

September 02, 2008

The Honorable Rick Perry
Texas State Capitol
Office of the Governor
1100 Congress
Room 2S.1
Austin, Texas 78701

Dear Governor Perry:

We are former federal and state judges and prosecutors from across the country who urge you to grant a 30-day reprieve for Charles Dean Hood, who is currently scheduled for execution on September 10, 2008. We write because our long experience as jurists and law enforcement officials leads us to believe that justice cannot be served unless the courts are able to consider whether Mr. Hood's conviction and sentence are invalid. In our view, it is inexplicable that the court hearing to consider this vital matter is scheduled for two days *after* Mr. Hood is scheduled to be executed.

While we take no view on the ultimate merits of his claim, we know that Mr. Hood has presented evidence to support his allegation that former Collin County Judge Verla Sue Holland, who presided over his capital murder trial, was engaged in a secret, intimate relationship with former Collin County District Attorney Thomas O'Connell, who prosecuted the case. If this is true, we have no doubt that this relationship would have had a significant impact on the ability of the judicial system to accord Mr. Hood a fair and impartial trial.

Mr. Hood's claim appears on its face to have substantial credibility. On June 3, 2008, a former Collin County assistant district attorney, who worked in the office from 1987 to 1996, filed an affidavit stating that "[i]t was common knowledge in the District Attorney's Office, and the Collin County Bar, in general, that the District Attorney ... and Judge Verla Sue Holland, had a romantic relationship." The former assistant district attorney stated that the relationship continued for several years, including the time of Mr. Hood's trial. Mr. Hood's trial attorney and a private investigator have evidence that corroborates this claim.

The nearly 500-member Association of Professional Responsibility Lawyers and three dozen of the nation's leading legal ethicists have stated that the relationship between Judge Holland and Mr. O'Connell constitutes a violation of Mr. Hood's constitutional rights and called for an investigation and expedited discovery.

If Mr. Hood's claim is proven, we believe that his right to an impartial judge and a fair trial was violated and his conviction and sentence were unconstitutionally obtained.

Under the United States and Texas constitutions, the right to an unbiased judge is fundamental to due process. The Texas Supreme Court has stated:

Judicial decisions rendered under circumstances that suggest bias, prejudice, or favoritism undermine the integrity of the courts, breed skepticism and mistrust, and thwart the very principles on which the judicial system is based. The judiciary must be extremely diligent in avoiding any appearance of impropriety and must hold itself to exacting standards lest it lose its legitimacy and suffer a loss of public confidence.

No court has addressed the merits of Mr. Hood's allegations or permitted discovery of the facts. The Honorable Judge Robert Dry of the 199th Judicial District Court has scheduled a hearing on Mr. Hood's urgent request to take investigatory depositions of Judge Holland and Mr. O'Connell on September 12, 2008, which is two days after his presently-scheduled execution on September 10, 2008.

It is an irrevocable wrong to send a man to his death without ever hearing this critical evidence. We ask you to grant a reprieve to allow the Texas courts to continue a meaningful review of this matter

Thank you for your time and consideration.

Respectfully,

William G. Bassler, Judge, United States District Court for the District of New Jersey, 1991-2006; Judge, Superior Court for the State of New Jersey, 1988-1991

Jay W. Burnett, Judge, 351st Criminal District Court, 1984; Judge, 183rd Criminal District Court, 1986-1998; Visiting Criminal District Judge, 2nd Judicial Administrative Region of Texas, 1999-2000

Edward N. Cahn, Judge, United States District Court, Eastern District of Pennsylvania, 1974-1998, Chief Judge, 1993-1998

W.J. Michael Cody, Attorney General, State of Tennessee, 1984-88; United States Attorney, Western District of Tennessee, 1977-1981

J. Joseph Curran, Attorney General, Maryland, 1987-2007

W. Thomas Dillard, United States Attorney, Eastern District of Tennessee, 1981; United States Attorney, Northern District of Florida, 1983-1986

John J. Gibbons, Chief Judge, United States Court of Appeals for the Third Circuit, 1970-1990

Daniel F. Goldstein, Assistant United States Attorney for the District of Maryland, 1976-1982

Isabel Gomez, Judge, 4th Judicial District of Minnesota, 1984-2006

Stewart F. Hancock, Associate Judge, New York Court of Appeals, 1986-1994; Justice, New York State Supreme Court, 1971-1986

Philip Heymann, Deputy Attorney General, Clinton administration

Philip Allen Lacovara, Deputy Solicitor General of the United States for Criminal Matters, 1972-1973; Counsel to the Special Prosecutor, Watergate Special Prosecution Force, 1973-1974; Special Counsel to the Police Commissioner of the City of New York

George N. Leighton, Judge, United States District Court for the Northern District of Illinois, 1976-1987; Judge, Circuit Court of Cook County, 1964-1969; Judge, Illinois Appellate Court, 1969-1976; Assistant Attorney General of the State of Illinois, 1949-1951

Kenneth J. Mighell, United States Attorney, Northern District of Texas, 1977-1981

Sam D. Millsap, Former District Attorney, Bexar County, San Antonio, Texas

Stephen M. Orlofsky, Judge, United States District Court for the District of New Jersey, 1995-2003; Magistrate Judge, United States District Court for the District of New Jersey, 1976-1980

Harold James Pickerstein, Chief Assistant United States Attorney for the District of Connecticut, 1974-1996; United States Attorney for the District of Connecticut, 1974-1975

Richard A. Rossman, United States Attorney, Eastern District of Michigan, 1980-1981

William S. Sessions, United States Attorney, Western District of Texas, 1971-1974; Judge, United States District Court for the Western District of Texas, 1974-1987, Chief Judge, 1980-1987; Director of the FBI, 1987-1993

Joseph D. Tydings, United States Senator, (D-MD) 1965-1971; United States Attorney for the District of Maryland, 1961-1963

Patricia M. Wald, Judge, United States Court of Appeals for D.C. Circuit, 1979-1999, Chief Judge, 1986-1991

Alfred Wolin, Judge, United States District Court for the District of New Jersey, 1987-2004, Senior Judge 2000-2004; Presiding Judge, Superior Court of New Jersey, Criminal Division, 1983-1987; Judge, Superior Court of New Jersey, Civil Division, 1982-1983; Judge, Superior Court of New Jersey, Juvenile and Domestic Relations Division, 1980-1982; Judge, Union County District Court, 1980-1985.

Additional signatories since submission of September 2, 2008 letter:

Robert C. Bundy, United States Attorney, District of Alaska, 1994-2001

A. Bates Butler III, United States Attorney, District of Arizona, 1980-1981; First Assistant United States Attorney, District of Arizona, 1977-1980; Deputy Pima County (Arizona) Attorney, 1970-77

Daniel J. French, United States Attorney, Northern District of New York, 1999-2001

Nathaniel R. Jones, Judge, United States Court of Appeals for the Sixth Circuit, 1979-2002; former Assistant United States Attorney, Northern District of Ohio

William A. Kimbrough, United States Attorney, Southern District of Alabama, 1977-1981

Thomas D. Lambros, Judge, United States District Court, Northern District of Ohio, 1967-1995, Chief Judge 1990-1995

Thomas Campbell Morrow, Assistant State's Attorney, Dade County, Florida, 1979-1980; Assistant Attorney General, Maryland Criminal Investigations Division, 1978-1979; Assistant State's Attorney, Baltimore County, 1975-1978

Stanley J. Roszkowski, Judge, United States District Court for the Northern District of Illinois, 1977-1998

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