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Board of Prison Terms
1515 'K' Street, #600
Sacramento, CA 95814

Re: PF Lazor C-73842

I URGE YOU TO GRANT PAROLE TO P. F. LAZOR

Mr. P.F. Lazor was my patient in 1979 and 1980 before the tragic shooting which led to his incarceration 23 years ago. He was an ambitious and likeable young man then and he has maintained his dignity and positive outlook to this day despite the hardships of prison life. He has no prior criminal history and has no history of violence other than this tragic shooting, which was provoked by the victim, who kicked in the locked door to Lazor's room. This is well-documented in the court transcripts by a telephonic witness and by the footprint of the victim on the damaged door presented as evidence in the investigation and trial.

LAZOR'S CLAIM OF SELF-DEFENSE IS CREDIBLE

The only witness to the shooting (Ms. Beingsner-Harper) was conversing with Mr. Lazor by telephone when they were interrupted by Mr. Allred kicking in the locked door to Lazor's room while yelling threats at Mr. Lazor. The phone disconnected before shots were fired but her testimony corroborates Mr. Lazor's claim of self-defense. Furthermore, Lazor had already packed all of his belongings in his car and was on the phone with a rental agent when Allred arrived unexpectedly and kicked in the locked door while threatening and brandishing both gun and hatchet. Especially because of earlier threats from Allred, Lazor perceived the situation as life-threatening. There wasn't much time or anyplace to hide since the room was less than 7 feet wide and Allred was right on top of him!

THE CORONER'S TESTIMONY THAT THE VICTIM WAS SHOT IN THE BACK IS FLAWED

The prosecution case hinged on the report of coroner Angelo Ozoa that the victim was shot in the back. The D.A. made that the crux of his case for murder. However the coroner's autopsy evidence is dubious, the more so because because the body was promptly cremated before examination by defense experts and the clothing was autoclaved and thus unusable for critical gunpowder evidence.

THE CORONER HAS BEEN DISCREDITED.

In 2002 Dr. Angelo Ozoa was formally discredited for incompetent forensic work, including omission of standard autopsy procedures, misinterpretation of findings and fabrication. His medical license was revoked by the Medical Board of California. In Lazor's trial the coroner's testimony, that the victim, Mr. Allred, was shot in the back by Lazor, was crucial to the prosecutor's case for murder. The coroner's testimony canceled Lazor's claim of self-defense and discredited Lazor before the jury and, evidently, his own defense attorney.

LAZOR HAS BEEN PENALIZED FOR REFUSING TO LIE

I spoke with Lazor's defense counsel, Wesley Schroeder on 1/30/04 and he told me that Lazor lost his case because he declined Schroeder's advice to cop a plea, i.e. to yield to the prosecutor's charge that Lazor had used a 'throw-down-gun so as to make it appear that the victim, Mr. Allred, was armed. Lazor refused because such a plea would have implied that his self-defense story was a lie. He refused to lie in order to take advantage of a plea bargain.

LAZOR IS A MAN OF INTELLIGENCE AND HIGH MORAL CHARACTER—A MISFIT IN PRISON!

Mr. Lazor has always denied intent to kill and he remains resolute in his story. This has worked against him because the justice and penal systems demand a show of remorse and acceptance of guilt as a sign of rehabilitation and readiness for parole. Lazor evidently comes across as self-righteous to some prison staff who presumably resent his legal appeals and claims of self-defense and judicial error. Evidently his incarceration is prolonged by staff retaliation in the form of rule violations reports that cloud his prison record.

THE SANTA CLARA COURTS HAVE BEEN PUBLICLY DISCREDITED

But Lazor's many criticisms of the conduct of his trial are now more credible in light of the patterns of judicial abuse in the Santa Clara Court System documented by the recent 3 year investigation of 700 cases published by the San Jose Mercury News. (Executive summary attached). Errors in collection of evidence, unjust deals between prosecutor and defense attorney, collusion between attorneys and judges, and failure of the Court of Appeals to order corrective action are endemic.

THE PROSECUTOR'S ADVICE AGAINST PAROLE IS NO LONGER CREDIBLE

District Attorney Mark Hames has opposed parole based on his belief that Lazor is a vicious, lying murderer who shot Mr. Allred in the back. This opinion depends entirely on coroner Ozoa's autopsy report. The discredited coroner's report was the bulwark of his case. If the jury had known about the proven incompetence of the coroner there was no prosecution case! And if the damaged door to Lazor's locked room, had been adequately presented, the jury would have had reasonable doubt of murder since the door had a sole-print matching Allred's boot, with which he kicked in the LOCKED door to gain access to the understandably frightened Lazor.

LEGAL PROTECTION FOR SELF-DEFENSE AT HOME IS THE WILL OF THE PEOPLE OF CALIFORNIA

The Richardson Law (penal code 198.5) reflects the public sentiment of our time and states categorically: "any person using force intended or likely to cause death or great bodily injury within his or her residence shall be presumed to have held a reasonable fear of imminent peril of death or great bodily injury to self...when that force is used against another person, not a member of the family or household, who unlawfully and forcibly enters..."

A YEAR LATER AND THIS LAW WOULD HAVE PROTECTED LAZOR FROM MURDER CHARGES

Mr. Lazor was confronted with just such a forcible entry situation—in his own LOCKED room. He says he feared for his life and reacted in panic. The jury were not instructed to entertain self-defense! It is doubtful that he would have been charged with murder, let alone convicted, if the jury had had fair instructions on this point; and certainly not if they had a clue that the coroner's bullet-hole evidence was flawed and unreliable

PRISON IS MORE DIFFICULT FOR THIS MAN DUE TO CHEMICAL SENSITIVITY SYNDROME.

Lazor was my patient before his incarceration. He has had symptoms of chronic fatigue and chemical sensitivity syndrome since childhood. Due to the medical controversy about this diagnosis, Lazor was misunderstood and distrusted by prison staff, many of whom regard him as a malingerer or neurotic. But in the past ten years or so we have come to understand more about this malady and its diagnosis and treatment. It is not a manipulation or psychological aberration—except the symptoms are distressing, enervating and—and REAL.

YOU HAVE AMPLE GROUNDS TO RETURN MR. LAZOR TO CIVILIAN LIFE:

He has been punished severely, he poses no danger to anyone, and he has paid his debt to society. Mr. Lazor has no criminal record and no history of violence outside of this one tragic event. He has the motivation, skills and social connections to assure employment in civilian life. P. F. Lazor has always been a working man since his high school years.

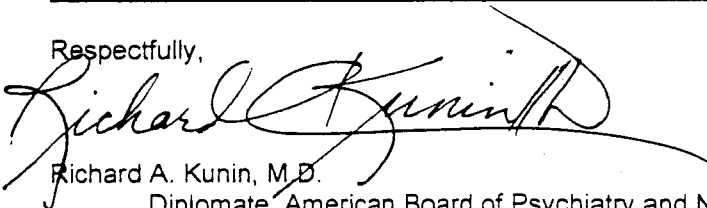
THE MOST COMPELLING REASON TO GRANT PAROLE

It is cruel and inhuman punishment to confine a man to prison, essentially for life, because he refuses to lie, i.e. give a false confession and an inflated show of remorse in order to gain release. It is un-American to ignore the recent evidence against the coroner and the court system that convicted this man. The new evidence undeniably casts doubt on the justice and legality of his conviction.

BOTTOM LINE:

By any reasonable analysis he has served his time and paid his debt. I urge you to grant parole to P. F. Lazor.

Respectfully,



Richard A. Kunin, M.D.

Diplomate, American Board of Psychiatry and Neurology (1962)
Member, San Francisco Mayor's Council on Homelessness (2004)
President, Society for Orthomolecular Health-Medicine (1995-)

Too many defendants suffer a fractured justice system

NTA CLARA COUNTY SHOULD LEAD THE WAY IN KEEPING ERRORS OUT OF OUR COURTROOMS

Mercury News Editorial

A Mercury News special report on criminal trials in Santa Clara County that begins today is a stinging indictment of a system that is failing too often, at every level.

After reviewing more than 700 cases, reporter Rick Tulsy has uncovered systemic failures by all involved: prosecutors, defense attorneys, trial judges and the appellate court.

In one in three of the cases reviewed, the criminal trial had been marred by questionable conduct that worked against the defendant. In a small number of egregiously flawed trials, people were wrongly convicted.

Legal experts say the problem is not isolated to Santa Clara County, which has a generally well-respected criminal justice system. It is rampant in courtrooms across the country.

With the nation becoming increasingly tough on crime, the responsibility of the justice system to be fair and honest grows proportionately. We need effective checks and balances to ensure that people accused of crimes in this "three strikes, you're out" climate are treated fairly.

The most alarming finding of Tulsy's investigation may be this: Much of the legal community appears satisfied with a "good enough" criminal-trial system.

While the courts appear to render justice in the vast majority of cases, this exhaustive investigation should be a wake-up call to the legal community and defendants-rights groups. There is room for significant improvement. Like many other government functions, the justice system needs more accountability and transparency.

State and local bar associations, including the defense bar, and the state's judicial performance commission should establish regular, proactive spot checks of criminal cases to look for problems and for patterns of flawed performance.

They should establish better training for lawyers and judges, and they should be more aggressive in disciplining professionals who fail to meet standards.

The system's overall performance should be reviewed annually, perhaps by retired judges and lawyers, and the report should be publicized and made easily available to the community.

By its very nature, the criminal justice system is supposed to be packed with safeguards among the prosecutor, defense attorney, judge and appellate court. But our report, which runs through Thursday, shows that in a high number of cases the odds are stacked against the defendant -- and the blame is shared by all involved:

- In nearly 100 cases, prosecutors engaged in questionable conduct, including withholding evidence, defying a judge's orders or misleading juries. Prosecutors are the key players in a criminal case because they determine what charges are filed and decide whether to negotiate a plea bargain rather than going before a judge or jury. Experts say individual prosecutors reflect the dominant culture in their office, and too often it's all about winning rather than ethics and fairness.
- In 100 cases, defense attorneys failed their clients by neglecting to do even the most basic independent investigation or to raise objections to questionable prosecution tactics. Experts suggest that local bar associations, including the defense bar, establish strict standards for determining when a lawyer is qualified to represent a criminal defendant.
- In more than 150 cases, judges failed to oversee trials impartially and repeatedly failed to properly instruct juries. Judicial councils and judges associations must be more aggressive in providing training and rooting out bad jurists. In general, they need to be more critical of their colleagues and willing to identify those who should not be on the bench.
- In more than 100 cases, the 6th District Court of Appeal upheld verdicts even while acknowledging trial errors, deeming them "harmless." While that might have been true in some of the cases, judges devised questionable rationales to dismiss others. The court reviews errors from a judicial perspective, not a community one. Would a jury view these errors as "harmless"? Experts believe that appellate judges must be more wary of using the "harmless error" rule.

The 6th District Court, which upholds 97 percent of all convictions, also publishes only 2 percent of its rulings -- the lowest percentage in the state -- which means its work is relatively hidden.

Of course, the system promises only a fair trial, not a perfect trial. "Juries aren't going to hear the whole truth anyway," one veteran prosecutor said. True. Lawyers on both sides try to pick a favorable jury rather than taking a random sample. They may shop for judges who will favor their side. And the high cost of a good defense inevitably gives wealthy defendants a better chance than impoverished ones.

But in too many cases, the concept of "innocent until proved guilty" seems to shift to "guilty until proved innocent." And if it's happening in this generally well-respected system, it is undoubtedly happening elsewhere.

Defendants, who have the most at stake, need to be able to count on a system of the highest integrity, with checks and balances that work. Santa Clara County should show the way.