

San Joaquin County District Attorney's Office Press Release

Five of Six Juror Affidavits Are Forged Documents

Five of the six jurors who have been identified in Michael Morales's Petition for Clemency as supporting that clemency have denied ever submitting any declaration for the defense. Agents from the Attorney General's Office have interviewed all five jurors who state that the declarations submitted by Mr. Morales and his attorneys are fabricated. All five have confirmed they were never contacted by anyone representing Mr. Morales and that the signatures on the purported declarations are not their signatures.

On Tuesday, February 7th, Mr. Morales and his attorneys filed a rejoinder to the San Joaquin County District Attorney's Office Opposition for Clemency. In Mr. Morales's latest Petition for Clemency, he and his attorneys argued that Mr. Morales should be spared a capital sentence because six jurors no longer think that he should be executed.

Statements in the press, attributed to one of Mr. Morales' attorneys, Ben Weston, claim that the defense team spoke to nine of the 10 living jurors.

"It's incredibly rare and inspiring for us to have the trial judge and the majority of jurors that are still alive from this case to say the verdict they entered is wrong," Ben Weston, *Associated Press*, February 8th, 2006.

"At the stage Mr. Morales now finds himself, there is one shining truth and that is that the jury to which he 'conceded his guilt 23 years ago,' and the judge who ultimately sentenced him to death, know that he should never have been sentenced to death." Ben Weston, *Los Angeles Times*, February 8, 2006.

We now know that this is untrue.

Jurors Declarations False

On February 7th, Attorneys Kenneth Starr and David Senior submitted their "Reply to District Attorney's Opposition to the Petition for Executive Clemency." (Reply)

In the Reply, the defense reiterated their main claim that witness Bruce Samuelson was a key witness and gave false testimony. Claims the People reject.

The Reply went on further to argue that the jury relied on that key and false testimony to recommend the death sentence for Mr. Morales vote. (Reply pages 3-6.) To bolster the defense claim, the Reply contains declarations from six jurors (Defense Exhibits 34-39) who had sat on the jury that convicted and recommend death for Mr. Morales. The Reply cites to specific pages in the declarations to support their main argument that the Samuelson testimony swayed the

jurors' vote.

In addition, the Reply quotes five jurors saying they were against carrying out Mr. Morales' sentence. The sixth quote tendered a noncommittal opinion. (Reply, page 7.)

On February 9th, mid-morning, it came to our attention that one or more juror declarations might be false.

By February 10th, we had secured proper and verified declarations from five jurors saying that the Defense Exhibits 34-39 purporting to be defense declarations signed by them were complete fabrications with their signatures forged.

Because the jurors' names are under seal by court order and to protect their identities, they will be referred to as Jurors 1-6.

Defense Declaration of Juror #1 (Exhibit #34)

According to this Defense Declaration, Juror #1 claims that Juror #1 was interviewed (no date given) by investigator Kathleen Culhane and that Juror #1 "would take back the decisions I made in Mr. Morales case." (Reply, page 7; Declaration of Juror #1, page 2.) This declaration bears a signature and a date of February 2nd, 2006.

On February 9th, Juror #1 was interviewed by the Department of Justice. Juror #1 stated that earlier that day Juror #1 had appeared on the "John and Ken Show" (KFI Radio 650) with a person identified as "Ben Weston", an attorney for Mr. Morales. Juror #1 was identified on air by first name and as a juror who *had not* signed a declaration opposing Mr. Morales' death. Juror #1 was unaware until later contacted by the Department of Justice that the defense did in fact identify Juror #1 as a juror who did oppose Mr. Morales execution.

Juror #1 was provided a copy of the Defense Declaration bearing Juror #1's name. Juror #1 unequivocally states that Juror #1 never met Kathleen Culhane or anyone from Mr. Morales' defense team (with the one exception discussed above). Juror #1 unequivocally states that Juror #1 never signed a defense declaration and that the initials and signature on the Defense Declaration bearing Juror #1's name are forged.

Juror #1 restates that it was the facts of the crime that led Juror #1 to vote for death; a position Juror #1 stands by today.

Defense Declaration of Juror #2 (Exhibit #35)

According to this Defense Declaration, Juror #2 claims that Juror #2 was interviewed (no date given) by investigator Kathleen Culhane and that "I do not want to stand by my vote to sentence Mr. Morales to death and I hope the court and Governor can do something to change the death sentence." (Reply, page 7; Declaration of Juror #2, page 3.) This declaration bears a signature and a date of February 1st, 2006.

On February 9th, Juror #2 was interviewed by the Attorney General's Office. Juror #2 was provided a copy of the Defense Declaration bearing Juror #2's name. Juror #2 unequivocally states that Juror #2 never met Kathleen Culhane or anyone from Mr. Morales' defense team. Juror #2 unequivocally states Juror #2 never signed a defense declaration and that the signature on the Defense Declaration bearing Juror #2's name is forged, pointing out Juror #2's name is spelled incorrectly.

Juror #2 unequivocally states that Juror #2 does not wish to take back the original vote and believes Mr. Morales deserves to be executed.

Defense Declaration of Juror #3 (Exhibit #36)

According to this Defense Declaration, Juror #3 claims that Juror #3 was interviewed (no date given) by investigator Kathleen Culhane and that "it is my hope that our decision to give Mr. Morales the death penalty will not stand." (Reply, page 7; Declaration of Juror #3, page 2.) This declaration bears a signature and a date of February 1st, 2006.

On February 9th, Juror #3 was interviewed by the Department of Justice. Juror #3 was provided a copy of the Defense Declaration bearing Juror #3's name. Juror #3 unequivocally states that Juror #3 never met Kathleen Culhane or anyone from Mr. Morales' defense team. Juror #3 unequivocally states Juror #3 never signed a defense declaration and that the signature on the Defense Declaration bearing Juror #3's name is forged.

Juror #3 unequivocally states that Juror #3 believes that Mr. Morales' crime warrants the death sentence.

Defense Declaration of Juror #5 (Exhibit #38)

According to this Defense Declaration, Juror #5 claims that Juror #5 was interviewed (no date given) by investigator Kathleen Culhane and that "I do not want my vote to be used as a reason to give Mr. Morales the death penalty now." (Reply, page 7; Declaration of Juror #5, page 2.) This declaration bears a signature and a date of February 2nd, 2006.

On February 10th, Juror #5 was interviewed by the Department of Justice. Juror #5 was provided a copy of the Defense Declaration bearing Juror #5's name. Juror #5 unequivocally states that Juror #5 never met Kathleen Culhane or anyone from Mr. Morales' defense team. Juror #5 unequivocally states Juror #5 never signed a defense declaration and that the signature on the Defense Declaration bearing Juror #5's name is forged, pointing out that the name on the Defense Declaration is a name Juror #5 has not used for 15 years and that it is, nevertheless, incorrectly spelled.

Juror #5 unequivocally states that Juror #5 has no regrets about voting for the death penalty in Mr., Morales' trial.

Defense Declaration of Juror #6 (Exhibit #39)

According to this Defense Declaration, Juror #6 claims that Juror #6 was interviewed (no date given) by investigator Kathleen Culhane and that "I hope Mr. Morales can be given another trial where the truth can be heard, and reevaluated by another jury." (Reply, page 7; Declaration of Juror #6, page 1.) This declaration bears a signature and a date of February 2nd, 2006.

On February 9th, Juror #6 was interviewed by the Department of Justice and Attorney General's Office. Juror #6 was provided a copy of the Defense Declaration bearing Juror #6's name. Juror #6 unequivocally states that Juror #6 never met Kathleen Culhane or anyone from Mr. Morales' defense team. Juror #6 unequivocally states Juror #6 never signed a defense declaration and that the signature on the Defense Declaration bearing Juror #6's name is forged.

Witness Declaration False

On January 27th, Attorneys Kenneth Starr and David Senior submitted their "Petition for Executive Clemency" (Petition) for Michael Morales. In the exhibits attached to the Petition was an eleven page declaration purported to be from Patricia Felix. (Defense Exhibit 30, Petition). In this declaration, Ms. Felix recanted her trial testimony claiming police and prosecutorial misconduct.

On Monday, February 6th, this office filed its Opposition to Mr. Morales' Petition for Clemency. Contained in the supporting documents, the San Joaquin County District Attorney's Office presented a transcribed interview and declaration from trial witness Patricia Felix (People's Exhibit 136), in which she stated that the eleven page declaration (Defense Exhibit 30, Petition) submitted by Mr. Morales and his attorneys, recanting her trial testimony, was a fabrication.

Like the five jurors above, she stated that she had never been contacted by anyone representing Mr. Morales, had never seen her purported declaration (Defense Exhibit 30, Petition), and that the signature on that declaration was forged.

On February 7th, Attorneys Kenneth Starr and David Senior submitted their "Reply to District Attorney's Opposition to the Petition for Executive Clemency." (Reply).

In the Reply, along with the five forged juror declarations, was a declaration from Kathleen Culhane, an investigator hired by Mr. Morales' defense team. (Defense Exhibit 56, Reply.) Ms. Culhane's exhibit was submitted, in part, to support the defense contention that:

"The prosecuting officials persist in their shameful efforts to coerce false testimony and suppress favorable evidence." (Reply, page 15.)

"The entire declaration [People's Exhibit 136] is a patent falsehood, as the prosecuting authorities had good reason to know." (Reply, page 15.)

"The declaration they provide from Patricia Felix is further evidence that they go out and muscle witnesses under oath.," Ben Weston, *Lodi Sentinel News*, February 7th, 2006.

“The declaration of Mr. Morales’s investigator, Kathleen Culhane, also demonstrates that the investigator interviewed Felix several times at her home located at [redacted], and that she had multiple conversations with her on the phone. (Reply, page 15.)

On February 7th, 2006, Ms. Felix has had an opportunity to review Ms. Culhane’s Declaration. Ms. Felix, for a second time, unequivocally denies ever meeting with Ms. Culhane or anyone for the Morales defense team. Ms. Felix unequivocally denies the allegations contained in Ms. Culhane’s declaration relating to herself and continues to call Defense Exhibit 30 of Defense’s Petition a fabrication and forgery.

The juror statements taken by agents of the California Attorney General’s Office have been reduced to writing and have been signed under penalty of perjury. These statements are being presented to the Governor today, under seal in order to protect the privacy of the jurors, and to allow the Governor to make a full and informed decision on this important matter.

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