

AN APPLICATION FOR EXECUTIVE CLEMENCY FOR DANNY LEE KING

Scheduled to be executed on
Thursday, July 23, 1998

I have no idea which one of them actually killed her. In determining Mr. King's guilt, it did not matter to me which person actually caused the stab wounds.

I realize that Ms. Rogers was stabbed to death. There was no definitive evidence presented to us indicating which person, Danny King or Becky King, stabbed and killed Ms. Rogers. I do not know which one of them actually killed her.... I was not presented with any evidence which proved that Danny King was the one who stabbed Ms. Rogers.

If I had known that Mr. King would not have been eligible for parole until he was 71 years old, I never would have sentenced him to death. Given our hesitation about sentencing Mr. King to death, I don't believe that the other members of the jury would have voted to sentence him to death either if they had known how long it would be before he would even be eligible for parole.

Statements of jurors who convicted Danny Lee King of capital murder and sentenced him to death.

Introduction

"I did not kill Carolyn Rogers."

Danny Lee King insists that he did not kill Carolyn Rogers. He said this before his trial, at trial, and since. Unfortunately, he has never been provided a fair opportunity to prove this fact in the courts. In fact, since his trial, Mr. King has been denied *all* assistance to present the courts with the facts of his innocence. Because he is poor, he cannot obtain this assistance on his own. In fact, King sought the permission of the Warden to take a polygraph test to assist in the investigation of his case. King was prepared to submit the results of any examination to the Governor along with this application. The Warden said that the test would only be permitted with a court order. King sought a court order, but the Attorney General opposed it, and the order was denied. **Since King has been denied the opportunity to take a polygraph examination, he is willing to provide such testing for Becky King, and will make whatever arrangements are necessary.**

Danny King's conviction and death sentence were obtained in an unfair and unethical manner and must be vacated or commuted for the following reasons:

- I. Jurors who convicted Danny King of killing Carolyn Rogers candidly admit that there was no evidence that he was guilty of capital murder and that, had they been told the truth about their sentencing options, they would not have sentenced King to death.**
- II. The evidence used by the prosecutor to convict Danny King was obtained through the unethical actions of the police, the attorneys involved in the case, and the judge.**
- III. There is no physical evidence that Danny King rather than Becky King killed Carolyn Rogers.**
- IV. Jurors were not given complete and accurate information about Becky King and her role in Carolyn Rogers' murder.**
- V. Danny King was convicted of capital murder and sentenced to death because he tried to protect his wife.**
- VI. King has been refused all requests for assistance to present physical evidence to prove his innocence.**

When the court system has failed so utterly to provide a condemned person a fair chance to present this case, the condemned's only recourse is to seek executive clemency from the Governor. Mr. King has never had the fair chance most presume available in the courts and so comes to the Governor and asks that he provide an honest and adequate hearing of his case.

I.

The Jurors In Mr. King's Case Did *Not* Find King Guilty Of Capital Murder And Would Not Have Sentenced Him To Death If They Had Been Told The Truth

The jurors who convicted Danny King and sentenced him to death admit that they had "no idea" whether Danny or his wife Becky King "actually killed" Mrs. Rogers. One juror also admits that, had he been told the truth about their decision whether King should live or die, he "never would have sentenced him to death." Under Virginia law, if one juror does not vote for conviction, a guilty verdict cannot be entered. Also, under Virginia law, if one juror does not vote for the death penalty, the defendant cannot be executed.

Mr. King's jurors had no idea which person, Danny or Becky, actually killed Mrs. Rogers:

I realize that Ms. Rogers, the victim, was stabbed to death.... I have no idea which one of them actually killed her. In determining Mr. King's guilt, it did

not matter to me which person actually caused the stab wounds.

Attachment 1, at 1.

I realize that Ms. Rogers was stabbed to death. There was no definitive evidence presented to us indicating which person, Danny King or Becky King, stabbed and killed Ms. Rogers. I do not know which one of them actually killed her.... I was not presented with any evidence which proved that Danny King was the one who stabbed Ms. Rogers.

Attachment 2, at 1.

In Virginia, a person who has not been determined beyond a reasonable doubt to be the person who actually killed the victim -- the "trigger-person" -- cannot be convicted of capital murder. A person who has not been convicted of capital murder cannot be sentenced to death. Thus, because the jurors did not find that King actually killed Carolyn Rogers, he should never have been convicted of capital murder. Because he should never have been convicted of capital murder, he should not be executed.

At least one of King's jurors also admits that, had he been told the truth about his options in choosing between a life sentence or death, he **"never would have sentenced [King] to death."** Jurors in King's case did not know that, if they decided not to

sentence King to death, he could not become *eligible* for *consideration* for parole until he was 71 years of age. Under Virginia law, King would have had to serve a mandatory minimum of 30 years in prison before he could be eligible for consideration for parole. King was 41 years old at the time of his conviction.

The jurors in King's case were concerned about when and if King would be released from prison if they sentenced him to life rather than death. According to one of the jurors, none of them wanted to sentence King to death. See Attachment 2, at 1. Plagued by lingering questions concerning Danny's fate if a life sentence was given, jurors asked the court for answers about the consequences of such a sentence. The court refused to answer their question. As a result, jurors presumed that King would be released from prison after only serving a small number of years. See Attachment 2, at 1; Attachment 1, at 1. The truth in this case was that Danny King would not have even been *eligible* for *consideration* for parole until he was 71 years old.

One juror admits that he "*never*" would have sentenced King to death if he had known what the jury's true options were. Another juror says that the jurors "*felt like we had no choice*" and that he "*may have voted differently*" had he known his true options.

If I had known that Mr. King would not have been eligible for parole until he was 71 years old, I never would have sentenced him to death. Given our hesitation about sentencing Mr. King to death, I

don't believe that the other members of the jury would have voted to sentence him to death either if they had known how long it would be before he would even be eligible for parole.

Attachment 2, at 1-2.

We felt like we had no choice once we realized that we had no idea what "life" meant. I may have voted differently had I known that Mr. King would not even be eligible for parole until after he was 70 years old.

Attachment 1, at 1.

Thus, King faces execution on Thursday night even though, two jurors admit that, under the evidence presented, *they did not find him guilty of capital murder*, and at least one juror admits that, had he been told the truth about the jury's sentencing options he "*never*" would have sentenced him to death.

Unless the Governor intervenes, Virginia's justice system will have failed entirely.

II.

Danny King's Convictions And Death Sentence Were Obtained Through The Unethical Actions Of Lawyers and Police

Unethical Conduct By Police

Although King repeatedly asked for a lawyer,¹ the police

¹The police officers who questioned King did not deny that he persistently asked for a lawyer:

- Q. During your conversation with -- with Mr. King, **did he ever ask for a lawyer?**
- A. **On this particular occasion he did** and I explained to him that he wasn't charged with anything involving this case.
* * *
- Q. Did you continue to question him or to engage him in conversation **after he asked for a lawyer?**
- A. **He wasn't questioned anymore.**
* * *
- A. He indicated that he felt that at this particular time **it was best if he spoke with an attorney.**
* * *
- Q. And -- and -- and from -- and **after he said he wanted to talk to a lawyer**, you didn't talk to him anymore?
- A. No, we began the process of collecting the items[.]
* * *

and prosecutor misrepresented his rights to him by telling him that he "could not" get a lawyer until they decided to charge him for killing Mrs. Rogers. (In fact, the Constitution guarantees that a criminal suspect must be provided a lawyer at custodial interrogation when one is requested.) They kept up this deception for three months until the trial court became aware that King did not have a lawyer and appointed an attorney to meet with King. During those three months, King was told over and over by police and others that his wife "was going to fry." Without the help of a lawyer, King was forced to try to obtain information about his wife's fate on his own.

The facts of this case indicate that the police and prosecutor chose not to charge Danny King in the murder in order to keep him from obtaining a lawyer. Danny and Becky King were both suspects in the death of Mrs. Rogers before their arrests, but only

Q. [T]hat all took place before Mr. King asked for a lawyer?

A. There were things he said after he asked[.]

* * *

A. [King] said that he wanted to make a statement but he would only make it to the Commonwealth Attorney, myself and Patrone and he wanted an attorney for himself.

* * *

A. And [King] would only make this statement one time. And that is the time I reflected to you that he wanted an attorney.

Supp. Hrg. at 20-24. Although the Constitution requires that a criminal defendant have the assistance of a lawyer at custodial interrogation if he wants one, police told King that he *could not* get a lawyer until police decided to charge him with killing Mrs. Rogers.

Becky was initially charged with the murder. Because she had to appear in court on the charge, she was able to get a lawyer.

Danny King, on the other hand, was taken into custody for violating parole by leaving the state without permission. Under his status of a "parole violator," the police and prosecutor had ready access to King without having to charge him. Because he was not charged, he did not have to appear in court and, because he did not appear in court, he was not appointed a lawyer. Almost as soon as he was arrested King asked for the assistance of an attorney who could determine King's potential fate, as well as that of his wife. Although the police and prosecutor knew that King was asking for a lawyer, they refused to provide one. Instead, they persistently told him that he "could not" have a lawyer. This is simply not true, and the prosecutor and police knew that it was not true.

Under the United States Constitution, when a criminal suspect requests the assistance of counsel during custodial interrogation, police or prosecution questioners are required to ensure the presence of counsel during all subsequent questioning. The questioners, therefore, have a choice: they can stop doing things likely to elicit a response from a suspect, or they can provide counsel.

The police and prosecutor in King's case did neither. Instead, they lied to King about what his rights were. They told him that he *could not* have counsel under any circumstances, until they decided to charge him with killing Carolyn Rogers. This is a direct and blatant contradiction of the Constitutional guarantee that

a criminal suspect *must* have counsel in circumstances likely to elicit a response if he requests a lawyer at any time previous. As a result of their deception, police and prosecution successfully discouraged King from continuing to ask for a lawyer. Without a lawyer, King was forced to rely on the police for information about his wife's case. The kinds of things that his lawyer should have done -- such as talking with the police and with his co-defendant's counsel -- King was forced to do himself.

Unethical Conduct By Attorneys

The only damning evidence that Danny King, rather than Becky King, killed Carolyn Rogers, was his statements reported by Becky's attorneys. King went to Becky's attorneys and offered to help his wife. Her attorneys told King that she would "fry" unless he could tell them that he was the one who killed Carolyn Rogers.

Becky's attorneys admitted that they secretly tape recorded phone conversations with Danny King. They had the tape recordings transcribed. One of the attorneys read from the tape recording transcript during his testimony at trial.

A lawyer who engages in making non-consensual tape recordings of telephone conversations, or who assists in such conduct, acts improperly and in violation of his ethical duties. See Legal Ethics Opinion of the Virginia State Bar No. 1324. These actions violate the minimal ethical standards required of lawyers in the Virginia State Bar because they involve "dishonesty, fraud, deceit, or misrepresentation" and "reflect[] adversely on a

lawyer's fitness to practice law." LE Op. 1324.

But, neither King's trial attorneys, the prosecutor, nor the trial judge -- all of whom were lawyers -- made any objection to the use of this evidence or Becky's attorneys' actions. In fact, no one -- including the ethical authorities at the Bar -- has ever taken action on the unethical impropriety through which King was convicted. When the ethical officers of the Bar were asked to provide an ethics opinion on facts identical to those in King's case, they refused to do so because his case was still pending.

Becky's counsel also perpetuated the dodge played by the police that King *could not* obtain the assistance of counsel until he was charged with killing Carolyn Rogers. Becky's attorneys were aware that the police were refusing King a lawyer, even though he had asked for one repeatedly. Becky's attorneys also knew that the police had advised Danny that he could not receive the assistance of counsel until he was charged for killing Mrs. Rogers. Though they knew that King was entitled to the appointment of counsel, they did nothing to correct this deception. Instead, they took advantage of it while it lasted.

III.

There Is No Physical Evidence That Danny King Rather Than Becky King Killed Carolyn Rogers

There was no physical evidence which indicated that Danny King, rather than Becky King, killed Carolyn Rogers. In fact, all of the evidence presented at trial pointed as much, if not more, to Becky King as the killer. This evidence could not show, beyond a reasonable doubt, that Danny rather than Becky actually killed Mrs. Rogers. (We now know that for at least two of the jurors who sentenced Danny King to death, the evidence clearly was *not* enough to convict for capital murder because they could come to no conclusion about who actually killed Carolyn Rogers, *see* Section I., *infra*.)

The physical evidence in the case mostly consisted of items belonging to the victim and forensic evidence relating to print impressions (fingerprints and shoes impressions left in the blood at the crime scene), blood evidence, and the possible murder weapon. The most that can be inferred from this evidence is who was present at the crime scene and where they were at the scene.

What physical evidence there is, however, suggests more strongly that Becky King killed Carolyn Rogers than it does that Danny King killed her. This is because this physical evidence

places Becky King in closer proximity to Carolyn Rogers' body at the crime scene, and because the physical evidence contradicts Becky King's testimony that she was not present when Carolyn Rogers was murdered.

Four bloody shoe prints identified as coming from Becky's shoes were found immediately next to Mrs. Rogers' body. (Although expert examiners swore that the inside of the shoes had a pattern of wear which corresponded with unique characteristics of Becky's feet, she swore under oath that she had never seen the shoes before.) Spatters of blood were found on the legal pad containing Becky's fingerprints (and none others) and notations of two realtors' names and the false name that Becky was using.

Becky cashed Carolyn Rogers' checks and pawned Carolyn Rogers' jewelry.

Although she denied carrying her handbag into the house where the murder was committed, Ohio police retrieved Becky's blood spattered handbag from the stolen van. It contained burglar's tools. Also discovered in the van was Becky's knife, which the medical examiner testified could have been the murder weapon.

The medical examiner also noted a wound to the victim's body and indicated that this wound did not penetrate the chest cavity because the knife point had hit a rib. This suggests that the fatal wound was inflicted by someone strong enough to stab between the ribs, but too weak to push through a rib. This evidence shows that it is more likely that such a person would be a

woman of Becky's stature than a man of Danny King's size and strength.

The physical evidence in the case was essentially in equipoise. This meant that the jury's decision on the ultimate question of who inflicted the fatal wound was left to be made entirely upon uncertainty and speculation rather than the evidence in the case. *See* Section I, *supra*.

The one piece of physical evidence which the prosecution presented to suggest that Danny King had a larger role in the death of Carolyn Rogers than did Becky King was testimony about boot heel impressions on the victim's head. A state expert testified that Mrs. Rogers' head had been struck with the heel of a boot. The prosecutor presented evidence that King was wearing a particular pair of boots at the time of the crime, based upon forensic testimony that certain characteristics of King's foot matched markings on the boot, and that certain characteristics of the boots matched markings on the head of the victim. The prosecutor also presented forensic evidence that King's bootprints were found in the blood at the crime scene.

This evidence was critical to the prosecutor's case -- even though it did not, as the trial judge pointed out, indicate who actually killed Carolyn Rogers -- because it was the only clear physical evidence that King had brutalized Mrs. Rogers. This alleged brutality supported the argument that King, rather than Becky, actually killed the victim.

Unfortunately, although Danny King strenuously denied that he struck Mrs. Rogers with his boot heels, he had no expert testimony at trial to rebut these allegations. (King's denials of these stompings is significant since he frankly admitted his other actions in assaulting Mrs. Rogers.)

More unfortunate is the fact that King had been provided the assistance of a forensic expert who was never called to testify. Finally, and most unfortunately, this expert would have substantially rebutted the prosecutor's evidence that the heel impressions on Mrs. Rogers' head came from King's boot, and could have testified conclusively that they did not.

King's expert was never allowed to look at the actual physical evidence in the case. He reviewed only photographs taken by the prosecutor's expert. Significantly, these photographs (taken by the medical examiner) were reduced or enlarged (by the prosecutor's impression witness) to a degree unknown to King's expert. Some of the photographs did not include a scale from which estimates of actual measurements could be made. After reviewing a packet of materials which included photographs and inked heel impressions of Danny King's boot, King's expert said that he could not see how a conclusive identification could be made. The expert's preliminary report concluded that he could not dispute the prosecutor's evidence based on the materials he received. The expert said that he could make more accurate determinations by looking at the actual evidence in the case and by making his own measurements. He never was provided the opportunity to examine the actual evidence and did not testify at

trial.

Since the trial, King has tried to get permission for the expert to complete his work in order to prove that he did not strike Mrs. Rogers with the heel of his boot. All of the courts have refused to give him permission. Because King is poor he cannot get assistance on his own. **King asks that the Governor allow him a brief reprieve to allow this evidence to be obtained and presented either to a court or to the Governor for review.**

Expert assistance from a medical forensic pathologist -- which the prosecution had but which King has always been denied -- would also indicate that King did not stomp on Mrs. Rogers' head. The prosecutor maintained that King, who was close to six feet tall and weighed well over 200 pounds, smashed his feet down on Mrs. Rogers' head at least a half a dozen times. The area actually injured by these blows is quite small (less than two inches by two inches). A medical forensic pathologist who had reviewed the evidence could testify that it is highly unlikely, if not impossible, that King could had smashed his heel on that area six or more times, each time hitting her head in precisely the same small area without breaking the skin or causing any fractures to the bone. The prosecutor's forensic pathologist never pointed this out to jurors.

Finally, the medical examiner stated that a single strand of hair was observed across the victim's intragluteal crease (or the crease of the buttocks) at the scene of the crime. Hair samples were taken from both Danny King and Becky King, and yet at

neither trial was testimony presented suggesting that the prosecutor had ascertained a match between that hair and either one of the defendants. No results from the testing of this hair has ever been provided. Such tests would show the presence of another person near to the victim's body.

IV.

Becky King Got Off Scot Free And Jurors Never Received Accurate Evidence About Who She Really Was

"Justice is arbitrary." This is what one of the jurors who sentenced Danny King to death said to explain how Danny King could be executed this Thursday while Becky King, who served less than two years in prison, will be free to walk the streets of Virginia on Friday. The prosecutor in Becky's case said that he would "jump off the top of the courthouse" if Becky was sentenced to less than fifty years. This kind of disparity in sentencing -- where one person goes free and another is put to death, even though there is little or no evidence which person actually did the crime -- raises the question, "When does 'arbitrary justice' become just plain 'injustice'?"

This question is critical given fact that none of the jurors in Becky's *or* Danny's case was given much accurate information about Becky King's history and personality.

During her testimony at Danny King's trial, Becky King portrayed herself as a woman dominated by Danny. Otherwise she was timid, weak, and innocent. There exists, however, overwhelming evidence which powerfully rebuts this portrayal. This evidence shows that Becky King was a woman who perceived herself as uncommonly strong, sexually dominant, extremely willful, and demanding. A revealing picture of the real Becky King can be found in the letters she wrote to Danny while he was still incarcerated, in her history of deceptive, destructive, violent, and threatening behavior, in her history of drug use and dealing, and in her contradictory and unbelievable stories about her life with Danny and her role in Carolyn Rogers' murder.

A Woman Capable Of Violence

Becky's violent and threatening capabilities and tendencies were experienced by her co-workers during the months preceding Mrs. Rogers' murder. Prior to Danny King's release from prison, Becky worked at Heritage Hall Nursing Home. Several of her co-workers at Heritage Hall stated that Becky King threatened them with bodily harm. Not only did Becky threaten these co-workers, but she informed them that she carried a knife in her purse at all times. Sue Ellen Stover testified at Becky King's trial that Becky showed her a long brown knife that she kept in her pocketbook, and that Becky told her she was not afraid to use it. Linda Long, Becky's immediate supervisor at Heritage Hall, stated that Becky had threatened her personally on several occasions and that Becky told her that she had a knife. She said that she left work one day to find that two of her car tires had been slashed, and she believed

that Becky was to blame. Also, Earline Nunn, another of Becky's co-workers from Heritage Hall, stated that while Becky had never personally threatened her, she once heard her threaten Teresa Pruitt, another co-worker. Becky told Earline Nunn that she was going to "fuck up" Teresa Pruitt.

Becky's violent capabilities were also touted -- and her multiple personalities displayed -- in the letters she wrote to Danny while he was previously incarcerated. Becky and Danny King exchanged hundreds of letters and many photos while he was incarcerated and she was living with his mother in Blacksburg, Virginia. In these letters, Becky often referred to herself as "Deaconess," an alter-ego. Becky also sometimes referred to herself as "SHE." Apparently, these names referred to different elements of Becky's personality, each element capable of different levels of violence. In one letter, she stated that "Deaconess would kill and Becky would just fuck them up." Often times, when Becky was writing from the Deaconess' point of view, her handwriting changed. In one June 1990 letter, Becky expressed her anger and frustration with Danny's brother, Tommy. She stated, "I told him he had best leave me alone if he didn't want to get hurt. When I went upstairs to change, my eyes was green--I mean green. I hope mama didn't get good look at them. I'm going to get him, Deacon, really I am, if he don't quit pulling his shit, I believe."

A Deceptive Woman

Becky's deceptive and dishonest nature is clear from the incredible stories she told her co-workers and Danny's family prior

to Mrs. Rogers' murder, as well as her statements and testimony regarding her role in Mrs. Rogers' death at Danny's trial. She told stories that did not match up to the facts. Becky King told stories about her life with Danny King *before* the Mrs. Rogers' murder; she told stories about her role *in* Mrs. Rogers' murder; and she told stories about the events that occurred *after* Mrs. Rogers' murder -- both immediately and during the days following the murder. These stories did not match the facts in this case.

Danny King's mother and brother say that much of what Becky told them while she was living in Mrs. King's house was contradictory and unbelievable. Becky King stated that she lived with Mrs. King because that is what Danny wanted, in order to have more control over her. But Mrs. King says that Becky actually lived with her because she had no money, was estranged from her family, and therefore had nowhere else to stay. Becky's sister contacted Mrs. King to warn her about living with Becky because Becky's family believed that Becky was "not quite right."

Becky claimed that she did not use drugs. But Danny's mother says that Becky kept drugs and drug paraphernalia in her room at the King's home, and that she often spent nights away from the house and would regularly leave the house to engage in drug use.

Becky was also dishonest and deceptive with her co-workers. Becky told her co-workers on several occasions that Danny King was a secret agent who worked undercover for the government. Becky told co-workers that she and Danny owned a house in Santa

Monica, California, overlooking the ocean. Danny King has never been a secret agent for the government, and Danny and Becky King have never owned a house in California. Also, while Danny King was still incarcerated, Becky stole driver's licenses from several of her co-workers. She used one of these to cash the checks that were stolen from Carolyn Rogers after she was murder.

Most importantly, and in keeping with her pattern of deception, Becky King made several conflicting statements to the police and to the court at Danny King's trial. She told conflicting stores about the reasons she and Danny were in Roanoke on the day of the murder, about her whereabouts at the murder scene at certain times that day, and about their actions immediately following the murder. Becky made three separate, transcribed statements to the police. She then testified against Danny at his trial.

Becky told varying stories in her statements to the police and in her testimony.² For instance, on 10/16/90, Becky told the

² Some details about the case are helpful here. While in Roanoke on October 11, 1990, with Danny King, Becky King called Mastin, Kirkland, and Bolling Real Estate Agency and asked for Carolyn Rogers. She was told that Mrs. Rogers was at home. Becky phoned her there and arranged to meet Mrs. Rogers at an empty house for sale on Foxcroft Circle in Roanoke County. According, to Danny, Mrs. Rogers owed Becky money pursuant to a drug-deal between Becky and Mrs. Rogers' son. According to Becky, Danny told her that he was going to buy her a house but, because he was recently released from prison, he didn't want to use his name.

The three arranged to meet at the house. While showing the house, all three were in the basement. Danny admits that he assaulted Mrs. Rogers in an attempt to recover the debt her

police that she had not gone down in the basement after Mrs. Rogers was killed. At Danny's trial, however, she stated that she had been in the basement, but denied that the bloody footprints around Mrs. Rogers' body were hers. She asserted that the shoes found in the dumpster at Tanglewood Mall -- which matched at least four bloody prints next to Mrs. Rogers' body -- were not her shoes. At both Danny's and Becky's trial, a forensic expert testified that the shoes found in the dumpster matched the bloody footprints next to Carolyn Rogers' body. The expert also found that these shoes were worn by Becky. (He matched unique characteristics of Becky's feet with the particular wear pattern on the inside of the shoes and concluded that Becky had worn these shoes.)

Additionally, there was a substantial amount of information given to the police and the court which indicated that Becky simply could not keep even significant details of her story straight. For example, On 10/16/90 Becky told police that she drove the van to the empty house to meet Mrs. Rogers. But on 10/18/90, she told police that Danny drove to the house. According to her testimony at trial, Becky left the house to smoke a cigarette and when she returned, Mrs. Rogers was dead. When asked on 10/16/90 what

son owed to Becky. He says that he took Mrs. Rogers checkbook upstairs and began to fill-out checks while Becky watched over Mrs. Rogers in the basement. When he returned to the basement, Becky had stabbed Mrs. Rogers.

Mrs. Rogers' body was discovered stabbed to death in the basement later that day. Her car was discovered at a nearby mall. Becky's fingerprints were in the car. Becky was seen cashing Mrs. Roger's checks and pawning her jewelry. A fingerprint matching Danny's was found on one of the checks Becky's cashed.

she did after smoking the cigarette, she told the police that she came back inside, Danny met her at the top of the stairs and told her to take Mrs. Rogers' car. When asked the same question later that day, she stated that Danny was at the bottom of the stairs. When she was again asked this question at Danny's trial -- where she knew she would be confronted by her footprints in the blood near the victim -- she stated that she actually walked down into the basement. (She also claimed, for the first time, that while she was in the basement, Danny hit her twice and then told her to take Mrs. Rogers' car.)

Becky's answers to the question of whether or not she ever saw Mrs. Rogers' body reveal yet another contradiction. In her 10/16/90 statement to the police, she stated that she had not seen Mrs. Rogers' body after she had been killed. At Danny's trial, Becky testified that she had seen Mrs. Rogers' body lying on the basement floor.

Becky was asked whether or not she saw any blood in the house or on Danny. On 10/16/90, she said that she had not seen any blood anywhere. But, later that same day, Becky said that she saw blood on Danny's hand when he gave her car keys. On 10/18/90, she told police that she saw blood on the basement floor.

Becky also was asked where Danny was when she cashed the stolen checks. On 10/16/90, she told police that he was sitting in the van. When asked this same question at Danny's trial, she testified that Danny came into the banks with her, except for the drive through bank where she walked up to the window alone.

When asked where Danny was when she pawned Mrs. Rogers' ring, she told officers on 10/16/90 that he dropped her off at the pawn shop and circled the block. At Danny's trial she testified that Danny was in the pawn shop with her.

When Becky was asked why she had stolen her co-workers' driver's licenses, she told the police on 10/18/90 that she had done so because Danny told her to take them to help them in starting fresh when he was released from prison. At Danny's trial, Becky testified that she stole the licenses so that other prisoners' wives could use them to go visit their husbands in prison. These women were not allowed in prison under their own identities because they had been convicted of crimes.

Becky was asked why she and Danny called real estate agents in the Roanoke area. Becky explained at Danny's trial that, as far as she knew, they were looking for a home to buy.³ She asserted that she knew of no other reason why she would have called Carolyn Rogers and asked her to meet them at this empty house. Danny and Becky had *no* money to buy a house. In fact, Danny and Becky had to borrow money from Danny's mother and from social service agencies just to get gasoline for the car.

The deceptions by Becky continued after Mrs. Rogers was

³In her 10/16/90 statement to police, Becky stated that she and Danny were looking for homes in Roanoke because Danny was going to get a job in Roanoke or Blacksburg. At Danny's trial, Becky testified that they were looking for homes in Roanoke because Danny needed to buy a house quickly for tax or investment purposes.

murdered. Becky King claimed that Danny physically abused her and verbally threatened her immediately following the murder, causing her to fear for her life and the lives of her family members. Becky later explained that this was why she could not escape from Danny King. She also said that this is why she agreed to drive Mrs. Rogers' car to the mall, cash the stolen checks she forged, pawn the stolen ring, get a new driver's license, and travel with him to Ohio, all without taking any of the many opportunities presented to either escape or inform authorities of her plight.

Becky said that, on the day of the killing, Danny violently assaulted and choked her while telling her that he was sexually aroused when he choked Mrs. Rogers. But a photograph taken of Becky shortly after this was to have occurred by the Virginia DMV, showed no evidence of any physical harm to Becky. Becky also claimed that Danny's physical abuse continued while they travelled in the van, including the fact that her hands were bound. But the Ohio State Troopers who apprehended Becky reported no evidence of bruising, scratches, or cuts on her. Nor did they or other law enforcement authorities report that she mentioned anything about being bound or mistreated by Danny. Becky never asked to see a doctor after she was arrested, and there is no indication that she had any injuries at the time of her arrest. In fact, one of the bank tellers testified that Becky was actually giggling when she cashed one of the stolen checks shortly after the crime. Also, hours after the murder, when Danny and Becky arrived at his mother's house in Blacksburg, Becky was "giggling" and appeared "high" and "couldn't keep her hands off" Danny. Becky's behavior cannot be reconciled with her later assertion that

Danny had been abusive, threatening, and controlling.

In addition to Becky's own contradictory statements, jurors also were deprived of critical information about Becky King. For example, the jurors at Danny King's trial did not even know that Becky was originally charged with capital murder or that she was tried for first degree murder.

These omissions served to keep the jurors at Danny King's trial from knowing the true character and history of the only other suspect in the case, Becky King. If the jurors knew this information, they would have realized that the true identity of the person who killed Carolyn Rogers could not be determined unanimously and beyond a reasonable doubt. Significantly, in this case, we now know that jurors *did not know* who killed Carolyn Rogers unanimously and beyond a reasonable doubt.

V.

Why Would Danny Lee King Confess To Committing A Crime He Did Not Do?

The only evidence connecting Danny King to Ms. Roger's stabbing were incriminating statements made by Danny. These statements can be reasonably explained and easily discounted. Danny's incriminating statements were the direct result of unethical coercion and a compelling belief that he must protect the woman he loved.

The most incriminating statements were illegally and unethically obtained. Becky's trial attorney secretly tape-recorded phone conversations with Danny and had the recordings transcribed. When he testified against King, he reading from these transcripts.

In his conversation with Becky's attorney, King indicated his concern for his wife's well-being. Becky's attorney said that King was right to be concerned because the prosecution was going to "fry" her. King said that he would do anything he could to help her. Becky's attorney said that the only way Danny could help was to say that he did it, so Danny said that he did it.

When Danny asked Becky's attorney whether their conversation would be confidential because it was between a lawyer and a defendant, the attorney advised him (falsely) that it would be "hearsay." These deceptive, unethical, opportunistic, and self-interested acts by Becky's lawyer served to trade Becky's life for that of Danny's.

Danny King told Becky's attorney that he committed a crime he did not commit because he was told by the attorney that this was the only way to save the life of the woman he loved. Danny's false confession was the immediate result of his urgent need, and self-imposed duty, to protect his wife. From a sociological and psychological standpoint, it understandable, that someone would do all within his power to protect his spouse's life.

Because of Danny King's traumatic and abusive background,

his need to protect his loved ones was particularly exaggerated. Danny King's identity was formed to assume this role as a small child in order to protect his mother and brother and sister from the severe physical abuse and traumatic psychological abuse reigned down upon them by his drunken and tyrannical father.

[A]t an early age, Mr. King realized that he was able to protect his mother and siblings from suffering his father's assaults and beatings by drawing his father's wrath to himself. . . . Mr. King's childhood life experience forged for him a role of "himself as protector." In his childhood, he learned that the lives of others, quite literally, depended upon him. This is not hyperbole; it can only be appreciated fully by those who can imagine, or have experienced, persistent threat[s] and abuse toward themselves and/or their loved ones.

It was this life role -- the most powerful in his life -- to which Mr. King reverted when Becky King's attorneys told him that "she was going to fry." To be sure, it certainly cannot be considered unusual for one spouse to lie to protect the life of another, Mr. King's desire -- indeed, his *need* -- to protect his wife was far greater than you or I might feel or experience to protect those we love. . . . Mr. King's identity relied on his ability to protect (and save the lives of) those important to him. The years of fighting -- and generally failing -- to protect his

mother, brother and sister (and smaller children also "on the streets"), drove him to take extraordinary, and sometimes irrational, risks to be the person that saved his wife from her awful fate.

. . . Only after he knew that Becky King had abandoned him, and his attorneys had "re-constructed" for him an ethic based in reality, could King come forward with the truth. For him, however, telling a truth that allowed him to admit that he could not (and would not) save his wife, resounded against everything he previously had held as true: his most important purpose was to serve as protector of those he loved and cared for. In order to walk away from this mental construct or schema, Mr. King had to admit that he could not protect his wife. . . . Until he made these admissions. . . Mr. King *could not possibly* have kept himself from taking whatever actions he could to protect Becky.

See Attachment 3. (Affidavit of Dr. Mary Beth Williams, Ph.D.).

Once Becky's trial was concluded and the possibility of Becky being sentenced to death had been eliminated, Danny ceased accepting responsibility for Mrs. Rogers' death. There was no longer any need to protect his wife. She had received an incredibly

light sentence⁴, and Danny was now faced with the task of uncovering the truth -- a task that would subsequently prove impossible.

Additionally, it is clear from a forensic standpoint that Danny's "confession" was false. There are factors which indicate whether a confession is or is not false: 1) whether the statement lead to the discovery of evidence unknown to the police; 2) whether the statement included identification of highly unusual elements of the crime that had not been made public; and 3) whether the statement included an accurate description of the mundane details of the crime scene which are not easily guessed and have not been publicly reported. If the answers to these questions are positive, it is most likely the case that the defendant is *not* making a false confession. See Richard A. Leo and Richard J. Ofshe, *The Consequences of False Confessions: Deprivations of Liberty and Miscarriages of Justice In the Age of Psychological Interrogation*. Journal of Criminal Law & Criminology (1998).

Danny's incriminating statement to the police inaccurately described details of the crime scene. First, Danny states that he stabbed Mrs. Rogers once. Tr. 944. However, Mrs. Rogers was actually stabbed twice. Second, Danny asserted that Becky's footprints could not possibly have been in the victim's blood. Tr. 945. Yet the physical evidence at the crime scene indicates a

⁴ Becky King was convicted in 1991 of being an accessory after the fact and was sentenced to five years imprisonment. However, she was released from prison on October 23, 1992, and has been free ever since.

contrary conclusion: at least four of the bloody prints around Mrs. Rogers' body were identified as Becky's footprints.

Conclusion

Danny Lee Kings asks that the Governor commute his death sentence and grant such other pardons and reprieves as would allow Mr. King the fair opportunity to prove his innocence of the crime for which he was convicted.

Case citations

Danny Lee King was convicted for the murder of Carolyn Rogers in the course of armed robbery and was sentenced to death. Mrs. Rogers was stabbed to death. She was a realtor in the Roanoke area of Virginia. Her body was discovered in the basement of an empty house which was on the market for sale. The decisions of the courts in this matter are reported at: King v. Commonwealth, 243 Va. 353, 416 S.E.2d 669 (1992); King v. Warden, No. 952099 (Va. March 14, 1996); King v. Greene, ___ F.3d ___, No. 97-28 (4th Cir. April 20, 1998)(unpublished).

Respectfully submitted,

DANNY LEE KING

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July 20, 1998

This document is housed in the Capital Punishment Clemency Petitions (APAP-214) collection in the M.E. Grenander Department of Special Collections and Archives, University Libraries, University at Albany, SUNY.

ATTACHMENT ONE

AFFIDAVIT OF KEITH CRAYTON

I, Keith Crayton, of Richmond, Virginia, do hereby state the following:

1. I was the jury foreman in the capital murder trial of Danny King in Chesterfield County, Virginia, in 1991.
2. We sentenced Mr. King to death for the murder of Carolyn Rogers in Roanoke, Virginia.
3. I realize that Ms. Rogers, the victim, was stabbed to death. There was no physical evidence presented to us that indicated which person, Becky or Danny King, stabbed Ms. Rogers to death. I have no idea which one of them actually killed her.
4. In determining Mr. King's guilt, it did not matter to me which person actually caused the stab wounds. It was clear to me that Mr. King had stomped the victim's head and that either Becky or Danny killed her.
5. Going into the penalty phase of the trial, I thought we were going to vote for life. However, there were four members of the jury (three men and one woman) who convinced us to vote for death. We felt like we had no choice once we realized that we had no idea what "life" meant. I may have voted differently had I known that Mr. King would not even be eligible for parole until after he was 70 years old.

6. I believe Becky and Danny King played equal roles in the murder. I realize that Becky King was released after spending only a few years in prison.

STATE OF VIRGINIA:

Keith H Crayton
Keith Crayton

At Large, to-wit:

KEITH CRAYTON, having appeared personally before me, Jennifer Givens
Notary Public in and for the jurisdiction aforesaid, and being duly sworn, stated that the foregoing information is true to the best of her knowledge and belief.

Given under my hand this 2nd day of July, 1998.

Jennifer Givens
Notary Public

My Commission expires: July 31, 2001

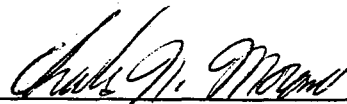
ATTACHMENT TWO

AFFIDAVIT OF CHARLES MORANO

I, Charles Morano, of Midlothian, Virginia, do hereby state the following:

1. I was a juror in Danny King's capital murder trial in Chesterfield County, Virginia, in 1991.
2. We sentenced Mr. King to death for the murder of Carolyn Rogers in Roanoke, Virginia.
3. I realize that Ms. Rogers was stabbed to death. There was no definitive evidence presented to us indicating which person, Danny King or Becky King, stabbed and killed Ms. Rogers. I do not know which one of them actually killed her.
4. I knew that both Danny King and Becky King were present at the house where Ms. Rogers was murdered. The evidence convinced me that Danny and Becky played equal roles in Ms. Rogers' murder. I knew that one or both of them caused Ms. Rogers' death. I was not presented with any evidence which proved that Danny King was the one who stabbed Ms. Rogers.
5. During the penalty phase, it was clear to me that no one on the jury wanted to sentence Mr. King to death. The only reason we did so was because we did not know what would happen if we gave him a life sentence. There were several jurors who convinced us that if we gave him life, he'd be out of prison in 5, 10, or 15 years. I felt Mr. King needed psychological help, and that he should not be back on the streets after only 5 to 15 years in prison. Because no one would answer our questions about what a life sentence meant, we sentenced him to death.
6. If I had known that Mr. King would not have been eligible for parole until he was 71 years old, I never would have sentenced him to death. Given our hesitations about

sentencing Mr. King to death, I don't believe that the other members of the jury would have voted to sentence him to death either if they had known how long it would be before he would even be eligible for parole.



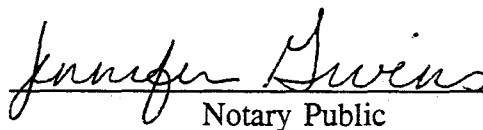
Charles Morano

STATE OF VIRGINIA:

At Large, to-wit:

CHARLES MORANO, having appeared personally before me, Jennifer Givens, a Notary Public in and for the jurisdiction aforesaid, and being duly sworn, stated that the foregoing information is true to the best of his knowledge and belief.

Given under my hand this 7th day of July, 1998.



Notary Public

My commission expires: July 31, 2001

This document is housed in the Capital Punishment Clemency Petitions (APAP-214) collection in the M.E. Grenander Department of Special Collections and Archives, University Libraries, University at Albany, SUNY.

ATTACHMENT THREE

COMMONWEALTH OF VIRGINIA

COUNTY OF FAUQUIER

AFFIDAVIT OF DR. MARY BETH WILLIAMS, PH.D., LCSW, CTS

1. I am a licensed clinical social worker in the State of Virginia and have a Ph.D. in Psychology from The Fielding Institute (1990). Fielding Institute is a fully accredited masters and doctoral institution in Santa Barbara, California. My doctoral dissertation examined the correlation between Post-traumatic Stress Disorder (PTSD) and childhood sexual abuse in a sample of 531 survivors.
2. I met Mr. King approximately three years when I was asked to perform an initial review of his case and provide a preliminary opinion concerning the phenomenology of his social history and the impact that that history would have had on his development. I am trained to make these assessments and do so regularly. During the period of time I have known Mr. King, I have had over 30 hours of direct, face-to-face contact with Mr. King. I have read a great deal of the court proceedings transcripts. I have read Mr. King's poetry and writings. I have had extensive correspondence with Mr. King. He has completed a variety of PTSD-sensitive Instruments, a trauma workbook, and other written documents as part of the evaluation and treatment.
3. My review of the case has allowed me to gain an especially detailed knowledge of Mr. King's history. In accord with professional standards –

standards, which do not appear, to me, to have been followed by the appointed mental health experts at trial—I have “triangulated” the factual information upon which I have relied. In other words, I have sought to confirm the information from three independent sources. If this could not be done, the information was either not relied upon or its influence upon my conclusions was greatly reduced. The history, which I have discovered, was cultivated in and reveals an extraordinary abusive childhood.

4. Mr. King’s trial attorneys told his jurors that Mr. King had “a rather unfortunate and traumatic childhood with an abusive father.” (Tr. At 537). In fact, Mr. King suffered regularly imposed severe mental and physical abuse at the hands of his alcoholic father from the time Mr. King was a small child. The physical abuse consisted of severe beatings, including the use of electrical cords, belts, and sticks; these beatings caused deep welts and cuts, bleeding, and excruciating pain. Mr. King’s father’s wild and uncontrolled beatings—which typically occurred while the father was in an alcohol-induced rage or while he was discharging the tension of alcohol-deprived anger—regularly rendered Mr. King unconscious. These violent outbursts by Mr. King’s father were so fierce that, at times, he would break the furniture in the house.
5. Mr. King’s father forced Mr. King, as a small boy, to buy bootleg whiskey and bring it back to him. When he was drunk, the father would then frequently turn the area, which should have been Mr. King’s playground into a war zone. In this transformed war zone, Mr. King became the human prey. His father

would sit on the back step and shoot at Mr. King; Mr. King was forced to crawl from tree to tree to avoid the live fire. On other occasions, Mr. King's father would stagger through the woods hunting his son with a rifle.

6. The profound impact of this repeated cruel and life-threatening treatment is not only well documented in psychological and medical literature, it is also readily recognizable to any fair person. Adults who endure such treatment, whether at the hands of our enemies in war or as the hostages of various terrorist groups, are embraced and applauded by our society merely for the fact that they somehow survived the ordeal. Mr. King, of course, suffered the persecution and terror not as a soldier or political operative, or even as an adult; his battleground was his own home and his time for suffering was his entire childhood and youth. The fact that he survived at all clearly is amazing and overshadows the reality that he suffered damage as a result.
7. The issue of "self-preservation" was not a colloquialism in the King household. In addition to being hunted by Mr. King's father, the family was frequently driven from their home in order to escape violent and life-threatening behaviors. It was not unusual for family members to be chased outside by gunfire and then have to spend the night exposed to the cold in frigid woods or huddled in a car without cover, food, or light.
8. Underscoring this dramatic, brutal abuse was consistent, everyday neglect. This neglect was commonplace and permeated the family's daily life. For example, the joy of experiencing a holiday celebration was not the norm; Mr.

King's father would ruin these celebrations when he invariably became drunk and abusive. Family members were in a constant state of tension, anxiety, and post-traumatic hypervigilance. Not only were they "on guard" while they watched for the expected outburst of physical violence, so that they could "make good" their escapes, they also were preparing themselves for frequent overreactions that led to extremely brutal psychological abuse. Even the most commonplace, everyday activity in the King household might bring about an inappropriate, exaggerated, terroristic response. For example, Mr. King's father reproached his children and humiliated them as they participated in traditional play, shaming them and reminding them how inferior they were to his illegitimate children that he had fathered while being unfaithful to his wife.

9. By all accounts, Mr. King's father's behavior was the most abusive and destructive when directed toward Mr. King. Mr. King recognized that he was the "favored" target of his father. As a consequence, at an early age, Mr. King realized that he was able to protect his mother and siblings from suffering his father's assaults and beatings by drawing his father's wrath to himself. Mr. King's father, however, in his drunken rages, was unable to recognize or respect his son's protective instincts and behaviors. When he was not engaged in physical abuse, young Danny King's father was engaged in a constant harangue of denunciations, demoralizations and degradations, calling his son worthless, crazy, and stupid, among others. Mr. King did not bring his friends home with him to his house because his father would, invariable, abuse these children as

to the psyche but to the central nervous system (CNS) as well and its neurotransmitters. If one is in a state of constant alert, the mechanisms for self-protection and reactivity are always "on," flooding the body with adrenaline, depleting the catecholamines, modifying the release of endogenous opioids, and setting up a neural reactivity pattern that actually has been shown to alter brain chemistry in the trauma survivor. This altering is particularly damaging when the trauma occurs to a small child, as was the case with Mr. King. In a search to regain a sense of internal calm and opioid release, the child may become addicted to the state of hyperarousal that brings calming. The chemically restructured child, as has been shown through the work of Yehuda, van der Kolk, and others, frequently becomes unusually driven to seek out ongoing stimuli (through situations, relationships) to maintain his "on" status. The restructuring manifests itself phenomenologically through inappropriate behavior that is frequently risk-taking. If untreated, this "conditioning" can have a truly destructive quality. However, and *most importantly*, appropriate post-traumatically oriented therapeutic intervention is effective and easily obtained from a competently trained traumatologist.

12. It must be reiterated, if Mr. King's experiences are to be fully understood and appreciated, that he did *not* face isolated incidents as a mature adult. Instead, he experienced, as a *small child*, repeated, extreme, life threatening, actions inflicted upon him by the person who, by society's standards, is supposed to protect, provide for, and ensure the safety of him ---his father. The profound

impact of these actions upon the bio-psycho-social development of a child cannot be fully appreciated or comprehended unless one can imagine, for example, as a parent, the level of distortion in one's belief systems that would have to occur, to drive you to commit these types of acts upon your own children. Any individual who fails to recognize, belittles, or denies the impact that such extreme childhood abuse has on development is either profoundly ignorant or simply unable or unwilling to care about the plight of others.

13. As a direct result of the impact of the sustained pattern of abuse, Mr. King, at age eight or nine—with the tacit and express approval of his father and others—began to abuse alcohol. It is well known that trauma survivors seek to escape the impacts of their traumas through substances, particularly through alcohol. When alcohol alone does not dull the pain quickly or totally, the survivor then often turns to other substances such as drugs. This was the case for Mr. King as well; he, too, turned to drugs. Mr. King's fear and traumatic reactions also caused him to try to escape his family home as often as he dared. This flight to "freedom" was particularly dangerous because his forced return (as he was brought back home by "helpful" others) led to even more violent reprisals from Mr. King's father. Escape, in the mind of this alcoholic parent, was a challenge to tyrannical authority.

14. Even though he faced the threat of violent reprisal, Mr. King fled his house completely before he was a teenager. Meanwhile, his mother and siblings also abandoned the family residence, but for only days at a time. This history of

continued abuse and violent behavior by Mr. King's father has been well documented by all members of the household.

15. Mr. King hoped to "escape" to the streets; however, finding peace and security in that escape was in vain. Once on the street, Mr. King was subjected to more destructive and life-threatening behavior, as horrific as that faced in his family home. Mr. King, before he was a teenager, was coerced into prostitution and child pornography in order to survive. None of these damages was ever addressed, let alone redressed; no one and no agency came to Mr. King's aide or relief. None of the physical and psychological damage exacted upon Mr. King during childhood was administered to. On the contrary, Mr. King lived in a world where his only choices were pain and more pain, manipulation and isolation.
16. As a result of the experiences and traumas of his childhood and youth, Mr. King suffers from Post-traumatic Stress Disorder (PTSD). PTSD is *not* a life-long condition that cannot be helped or resolved. Mr. King, as a trauma survivor, is *very amenable to treatment*. There are many different types of treatments that are very useful, ranging from one-on-one psychotherapy to bibliotherapy, to journaling and writing, to EMDR (Eye Movement Desensitization Reprocessing), to critical incident stress management (CISM). Mr. King has already willingly, conscientiously participated in some of these treatments including bibliotherapy, writing, and some one-on-one therapy sessions. He has completed the trauma workbook; he has worked through some of his

nightmares and flashbacks while in treatment with me. His progress in undeniable. As is confirmed by his prison record, Mr. King is not violent. He does not have a history of violence. All of the "coping strategies" Mr. King has employed to deal with the legacies of his history, though self-destructive to some degree, have been non-violent.

17. I am extremely confident, in my professional opinion as a traumatologist, that Mr. King would do well in a concentrated treatment program for PTSD. This program would help him process his flashbacks and memories of the abuse and neglect, allowing him to take them from the active present memory and place them in the past as his history. He would be very amenable to a course of treatment that would utilize a combination of cognitive-behavioral techniques, EMDR, psychotherapy, and bibliotherapy/journaling/writing. Mr. King is able to express consistent caring and concern for others. He expresses remorse when appropriate. He has developed close friendships with others "on the row". He worries about the impact of his journey on those around him. He expresses remorse when appropriate. He married on Valentine's Day 1997 and maintains a loving, caring relationship with his wife. During the past three years, I have also gotten to know Mr. King's wife, Karen King; she has discussed much of their relationship with me as part of this evaluation and treatment process.
18. One of the most important aspects of Mr. King's consistent progress is his growing ability to trust. Because of the horrendous abuse experienced by Mr. King, because of the betrayals he experienced from so many people, he has

had to learn how to develop trusting relationships. Mr. King's childhood life experiences and traumas forged for him a role of "himself as protector." In his childhood, he learned that the lives of others, quite literally, depended upon him. This statement is not hyperbole; it can only be appreciated fully by those who can imagine, or have experienced, persistent threat and abuse toward themselves and/or their loved ones.

- 19. It was this life role – the most powerful in his life—to which Mr. King returned and reverted when Becky King's attorneys told him that "she was going to fry." To be sure, it certainly cannot be considered unusual for one spouse to lie to protect the life of another. However, Mr. King's desire—indeed his *need*—to protect his wife was far greater than you or I might feel or experience to protect those we love, unless we, too, had experienced similar levels of traumatic events. Mr. King's identity relied on his ability to protect (and save the lives of) those important to him. The years of fighting –and generally failing—to protect his mother, brother, sister (and smaller children also "on the streets"), drove him to take extraordinary, and sometimes irrational risks to be the person who saved his wife from her awful fate. First, Mr. King made up a variety of scenarios, some to preserve is own ego so that he did not look as stupid as he was to the outside world. Eventually, when he was expressly told what it would take to help Becky, he falsely cressed to the murder and "took the rap" for her. Only after he knew that Becky King had abandoned him, only after his attorneys had "re-constructed" an ethic for him

that was based in reality, did Mr. King come forward with the truth. For him, however, telling a truth that allowed him to admit that he could not (and would not) save his wife, resounded against everything he previously had held as true: his most important purpose was to serve as protector of those he loved and cared for. In order to walk away from this mental construct or schema, Mr. King had to admit that he also could not protect his wife. Indeed, he also had to admit, because of his history, that he also was unable to protect his mother, brother, sister, and, in the end, himself from the damages incurred due to his own abusive childhood. Until he made these admissions, until he faced his own internal schemas, Mr. King *could not possibly* have kept himself from taking whatever actions available to protect Becky.

20. I feel compelled to comment upon the opinion offered by the mental expert Dr. Lee who testified on behalf of the prosecution at Mr. King's trial. This opinion was not professionally competent. Dr. Lee stated that he believed that Mr. King would be a danger in the future. He did not base these conclusions on his own personal evaluation of or relationship with Mr. King. Instead, he based it solely on conversations with Becky King. Dr. Lee assumed that all of the information he received from Becky was true. He did nothing to corroborate the information. This is not professionally acceptable investigatory behavior. To be sure, Mr. King would have a difficult time adjusting to "outside life," in a world that has changed tremendously in the past decade. However, looking at Mr. King's history, looking at the growth he has made even in the past three years,

looking at his ability to empathize and his willingness to work on his PTSD while incarcerated (let alone in the future), Mr. King, in my professional opinion, would not be a danger to modern society. Indeed, he would continue to make positive contributions to society as he has done during this incarceration. He has a loving wife, he has skills as a writer, and he has become extremely helpful to other inmates and could serve as a resource in that capacity. Also, if moved off "death row," Mr. King would take advantage of the opportunities to become involved in a variety of self-development programs (e.g. AA and NA) to maintain sobriety and a drug-free life.

21. Due to Mr. King's past, as has been stated previously, developing trust in another individual has been difficult for him. Mr. King expects to be used, manipulated, cheated on, or treated as a number for someone else's gain. He found it very difficult to understand that I would actually follow-through on my promises to watch the trial tapes, read the transcripts, or discuss the case with his wife. Throughout the past three years, Mr. King and I have talked about *all* aspects of his life. He has learned to trust me and has been able to confide in me. He is honest with me; he expresses remorse over his involvement and participation in the crime (e.g. he has said, "I bear the burden and shame of not preventing the death of Carolyn Rogers." "I am here (on death row) because I chose to protect a woman"). However, Mr. King maintains his innocence in the commission of the actual murder.

22. Before closing, I must add that I am impressed, if not shocked, by the lack of evidence supporting Mr. King's conviction for the stabbing death of Mrs. Rogers. Mr. King does not deserve to be executed for his stupidity and desperation in his attempts to save the woman he then loved, by indicating his willingness to "take the rap" for her and, in essence, make a false confession. He does not deserve to be executed for the part he played in Mrs. Rogers's death. What he does deserve is to be able to obtain competent treatment for his PTSD to ensure his continued progress and productivity, a fair review of the evidence in his case, and the hope that others will listen to him and recognize his worth as an individual.
23. If there are any questions you have of me, any further information you would need about PTSD and its amenability to treatment, or any other way in which I can further assist the Governor in making his decision, please do not hesitate to contact me immediately.

Mary Beth Williams, Ph.D.

Mary Beth Williams, Ph.D., LCSW, CTS

July 18, 1998