

CHAD EVANS WRONGLY CONVICTED COMMITTEE

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16 May 2013

RE: 1. polygraph permission for Chad Evans
2. designation of independent attorney to review Chad Evans claim of wrongful conviction.

Joseph Foster
Attorney General
New Hampshire
by hand

Dear Attorney General Foster:

Chad Evans was wrongly convicted in 2001 of murder and assault. The wrongful conviction occurred due to a complicated combination of errors, lies and incorrect assumptions, theories and calculations by all parties.

Sometimes we hear announcements that an office holder will accomplish a task on "Day One" of a new position. Well, I write this letter to you for delivery on "Day Two," and ask that you make two decisions early in your tenure as Attorney General:

1. Make the determination that the Attorney General supports conducting a second privately-funded polygraph for Chad Evans, and
2. Designate an independent attorney to review Chad Evans's claim of wrongful conviction and report back to you.

I hope that by the end of your term, you will look back on your decisions regarding these requests and feel confident that you made the right decisions in the interest of justice.

Enclosed are two packets of documents in support of these requests, as is explained below:

1. Make the determination that the Attorney General supports conducting a second privately-funded polygraph for Chad Evans.

In summary, Chad took a polygraph examination on April 30, 2012. Initially, it was thought that he passed it with "No Deception Indicated," but subsequent reviews indicated that it was inconclusive or invalid. Chad asked Warden Gerry for permission to take another exam and that permission was denied. Significantly, Warden Gerry wrote that if Assistant

Attorney General Jeffery Strelzin “would work out an agreement with regards to the administration of a polygraph,” then he would make the necessary arrangements. Mr. Strelzin declined to support the polygraph or to make such an agreement. Commissioner of Corrections William Wrenn supported the refusal to permit the polygraph examination. I wrote to Governor Hassan shortly after her inauguration to ask her to grant permission, and that request was referred to her Office of Citizen Services. That office continues to consider the request, perhaps holding a decision pending your nomination and confirmation.

In the “Polygraph packet” are:

1. Nov. 13, 2012 email to Gail Mansur, Assistant to Warden Gerry re: polygraph.
2. Nov. 15, 2012 Gail Mansur response from Warden Gerry denying permission.
3. Nov. 16, 2012 My letter to Warden Gerry requesting permission for polygraph.
 - enclosure: Resume of Polygraphist John Consigli, former President, APA.
 - enclosure: Report of the April 30, 2012 examination by John Healy.
 - enclosure: State Police Polygraph Unit review of April 30, 2012 polygraph.
4. Nov. 20, 2012 Warden Gerry letter to me, denying permission for polygraph.
5. Nov. 29, 2012 My request to Sr. A.A.G. Jeffery Strelzin for support of polygraph.
6. Nov. 30, 2012 Sr. A.A.G. Strelzin’s letter to me declining to support polygraph.
7. Dec. 17, 2012 My email to Commissioner William Wrenn requesting support.
8. Dec. 17, 2012 Sr. A.A.G. Strelzin email to Comm’r Wrenn regarding request.
9. Dec. 17, 2012 My email to Comm’r Wrenn and Sr. A.A.G. Strelzin in response.
- 10 Dec. 18, 2012 Commissioner Wrenn denial of request for polygraph for Evans.
- 11 Jan. 7, 2013 My letter to Governor Hassan requesting support of polygraph.
 - enclosures. All the enclosures are included in the above list.
- 12 Jan. 8, 2013 The first of several emails to Kyle Sutton, Office of Citizen Svcs.
- 13 Jan. 18, 2013 Letter from Chad Evans to Kyle Sutton requesting polygraph.
- 14 May 1, 2013 My email to Mr. Sutton renewing request for polygraph permission.
 - enclosure. Letter to me from Gordon Vaughan, General Counsel, American Polygraph Assn, regarding Chad Evans request for polygraph examination.
- 15 May, 2013 My article, “Polygraphs and 215 Wrongful Conviction Exonerations” to be published in June in the Am. Polygraph Assn. Journal, Polygraph.

Respectfully, whatever the initial reasons for denial of permission for Chad Evans to take a second privately-funded polygraph exam, the correct decision will be to support such an exam, in the interest of truth and justice. As my article in the packet notes, the State’s refusal, so far, to permit such an exam is the only current example of such refusal in the country to my knowledge. That observation was confirmed by the letter to me from Gordon Vaughan, General Counsel of the American Polygraph Association, which was an attachment to my May 1, 2013 email to Kyle Sutton and Robert Ditman. As the article explains, the campaigns of many exonerees to overturn their wrongful convictions were assisted by polygraphs in prison.

As Warden Gerry stated in his November 20 letter, if the Attorney General's office supports the administration of a polygraph for Chad Evans, Warden Gerry will make the necessary arrangements.

2. Designate an independent attorney to review Chad Evans's claim of wrongful conviction and report back to you.

I began working as Chad's advocate and Director of the Chad Evans Wrongly Convicted Committee in early 2010. I only work for people I believe to be innocent, and my belief in Chad's innocence has never wavered.

Since 2010, Chad has been requesting a re-investigation of his case. Senior Assistant Attorney General Strelzin was delegated to work on the Chad Evans case and he met with me and four members of our committee and Rep. Dick Patten on October 13, 2011. He also reviewed letters from me and from Chad Evans and the large file on the case. In the end, however, he failed to see any reason for a re-investigation.

What is needed is an independent review of the case by someone outside the New Hampshire Dept. of Justice. There have been 1,100 exonerations of wrongly convicted people in this country since 1989, and in every one of those cases, there was a judgment beyond a reasonable doubt. Yet they were all wrong.

The 2013 "Update" report of the National Registry of Exonerations states that police and prosecutors are increasingly working with advocates and defense attorneys to determine the truth of claims of wrongful convictions. I ask that you join that growing number of prosecutors or Attorneys General who actively investigate substantiated claims of wrongful conviction. Chad's claims are substantial. The packet in support of this request includes only a small portion of the information available about the case. That information is on Chad's website and in my book, EYE CONTACT - The Mysterious Death in 2000 of Kassidy Bortner and the Wrongful Convictions of Chad Evans and Amanda Bortner. Incidentally, I have sent copies of the book to many of the police involved in the case and to the prosecutors and to Mr. Strelzin, and no one has yet identified to me factual errors which would detract from the conclusions of the book.

The book is available as a .pdf file on Chad's website and also from Amazon.com as a paperback or Kindle ecopy. In addition, his letters to me in 2010 and 2011 have been published by Amazon.com as volumes 2 and 3 of EYE CONTACT.

Chad's understanding of what happened in 2000 is presented in those books probably more completely than by any defendant in any other criminal case in the country. Unfortunately, for several complicated reasons, he wasn't able to present sufficiently his knowledge and understanding earlier in the case.

One reason for requesting an independent reviewer of the case is that that person could interview Chad, as no one else in New Hampshire has done. That is, because the initial investigation was done by the Maine State Police, no law enforcement person, police or prosecutor, has ever interviewed Chad. The closest New Hampshire came to an interview was an attempt on the night Chad was arrested on November 16, 2000, and Chad said he wanted to talk with the officers, but not without his attorney. The transcript of that effort is in the packet. To my knowledge, no further request was made for such an interview, and Chad's attorneys did not offer such an interview either.

The packet supporting Chad's request for an independent review of his case includes:

1. Nov. 16, 2000 Transcript of effort of NH State Police to interview Chad Evans.
2. Nov. 9, 2010 Letter from Chad Evans to the Governors and Attorneys General of Maine and New Hampshire.
3. Dec. 28, 2010 Second Chad Evans letter to the Governors and Attorneys General.
4. Aug. 25, 2011 Chad Evans letter to Attorney General Michael Delaney.
5. Sept. 7, 2011 Senior Asst. Atty. Gen. Jeffery Strelzin letter to Chad Evans.
6. Sept. 27, 2011 Letter from Chad Evans to Sr. Asst. Atty. General Strelzin.
7. Aug. 21, 2012 Letter from Sr. A.A.G. Strelzin to Chad Evans.
8. Sept. 25, 2012 Letter from Chad Evans to Sr. A.A.G. Strelzin.
9. Oct. 16, 2012 Letter from Sr. A.A.G. Strelzin to Chad Evans.
- 10 Dec. 28, 2012 Two letters from Chad Evans to Governor-Elect Maggie Hassan. (Chad sent me both letters, for me to pick one, and I sent them both to the Governor.)
- 11 Jan. 3, 2013 My letter to Governor Maggie Hassan regarding Chad Evans case.
- 12 Apr. 3, 2013 "Update" Report of the National Registry of Exonerations.

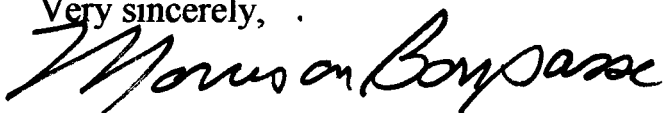
When I first met Chad Evans in January, 2010, he told me that he never hit or spanked Cassidy Bortner, and that he doesn't believe in corporal punishment. That's a stunning claim by someone convicted of assault and murder. He said much the same thing when he concluded the above Sept. 25, 2011 letter to Sr. Asst. Attorney General Strelzin, "I did not murder Cassidy Bortner. I never struck her in any harmful way." Don't such statements, backed up by a willingness to take a polygraph examination merit very serious proactive consideration?

In that same letter, Chad asked that Amanda Bortner be re-interviewed and that Chad himself be interviewed, and that the New Hampshire State Police conduct a polygraph examination of him.

As a State Police polygraph would involve public expenditures, please indicate your support for a privately funded polygraph examination. Further, please move the State of New Hampshire forward in this case by asking an independent attorney to review the case and make recommendations to you.

Thank you for your consideration.

Very sincerely,



CC: Chad Evans #75414, NH State Prison, P.O. Box 4, Concord, NH 03302.