

August 10, 2016

The Honorable Edmund “Jerry” Brown
Governor of the State of California
State Capitol, Suite 1173
Sacramento, California 95814

Dear Governor Brown,

I want to add my voice to those who are urging you to use the powers of your office as delineated in the California Constitution to conduct a full and fair investigation into the case of Kevin Cooper as requested in his Petition for Executive Clemency submitted to you on February 17, 2016. Based on my decades of experience representing condemned prisoners, Mr. Cooper’s case presents exactly the situation for which clemency is intended – to avoid the ultimate injustice of executing an innocent person whom the criminal justice system has failed at every turn. Mr. Cooper’s clemency petition presents evidence of prosecutorial misconduct, law enforcement misconduct, ineffective assistance of counsel, racial bias, and the failure of the courts to provide justice; the report of the Inter-American Commission on Human Rights (IACHR) found that the State’s actions in Mr. Cooper’s case violated several of his fundamental human rights and that executing him in lieu of those violations would constitute an irreparable violation of the basic right to life.

As Executive Director of the Equal Justice Initiative (EJI), I have represented scores of condemned men and women, all of whom are poor and who are disproportionately people of color. We now know that for every nine persons executed in the United States, one innocent person is exonerated and released from death row. This error rate in our capital system is unacceptable, yet it continues because so many people on death row were subjected to racial bias and did not have the means to defend themselves.

In my book *Just Mercy*, I tell the story of two of my clients: Walter McMillian and Anthony Ray Hinton, who spent 6 and 30 years, respectively, on death row for crimes they did not commit. At the time *Just Mercy* was published, Mr. Hinton was still on death row as we fought to have the State reopen his case based on new expert forensic testing that proved he was innocent. He was exonerated only last year (April 3, 2015), making him the 152nd person exonerated from death row since 1983. In California, at least three men sentenced to death have later been exonerated.

As in both Mr. McMillian’s and Mr. Hinton’s cases, Mr. Cooper is African American and the victims of crimes of which he was convicted were white. As in those cases, Mr. Cooper’s prosecution was marked by racial bias, poverty, inadequate legal assistance, and prosecutorial indifference to evidence of innocence. Mr. Cooper’s attorneys have amassed significant

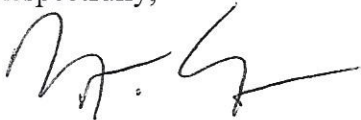
evidence raising serious questions about the reliability of the conviction and indicating that there could be serious police misconduct.

Despite the fact that evidence has demonstrated significant issues concerning Mr. Cooper's conviction, the State of California persists in its fight to preserve its conviction, risking executing an innocent man rather than allowing scientifically reliable testing to determine the truth. As Governor, you have the power to avoid this miscarriage of justice by undertaking an independent investigation that includes specific forensic tests ordered by the Ninth Circuit Court of Appeals in 2004 and sought by Mr. Cooper's lawyers ever since.

I hope you will exercise your independent executive powers to ensure that the State of California fulfills its duty to search for the truth rather than continuing to protect a wrongful conviction. Your exercise of this power is especially critical given that current federal and state habeas corpus jurisprudence places virtually insurmountable obstacles in front of innocent but condemned men and women.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in black ink, appearing to read 'B. Stevenson', written in a cursive style.

Bryan Stevenson
Executive Director
Equal Justice Initiative