

Ball Legal Firm, P.C.
Gail A. Ball, Esquire
Member, Supreme Court of the United States

February 18, 2011

Governor Robert F. McDonnell
Governor's Office
Richmond, VA

Re: Petition for Parole and Deportation of
Jens Soering, based on new DNA evidence,
Submitted on January 19, 2011

Dear Governor McDonnell,

As counsel for Jens Soering, I have followed with great interest the similarly situated case of Virginia prisoner Thomas Haynesworth, e.g. Maria Glod, "Can doubts make up for absence of DNA?", Washington Post, February 2, 2011. He was convicted of four rapes, but—as with Jens Soering—DNA tests performed under the Post Conviction DNA Testing Program showed that biological samples recovered from two of the crime scenes did not match him. At the other two crime scenes, no DNA was recovered.

I write you today to point out that, overall, the evidence for innocence is stronger in my client's case than Mr. Haynesworth's, and that my client is asking for far, far less than Mr. Haynesworth.

This statement is not meant to impugn Mr. Haynesworth's claim of innocence. I merely wish to point out that, if an equitable settlement is reached in the Haynesworth case, then it would follow that justice demands an equally equitable settlement of my client's request for parole and deportation.

Allow me to review briefly that state of the DNA evidence in both cases. In two of the rapes of which Mr. Haynesworth was convicted, the DNA at the crime scene did not match the person convicted—exactly as in Mr. Soering's case. (Please keep in mind that Mr. Soering's case was a pair of knife murders. In knife murders, the perpetrator almost always injures him- or herself, leaving DNA. Moreover, the prosecution has claimed consistently and even vehemently for over 20 years that Mr. Soering injured himself at the crime scene, leaving his blood.)

In Mr. Haynesworth's case, the DNA from the crime scene could be linked to a perpetrator in Virginia's DNA Data Bank. In Mr. Soering's case, there was no such "cold hit" because the perpetrator has apparently not been convicted of another crime. That is unfortunate, but it is also irrelevant to the issue of Mr. Soering's innocence. It is the job of the police, not that of Mr. Soering or the Department of Forensic Science, to determine who Elizabeth Haysom's accomplice was.

Finally, Mr. Haynesworth was convicted of two other rapes where no DNA was recovered. This introduces a level of uncertainty into his claim of innocence which does not exist in Mr. Soering's case. To a certain extent, one has to trust Mr. Haynesworth. One does not have to trust Mr. Soering, because the DNA evidence is clear. That is why I aver that; overall, the evidence for innocence is stronger in my client's case.

As far as the resolution of the two cases is concerned, Mr. Haynesworth is seeking vindication through a writ of actual innocence. By contrast, Mr. Soering asks for nothing more than parole and deportation, which would not challenge the jury's verdict in his case.

Please give my client the very small measure of belated justice that he seeks. Thanking you very much for your consideration, I remain

Very truly yours,

Gail A. Ball

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