

October 27, 2011

The Honorable Rick Perry
Governor of Texas
1100 San Jacinto Street, Suite 412
Austin, TX 78701

The Honorable Greg Abbott
Attorney General of Texas
300 W. 15th Street
Austin, TX 78701

The Honorable Lynn Switzer
District Attorney, 31st Judicial District of Texas
205 N. Russell Street, Suite 413
Pampa, TX 79065

Dear Governor Perry, Attorney General Abbott and District Attorney Switzer,

We, the undersigned current and former elected officials and former prosecutors and judges, write to urge you to test the untested DNA evidence in the Hank Skinner case before proceeding with his execution, presently set for November 9.

We are all Texans, and we have great respect for each of you and the offices you hold. At the same time, we all also share 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.

We believe that the death penalty is an appropriate punishment for certain crimes, and we understand that the DNA testing might well show that Mr. Skinner is deserving of that punishment. But we are also steadfast in our belief that when it comes to the ultimate penalty, we must do everything in our power to ensure certainty before taking the irreversible step of carrying out an execution. We are not alone in this view. There is widespread public support in Texas for using DNA testing, whenever it is available, to ensure the greatest possible accuracy in our criminal justice system. As you all know, in May the Legislature enacted reforms to Texas's post-conviction DNA testing law precisely to eliminate procedural barriers that in some cases – like Mr. Skinner's – had gotten in the way of the search for the truth. That legislation passed with overwhelming bipartisan support, not least because polls show that *eighty-five percent* of Texans agree that prisoners should have broad access to DNA testing.

Testing the DNA evidence in Mr. Skinner's case is not only common sense, it is a public safety issue of great consequence. This month's exoneration of Michael Morton, after 25 years of wrongful imprisonment, highlights why state officials should consent to DNA testing when untested evidence is available. In Mr. Morton's case, the DNA testing not only proved his innocence, but identified the true perpetrator of the crime.

In many cases, there is no DNA evidence available to be tested. That is not true in Mr. Skinner's case. Indeed, there are multiple pieces of key untested evidence found at the crime scene, including a blood- and sweat-stained windbreaker jacket similar to one regularly worn by an alternative suspect; two knives, at least one of which was a likely murder weapon; a bloody towel; the victim's fingernail clippings, which may have the perpetrator's blood under them; and swabs from a sexual assault examination kit.

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.

Sincerely,

Jim Dunnam, Texas State Representative, District 57, 1997-2011; Senior Fellow, Texas First Foundation

Rodney Ellis, Texas Senator, District 13, 1990 – present

James A. Fry, James Fry P.C. 1982-present; Assistant District Attorney, Dallas County, Texas, 1980-1982; Former Chairman, Texas State Bar Grievance Committee

Pete P. Gallego, Texas State Representative, District 74, 1991-present

Carlos Garcia, Assistant District Attorney, Starr County, Texas, 1989-1991 Assistant District Attorney, Travis County, Texas, 1991-1995

Juan “Chuy” Hinojosa, Texas State Senator, District 20, 2002-present

Norman E. Lanford, Judge, 339th District Court, 1985 – 1992, Visiting Judge, 1992 - 1997

Kenneth J. Mighell, United States Attorney, Northern District of Texas (1977-1981); Assistant United States Attorney, Northern District of Texas (1961-1977)

Sam D. Millsap, Jr., District Attorney, Bexar County, San Antonio, Texas, 1983-1987

Joanne Musick, Assistant District Attorney, Harris County, 1998 – 2003

Earl D. Musick, Houston Police Dept., 1966-1999 (retired as lieutenant) Assistant District Attorney, Harris County Police Department, 1999-2003

Michol O'Connor, Justice, Court of Appeals, First District of Texas, 1988-2000; Assistant U.S. Attorney, Southern District of Texas, 1975-1978

Wendell A. Odom, Jr., Assistant District Attorney, Harris County, Texas, 1974-1978 Assistant United States Attorney, Southern District of Texas, 1978-1982

Morris L. Overstreet, Judge, Texas Court of Criminal Appeals, 1990-1998; Assistant District Attorney, Potter County, 1975-1980

Nat C. Perez, Jr., Brownsville Police Department, 1980 - 1989; Air Force Military Policeman, 1976-1980

Eddie Rodriguez, Texas State Representative, District 51, 2003-present

Mark White, Chairman, Geovox Security, Inc.; Governor of Texas, 1983-1987; Attorney General of Texas, 1979-1983; Secretary of State of Texas, 1973-1977; Partner, Reynolds, White Allen & Cook, 1969-1973; Assistant Attorney General of Texas, 1965-1969