

# innocence

PROJECT OF FLORIDA INC.

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February 10, 2009

Governor Charlie Crist  
State of Florida  
The Capitol  
400 S. Monroe St.  
Tallahassee, FL 32399-0001

Dear Governor Crist,

I am writing to alert you that the Innocence Project of Florida is troubled by the impending execution of Wayne Tompkins, scheduled for tomorrow, February 11, 2009.

The Innocence Project of Florida is a non-profit organization that finds and frees innocent individuals in Florida prisons using DNA testing. While the Innocence Project of Florida does not normally work on death penalty cases, we became involved with this case when we began consulting on the remaining DNA issues some months ago. We worked with Mr. Tompkins' counsel, Martin McClain, to inform the Florida Supreme Court of how further DNA testing could demonstrate Mr. Tompkins' innocence by proving that the dead body in question did not actually belong to the alleged victim, Lisa DeCarr. Hence, no murder even took place.

The victim's alleged identity was supported at trial by a comparison with dental records which we find wholly unpersuasive. Since then, several individuals have signed affidavits claiming to have seen her since the murder. Because the dead body's identity is an issue, you ordered DNA testing on bones from that dead body as well as a robe and sash found with the dead body, all of which were available for testing. We presume you did so in order to remove any remaining questions over whether the State of Florida was about to execute an innocent man.

It is unfortunate that, after DNA test results came back inconclusive on all of these items, you reset Mr. Tompkins' execution. The facts of the case have not changed. The uncertainty surrounding the identity of the alleged victim that led to the last round of DNA testing still exists. There should be clarity about the identity of the alleged victim before we execute a potentially innocent man.

That clarity is obtainable in Mr. Tompkins' case. Despite the advanced capabilities of the FBI and FDLE, there are private DNA testing facilities which are able to conduct entirely different methods of DNA testing that would be more likely to achieve results on the alleged victim's bones, robe, and sash. Further DNA testing at a private laboratory will tell us whether the body is Lisa

DeCarr's, and could reveal the identity of the assailant as well.

It should be noted that in the case of Alan Crotzer, Florida's most recent DNA exoneree to be compensated for his wrongful incarceration, it took three rounds of DNA testing on evidence to prove that he did not commit the crime for which he was convicted. Had the State in Mr. Crotzer's case decided to use the previously obtained inconclusive results as a means of ending the search for the truth, Alan Crotzer would have likely died in prison for someone else's crime.

We still harbor grave concerns about the legitimacy of Mr. Tompkins' guilty verdict. We feel strongly that more time is necessary to look into this case. The haste with which you are moving despite the unanswered questions that exist may lead to an innocent man being executed. And like the cases of Frank Lee Smith in Florida and, most recently, Timothy Cole in Texas, both of whom died in prison and were posthumously exonerated by DNA, this evidence will one day get tested and the truth will come out.

I would be happy to personally work with you and your staff to begin to answer these remaining questions and finally obtain closure in this case through a round of more robust DNA testing. In order to do so, however, more time is needed. I urge you to grant that time and order the additional DNA testing. The people of Florida deserve no less.

Sincerely,



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