

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

July 11, 2011

Mr. William Muse, Chairman
Virginia Parole Board

Re: Jens Soering, State Number 1161655

Dear Mr. Muse:

Mr. Soering comes before the parole board for your consideration for a grant of parole supported by the following:

On January 19, 2011, I submitted a letter to Governor McDonnell, asking him to support the parole of Mr. Soering based on new evidence in his case. At that time, I also included a fairly complete compilation of documents to support our claim that there are concrete reasons to reconsider the Haysom/Soering case—especially when the issue of parole is on the table. Please see Exhibit # 1a, CD of 1-19-11 file.

Recently Governor McDonnell took precisely the kind of action that I requested for Mr. Soering—support for parole, based on new evidence—in the case of Thomas E. Haynesworth. Clearly, the Governor believes that this is appropriate in exceptional circumstances, and for that we are grateful.

In his statement about Mr. Soering's case on May 24, 2011, the Governor reaffirmed the independence of the Parole Board.

As it appears from the record, my client's pre-trial statements to the police are the only evidence that tie him to this crime other than the self-serving statements of Elizabeth Haysom:

1. His fingerprints were not found at the scene.
2. According to the Certificate of Analysis of September 24, 2009, Mr. Soering's DNA was not found, either.
3. A human hair found in the blood-stained sink of the master bedroom's bathroom did not belong to my client or to the victims.
4. According to a 1985 Bedford County Sheriff's Department deputy's report, the bloody sneaker print LR2 was too small to have been left by Mr. Soering.
5. The bloody sock prints LR3 and LR5 could not be linked to him either, contrary to the prosecution's non-expert witness at trial: Assistant Attorney General John McLees conceded in a 1997 habeas corpus brief that the sock prints "could not be sized with precision."

Given the complete lack of any corroborative evidence for Mr. Soering's "confessions," there are, in fact, good reasons on the record to doubt them:

1. My client made seven major mistakes that the real killer would not have made. For example, he described Nancy Haysom's clothing incorrectly, placed Derek Haysom's body in the wrong room, and described both the type of knife and its location incorrectly.
2. According to the Innocence Project, in 25% of those cases where DNA conclusively proved prisoners innocent, those prisoners had provided self-incriminatory statements and confessions. In Virginia, Earl Washington, Jr. and the Norfolk Four all gave false confessions.
3. On June 7, 1986, the day before he gave his false confession, Mr. Soering warned the interrogating officers that he might take the blame for a crime he did not commit. When asked, "Would you consider...pleading guilty to something you didn't do?", Mr. Soering answered, "I can't say for sure right now, but I can see, I can see it happening, yes. I think it's a possibility. I think it happens in real life."
4. At his trial, Mr. Soering explained why he "took the rap" for the woman he loved—to protect her from execution. As the son of a German diplomat, he believed he had a limited form of diplomatic immunity that would result in no more than a ten-year prison sentence in Germany especially since he would be tried as a juvenile, aged 18.
5. Recently performed DNA tests prove that Mr. Soering's statements to police were untrue: He claimed he had cut two of his fingers and bled at the crime scene, yet none of the forty-two DNA samples tested could be linked to him, and eleven definitely excluded him.

I believe that, when you review the new evidence in Mr. Soering's case, you will come to a different conclusion regarding the reliability of my client's "confessions." And once you realize just how dubious those statements to police are, you will also come to a different conclusion regarding his innocence.

We respectfully request that you and the board compare Mr. Soering's case to Mr. Haynesworth's. It would seem as a matter of equity, similarly situated cases should be judged by the same standard.

While I personally am convinced of Mr. Haynesworth's innocence, the fact is that the new evidence for Mr. Soering's innocence is actually stronger than that for Mr. Haynesworth's. Therefore, based strictly on the new evidence, since you paroled Mr. Haynesworth, it would seem that you should also grant parole to Mr. Soering.

By the time Mr. Haynesworth's case reached your desk in March, he had already been exonerated of two of the four rapes of which he had been convicted, through DNA tests and a Writ of Actual Innocence. He was only being held on the two other rapes of which he had been convicted, for which there was no DNA evidence.

The only “evidence” indicating Mr. Haynesworth’s innocence in those two non-DNA rapes was the similarity between those rapes and the two other rapes of which he had already been exonerated. There was no direct evidence of any kind suggesting his innocence in the non-DNA rapes.

Again, I am personally convinced of Mr. Haynesworth’s innocence of all four rapes. My point here is merely that the evidence for Mr. Soering’s innocence—the actual, direct, DNA and witness evidence—is more persuasive than the mere similarity between the DNA and non-DNA rapes in Mr. Haynesworth’s case:

1. DNA tests in Mr. Soering’s case revealed that eleven blood samples at the crime scene were definitely not left by Mr. Soering or his then-girlfriend, Elizabeth Haysom. In other words, someone else left blood at the crime scene—eleven times. Who?
2. For over twenty years, police and prosecution have argued vehemently that Mr. Soering cut his fingers and bled at the crime scene. Yet none of the forty-two blood samples that were DNA tested could be linked to him, and eleven of the forty-two directly excluded him. If he had really cut himself while committing this crime, one of those forty-two blood samples should have been his.
3. A few months after the murders, Tony Buchanan—owner of a transmission repair shop in Bedford County—observed a woman who was definitely Elizabeth Haysom and a man who was definitely not Mr. Soering as they paid for the repair of a car that had been left in the woods for several months. The driver’s side floor mat of this car was covered with dried blood, and next to the console lay a blood-covered “buck” or hunting-type knife—the same kind of knife which, according to medical testimony, was used to kill Derek and Nancy Haysom.
4. Obviously, that car was at the crime scene and the young man who owned or drove that car knows who was there. The possibilities are endless at this point. If Mr. Soering is telling the truth, someone else most likely was with Elizabeth Haysom at the crime scene. Who was it? More investigation is certainly required.

Thankfully, as the Governor pointed out in a TV interview on March 30, 2011, you have “a new set of eyes to look at [Mr. Soering’s] case,” and “the Parole Board is completely independent.”

I ask you to grant parole to Mr. Soering for the following reasons:

1. On July 29, 2010, at a fundraiser for a Virginia Beach Republican State Senator, Governor McDonnell told me he is “convinced [Mr. Soering] is completely rehabilitated.”
2. Mr. Soering has had seven books and roughly fifty articles published.
3. His COMPAS test score is unusually low, and his parole progress reports are uniformly excellent.
4. Mr. Soering has never incurred an institutional infraction, in over twenty-four and one-half years.

5. If granted parole, he would be automatically deported to Germany and permanently barred from returning to the U.S. He would nor could ever pose a public safety threat to any Virginian.

This record—especially the first two points—is fairly unique, so you could easily justify granting my client parole without even touching upon the awkward fact that he indeed may be innocent.

Thanking you for your consideration, I remain

Sincerely yours,

Gail A. Ball, Esquire

Attached: Exhibit Nos. 2-8

cc: Governor Robert F. McDonnell
Attorney General Ken Cuccinelli

Additional Exhibits of Support

- #1a January 19, 2011 CD of complete file presented to Governor McDonnell
- #1b Governor McDonnell Letter of January 19, 2011
- #2 Governor McDonnell Letter of March 21, 2011 regarding new witness
- #3 Tony Buchanan affidavit
- #4 WSET video of Jens Soering interview
- #5 Attorney Gail Starling Marshall Letter
- #6 Peter Wagner, Prison Policy Initiative, Executive Director
- #7 German Home Plan Presentation sponsored by Attorneys
Dr. Christian Mensching, LL.M, German Bar Association
Dr. Andreas Frieser, German Bar Association
- #8 German Exequatur documents of 2009