Commission on the Fair Administration of Justice which is due no later than December 31, 2007. It would be ironic and tragic if Stanley Williams became the last human being in history to die by execution in the State of California.

- allowing Stanley Williams to live and continue his work will, as a matter of continuing positive impact and example, serve the greater interest. It will also tell those to whom Stanley Williams speaks that California and its Governor know their plight, have heard their voices, and care for their future.

As a school teacher in Oakland, California who is concerned about youth violence and involvement in gangs, Stanley Tookie Williams' life should be spared. Tookie, as he is known, has been doing exceptional work with anti-gang and anti-violence. . . . If you are concerned about the youth in our society who are living in impoverished conditions and are more vulnerable to gang-violence and affiliation, you would grant Tookie clemency and continue his work as a peacemaker and a peacekeeper.

*Gina M. Hill
Street Academy, Oakland*

The Response of the District Attorney

The response of the District Attorney was as expected. It recounts Stanley Williams' conviction and life only until 1993, the last time he was cited for an infraction in prison. It ignores but does not challenge Stanley Williams' redemption, and the impact of his message.

The response seeks death and rejects mercy. It dismisses rehabilitation. Yet, it cannot deny the principal basis of our petition -- that, for more than a decade, a redeemed Stanley Williams has sent a message of hope and purpose to those who live in the most difficult of circumstances.

The District Attorney writes:

In the petition in support of Williams' request for clemency, the claim is made that Stanley Williams is today a different man. Even if that were the case, the jury's determination . . . should be carried out.

(Response at 48-9) (emphasis added)

The District Attorney thus urges you to follow the easier course -- that the court system has ordered death and that ends the matter. This is not true or else

the constitutional power of clemency would not exist. Clemency is relevant only after the courts have denied legal relief. Clemency does not reverse the judicial process. It is concerned with factors beyond the purview of the courts. Just days ago, Chief Justice Ronald George of the California Supreme Court publicly stated during a radio interview:

Clemency exists more or less for the Governor to exercise authority given him or her under the Constitution to provide mercy. . . .

[Clemency] is, in a way, an extra-legal -- in the sense of outside the strictly legal process -- function that the Governor has, and that is quite separate and apart from petitions . . . that are being filed in our Court that involve legal questions.

The District Attorney's position is inconsistent with a justice system which overtly favors and encourages rehabilitation of the imprisoned, and at the least should encourage efforts to teach the benefits of lawfulness. It would be more consistent with the true goals of law enforcement and of society to acknowledge the value of Stanley Williams' personal redemption and, more importantly, the value of his message to the youth of this State and this great Nation.

The District Attorney ignores the needs of our disadvantaged youth and the enduring truth of what you wrote as a private citizen on August 16, 2000 in the Los Angeles Times:

At a time of unsurpassed prosperity, one out of five American children lives in poverty. This isn't a Republican or Democratic issue; it's an American issue.

What can we do for the kids who look into the future and see only gangs, drugs, and violence? When we tell them to just say "no", we have to give them something to say "yes" to. . . .

The American dream? In the inner cities, children don't even dare to dream. The message: Don't bother. You'll never make it. You're a loser.

How many [inner city children] learn the discipline and determination, the motivation? How many hear the simple messages of self worth that would let them even glimpse their own daring?

Instead, they're told that they're trapped. . . .

We can help these children bridge the gaps created by hardship and hopelessness. We can help them get the drive, focus, attention, skills and pride that lead to hope. We can get all our kids up to the same starting line. That's what programs like the Inner-City Games offer. And the kids are hungry for it. (Ex. 5)

This is the message the District Attorney should be endorsing. It is the message the District Attorney should be sending. Law enforcement which focuses only on punishment breeds anger. It sends a message of discrimination. It is incomplete. Ultimately, it is a system which is destined to fail.

The District Attorney questions Stanley Williams' personal redemption because Stanley Williams protests his innocence. For reasons of their own, public prosecutors historically and consistently have encouraged "cooperation" and "confession" in exchange for penal rewards. This cannot mean that a refusal to make a false confession should be penalized. That Stanley Williams refuses to make a false confession, knowing it could benefit him penally, shows the strength of his character. It is not arrogance.

The District Attorney also claims the absence of personal redemption because Stanley Williams will not compromise his personal convictions by submitting to "debriefing." The District Attorney demands that Stanley Williams prove his personal redemption by assuming the role of "informant" which, in a free society, only the police and prosecutor treat as an act of honor.

The District Attorney also points to Stanley Williams' history of prison infractions. (Response at 39-40) The list ends in 1993, some twelve years ago. The District Attorney thereby supports our point of personal change and redemption. Stanley Williams entered San Quentin one man. Since 1993, he has become another. (See attached letter of Dr. L. Thomas Kucharski, Ex. 6)

The Trial

The District Attorney's insistence on confession, which would validate an otherwise suspect trial, implicates guilt or innocence, a question we have not stressed in this petition for clemency. But, the District Attorney's argument necessarily takes us to that issue.

The District Attorney refuses to address the words of the Court of Appeals for the Ninth Circuit that the case against Stanley Williams was weak, and:

. . . comprised of circumstantial evidence and the testimony of witnesses with less-than-clean backgrounds and incentives to lie in order to obtain leniency from the state in either charging or sentencing.” Williams v. Woodford, (9th Cir. 2004) 384 F.3d 567, 624.

Instead the District Attorney devotes his response to a materially distorted review of the trial record.

The Witnesses

The District Attorney lists a series of trial witnesses, some of whom the District Attorney states were not accomplices and did not receive penal benefits for their testimony. This purports to contradict our position, and that of the Ninth Circuit, that the case against Stanley Williams “rested on the testimony of claimed accomplices and admitted informants . . . all of whom received either freedom or vastly reduced sentences for their testimony.”

The District Attorney is wrong. None of witnesses pointed to by the District Attorney as being “simply a citizen” implicated Stanley Williams in the crimes in any way, and the case simply did not rest upon their testimony:

(i) Layduane Douglas testified that Stanley Williams bought a shotgun from Western Surplus. It was not disputed that Stanley Williams legally owned a shotgun.

(ii) Johnny Garcia, worked at a Stop-N-Go, and testified that four black men drove to the Stop-N-Go and acted suspiciously the night of the 7-Eleven murder. Garcia did not identify Stanley Williams as being one of those men.

(iii) Armando Dominguez drove past the 7-Eleven the night of the murder and noticed a station wagon in the parking lot and two men in the store. Dominguez did not identify Stanley Williams as being one of those men.

(iv) Dale Coates also drove past the 7-Eleven, noticing two cars and several men. Coates did not identify any of these men as being Stanley Williams.

The witnesses who did implicate Stanley Williams were George Oglesby, Samuel Coleman, Alfred Coward, James Garrett and Ester Garrett. None of these witnesses were “simply citizens.”²

George Oglesby was one of the most notorious jailhouse informants in Los Angeles. In 1988, the infamous Los Angeles jailhouse informant scandal was touched off when a protégé of Oglesby went on national television to demonstrate how easily criminals inside the jail could obtain confidential information with which to fabricate confessions. A watchdog grand jury found that the District Attorney had “failed to fulfill the ethical responsibilities required of a public prosecutor by its deliberate and informed declination to curtail the misuse of jail house informant testimony.” (Report of the 1989-90 Los Angeles County Grand Jury, “Investigation of the Involvement of Jail House Informants in the Criminal Justice System in Los Angeles County,” at 6)

Samuel Coleman, interestingly not mentioned by the District Attorney, was beaten by police and suffered two broken ribs before losing consciousness. Thereafter, while still in police custody, the District Attorney offered him immunity for his testimony. (Ex. 7)

Alfred Coward, an alleged accomplice, received complete immunity for his claimed role in capital murder. Coward had a lengthy criminal history for armed robbery, including a robbery right in front of the Brookhaven motel. The trial prosecutor admitted in a memorandum to his superiors that “corroboration” for Coward’s testimony was “thin.” Subsequent to Stanley Williams’ trial, Coward was convicted of federal conspiracy and given only probation. He was thereafter arrested for drug dealing, burglary, and receiving stolen property, yet each time the District Attorney declined to file charges. In 1990, he pled guilty to burglary and despite the probation officer’s pleas that he be sent to prison, the District Attorney

² The facts presented here regarding the witnesses Oglesby, Coleman, Coward, and the Garretts, as well as the gun evidence, are detailed in the Discovery Motion and five volumes of exhibits filed by Verna Wefald, Esq. with the California Supreme Court and served upon the District Attorney’s office on November 9, 2005.

agreed to probation. Presently, Coward is in a Canadian prison for killing a man during a robbery.

James Garrett, an admitted armed robber, was being interrogated for the murder of his crime partner when he implicated Stanley Williams in the Brookhaven motel murder. Garrett informed the police that Stanley Williams had told him, for no apparent reason, that he had committed the motel murders. Stanley Williams was not a suspect in these murders before this. Garrett then pulled Williams' legally registered shotgun out from under his own bed and handed it to police.

Garrett was suspected but never prosecuted for the murder of his crime partner. A Los Angeles police officer testified that Garrett was not prosecuted because he had an alibi. This was a lie. The officer who testified was present at the autopsy of Garrett's crime partner and knew the body had decomposed to the point where the date of death, much less the time of death, could not be determined. When the date of death is unknown, an alibi, which must be date and time specific, is impossible.

By the time Garrett accused Stanley Williams, Garrett had been arrested for armed robbery and assault with a deadly weapon four times. He was facing charges stemming from the planning of numerous armed robberies, including the robbery of two stores of firearms and ammunition at gunpoint. After testifying against Stanley Williams, Garrett received probation on these charges due to a "long talk" the judge had with Stanley Williams' prosecutor.

Shortly after Stanley Williams' trial, Garrett robbed a bank at gunpoint. In 1983, Garrett shot his bookie in the chest. In the following years, he continued with a stream of armed crimes, consistently getting extraordinarily favorable treatment from the prosecution.

Ester Garrett, James Garret's wife, was facing multiple felony prosecutions as her husband's co-defendant at the time she testified against Stanley Williams. The District Attorney gave her money for living expenses. When this money ran out she perjured herself to get welfare. She freely admitted in open court that it did not bother her to commit perjury.

The continuing favors given to the Garretts and Coward were in keeping with a training memorandum used by the Los Angeles District Attorney's

office stating that informants need to be kept happy long after they had left the witness stand:

If you alienate the informant you run the risk of his recanting the testimony you agreed to use. . . . so, nurse the witness. This does not mean you have to cave in. . . . but the witness should be confident you will be there to take care of the important requests. (Ex. 8)

In 2004, the Center on Wrongful Convictions at the Northwestern University School of Law published a study on informant testimony. It concluded:

The experience shows pretty much what you would expect -- that when the criminal justice system offers witnesses incentives to lie, they will. (Ex. 9)

If private defense counsel were to give money for testimony, they would face indictment. Law enforcement offers a much more valuable asset for testimony, freedom.

The Physical Evidence

The District Attorney claims that the case rested on “strong physical evidence.” This is grossly inaccurate. The only physical evidence against Stanley Williams was the testimony of a gun expert, a sheriff’s deputy, who testified that a shell found at the Brookhaven motel matched test shells from the shotgun owned by Stanley Williams. What the District Attorney does not say is:

(1) The shotgun was given to the police by James Garrett, who had it under his bed.

(2) The type of shell found at the motel was only sold by two stores in Los Angeles in the year prior to the murder. Garrett had robbed one of these stores during that year of more than 100 firearms and an unknown quantity of ammunition, a fact of which the police were aware.

(3) The prosecution’s expert ran an initial series of tests and found them “inconclusive.” (“At that time my opinion was inconclusive.” Trial Transcript at 1537.) He was asked by the prosecutor to try again, and only then opined that 2 of 18 test shells had similar markings to the shell found at the motel.

(4) The prosecution's gun examiner made no effort to compare ejector and extractor marks on the crime scene shell with the test shells, did not identify the markings on the shells by class, sub-class and individual characteristics, did not take photomicrographs of the shells as has been best practice since the 1920's, and did not have a second examiner verify his findings. (See Declaration of David Lamagna, attached as Ex. 10)

This was the only physical evidence against Stanley Williams.

Purported Statements

The District Attorney asserts that Stanley Williams, during an interview with two police deputies, stated that five shots were fired at the motel and this was, in essence, an admission of knowledge and participation. However, Stanley Williams' interview with the deputies was tape recorded, and this purported admission is not on the tape. Had this alleged statement really been viewed as an admission, the prosecutor would surely have used it at the trial -- he did not. (Response at 37-38)

The District Attorney's reliance on Tony Sims is also highly questionable. The District Attorney quotes from an interview at the time of Sims' arrest, at which time the police were able to advise Sims of the story they had obtained from Garrett and the immunized Coward. Sims, of course, had only to repeat this "story" to help himself. Sims was never called as a witness against Stanley Williams at trial -- where he would have been free of the pressure and influence of the police interrogation room, would have been sworn to tell the truth in open court, and would have faced cross-examination.

The Impact of Race

The District Attorney does not contest that the prosecutor was twice sanctioned by the California Supreme Court for racial bias. Nor that Stanley Williams was compared to a Bengal tiger. Rather, the District Attorney argues that the prosecutor left one African-American on Stanley Williams' jury and that this cleanses any taint. The District Attorney is wrong on all counts.

The juror, William McLurkin, was born in the Philippines, as was his mother. The trial record demonstrates that none of the lawyers -- and particularly the prosecutor -- thought Mr. McLurkin was black. During jury selection, three jurors were asked whether the fact that they were black would influence them. The

prosecutor struck each of these jurors. Neither Mr. McLurkin nor any of the other 79 potential jurors were asked these questions. The only inference is that none of the lawyers thought Mr. McLurkin was black. Mr. McLurkin looked Filipino. The District Attorney has supplied Mr. McLurkin's death certificate, which does not have a picture, as an exhibit. What the District Attorney fails to supply is Mr. McLurkin's driver's license, which does have his photograph.³ (Ex. 11)

* * *

The basis of this petition is not innocence. Innocence demands exoneration. But we can and do assert, as did the Ninth Circuit, that for all the reasons stated above, the case against Stanley Williams was "*comprised of circumstantial evidence and the testimony of witnesses with less-than-clean backgrounds and incentives to lie.*"

* * *

The basis of this petition is the personal redemption of Stanley Williams and the positive impact of the message he sends. Thousands of students, teachers and parents have written to say that Stanley Williams and his message are of value -- that Stanley Williams and his message lift them up, teach them, and give them hope. They ask, on the most human level, that Stanley Williams be allowed to continue with his work. A student from South Central writes:

[Stanley Williams] made me think and now I know if he can change his life around then I have the power and confidence to change my own life around. He gave me a lot of confidence. I just hope you find it in your heart to save him and everyone he saved.

Conclusion

The District Attorney insists the death penalty imposed in the courts must be enforced, that rehabilitation is meaningless, that punishment is the only

³ It is not the legal standard, either in California or under the Constitution, that the prosecution may deliberately strike all black jurors but one on account of race. The standard is exactly the opposite. As stated by Judge Rawlinson, a former career prosecutor: "[t]he striking of even a single juror based on race violates the Constitution." *Williams v. Woodford*, (9th Cir. 2004) 396 F.3d 1059, 1061.

goal of justice in this State, and that no person sentenced to death can ever be granted clemency.

In the process, the District Attorney ignores the needs of California's youth and the sense of hope and future that Stanley Williams brings to so many who are disadvantaged.

We hold firm in the certainty that this is wrong, that the future of this State and Nation rests with our youth, that their potential must be tapped if we are to succeed and that Stanley Williams' message is crucial to this goal and should not be extinguished by his death.

In the end, we ask what makes sense. We ask what is practical reality. Giving Stanley Williams life is the right decision because it does the most good. It respects his message and increases its already substantial impact by telling those to whom he speaks that this State and its Governor agree and care about them and about the possibilities for a better life.

*I waited patiently for the Lord,
and he inclined unto me, and heard my cry.
He brought me up also out of a horrible pit,
out of the miry clay, and set my feet upon a rock,
and established my goings,
And he hath put a new song in my mouth.*

Psalm 40

The State of California should not execute this man.

* * *

We again most respectfully repeat our request for a personal meeting with you, and encourage you to arrange a personal meeting with Stanley Williams.

Respectfully submitted,

Peter Fleming Jr.

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