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Current and Former Elected Officials, Former Judges, Prosecutors and Law Enforcement Urge State Officials to Test DNA in Skinner Case

Skinner Execution in Less than Two Weeks Despite State's Refusal to Test DNA for More Than A Decade

(Thursday, October 27, 2011) Hank Skinner remains scheduled for execution on November 9 despite the fact that key pieces of evidence in his case have never been subjected to DNA testing. Today, former judges, prosecutors and law enforcement officers, along with current and former elected officials from Texas, delivered a letter to state officials calling on them not to execute Mr. Skinner until that DNA testing can be performed. The letter was sent to Governor Rick Perry, Attorney General Greg Abbott and Gray County District Attorney Lynn Switzer.

The State previously obtained the November 9 execution date even though Mr. Skinner is awaiting two separate court decisions, either of which could compel District Attorney Switzer to provide access to the previously untested evidence. Mr. Skinner's federal court appeal follows a March 2011 decision by the U.S. Supreme Court, which confirmed Mr. Skinner's right to sue for access to the DNA evidence using a federal civil rights law. A motion is also pending in state court under a new Texas law that went into effect in September designed to remove procedural barriers from post-conviction DNA testing.

In the letter, the prominent Texans express "grave and growing concerns about the State's stubborn refusal to date to test all the evidence in the Skinner case. Executing Mr. Skinner without testing all the relevant evidence would suggest official indifference to the possibility of error in this case and needlessly undermine public confidence in Texas's criminal justice system."

Signatories to the letter include: Rodney Ellis, Texas State Senator and author of the recent legislation reforming Texas' post-conviction DNA testing law; Mark White, former Governor of Texas; Morris L. Overstreet, former Judge of the Texas Court of Criminal Appeals and former Amarillo Assistant District Attorney; Sam Millsap, former Bexar County District Attorney; Kenneth J. Mighell, former United States Attorney for the Northern District of Texas; and Earl D. Musick, former Lieutenant of the Houston Police Department.

The letter cites widespread public support for using DNA testing when available, with eighty-five percent of Texans agreeing that an inmate should have access to testing if it has a chance of proving him innocent. In May, the Texas Legislature voted with overwhelming bipartisan support to pass reforms that increase access to post-conviction DNA testing.

Earlier this month, Michael Morton was exonerated after 25 years in prison for a crime he did not commit. DNA testing cleared Mr. Morton's name and identified the true perpetrator of the crime. Mr. Morton's case, the letter states, highlights the need for the State to consent to DNA testing when untested DNA evidence is available.

The never-tested evidence in Mr. Skinner's case includes: a man's windbreaker found next to victim Twila Busby'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; scrapings from Ms. Busby's fingernails, which may contain blood or skin cells of the perpetrator; and swabs from a rape-kit.

The letter concludes: "There is simply no justifiable reason why Texas continues to waste taxpayer dollars in its decade-long fight to prevent scientific testing in Mr. Skinner's case. We implore you to take the lead in the search for truth in this case. Test the DNA evidence before moving forward with Mr. Skinner's execution. If that requires a brief reprieve of Mr. Skinner's scheduled November 9 execution, that short delay will be a small price to pay to maintain public confidence in Texas's criminal justice system."

For additional background or to interview attorneys or signatories to the letter urging the State to test the DNA in the Hank Skinner case, please contact Laura Burstein at (202) 626-6868 or laura.burstein@ssd.com.

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