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Kevin Cooper's Attorneys Will Continue Fight To Stop Execution Of Innocent Man

*After U.S. Supreme Court Refuses To Consider Appeal, Additional Witnesses With
Information To Save Cooper's Life Should Come Forward*

Attorneys Urge U.S. Attorney General Holder To Investigate Civil Rights Violations

Washington, D.C. -- Kevin Cooper's attorneys said today they would continue to fight to prevent his execution, notwithstanding the U.S. Supreme Court's refusal to consider Cooper's appeal.

"Evidence that we discovered after trial shows that Kevin is innocent of the crime for which he is now sentenced to die. We urge any and all witnesses with information about Kevin's case to come forward," said Norman Hile, Cooper's lead attorney and a partner at Orrick, Herrington & Sutcliffe LLP. "Time is running out. Many witnesses have come forward with helpful evidence, but we now need more. Anyone with information about this case should examine their conscience and ask whether they are willing to let their silence contribute to the execution of a man for crimes he did not commit."

Cooper's case was on appeal from a U.S. Ninth Circuit Court of Appeals three-judge panel decision denying his habeas corpus petition. At least eleven judges on the Ninth Circuit voted in favor of giving Mr. Cooper a further hearing on his claims of innocence and evidence-tampering, noting that "a full and fair evidentiary hearing . . . would have given us confidence that Cooper received his due opportunity to prove the innocence he has insisted upon since his arrest." An unprecedented 103-page dissent signed by five of those judges warned that "the State of California may be about to execute an innocent man."

Cooper's habeas petition was based on new evidence that his attorneys and investigators discovered while working at the Northern California Innocence Project's request. In the 103-page dissent pleading for a fair hearing for Mr. Cooper, the appellate judges identified multiple instances of police and prosecutorial misconduct, including:

- **False testimony-** Josh Ryen, the only eyewitness to the murders and the victims' 8-year old son, initially told the police that *three white men* killed his family. According to the dissent, after the police arrested Cooper, who is black, "[d]eputies misrepresented [Josh's] recollections and gradually shaped his testimony so that it was consistent with the prosecution's theory that there was only one killer."
- **Destruction of evidence and lying at trial-** A witness told the police that her boyfriend, a white supremacist gang member and convicted murderer, came to her house covered in blood on the night of the murders. She turned a pair of his blood-spattered coveralls over to the sheriff as

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evidence. The sheriff discarded the coveralls without testing the blood stains and did not tell Cooper's defense lawyer about this evidence until the middle of his preliminary hearing. This witness is now dead and unable to testify to Cooper's innocence. At trial, the sheriff's deputy who discarded the coveralls testified he did so without sheriff-department approval, testimony that has recently been shown to be a lie. As the five federal judges wrote, "a responsible officer . . . deliberately destroyed material evidence that should have been provided to Cooper."

- **Undisclosed exculpatory evidence:** The prosecution retrieved a blue shirt with blood on it near the crime scene a few days after the crimes but never disclosed this to Cooper's defense. "The prosecution committed a . . . violation by not making the blue shirt available to Cooper's attorneys." What's worse, "the prosecution committed a . . . violation in not turning over a copy of the [sheriff's] daily logs that recorded the discovery of the blue shirt."
- **Planting false evidence-** Prosecution lab tests of a second bloody shirt showed "an extremely high level of EDTA in the sample that was supposed to contain Cooper's blood." According to five federal judges, "[i]f that test result was valid, it showed that Cooper's blood had been planted on the t-shirt, just as Cooper maintained."
- **Falsified lab reports-** A drop of blood was taken from the crime scene, labeled "A-41," and tested by police criminologist Daniel Gregonis. According to five federal judges, "[w]hen the results of Gregonis's tests on A-41 were initially inconsistent with . . . a known sample of Cooper's blood, Gregonis altered his lab notes and claimed that he had misrepresented his results."
- **Presenting false evidence-** Trying to tie Cooper to the crime scene, prosecutors presented evidence that has now been shown to be false: that only prison-issue shoes could have made footprints at the crime scene. As five federal judges found, these shoes "were, contrary to testimony at trial, available (though not in large quantities) at retail stores in the United States."

Despite these constitutional violations which have prevented Cooper from ever receiving a fair hearing, Cooper now faces execution. Hile called on U.S. Attorney General Eric Holder to investigate Cooper's case and the local prosecutorial and police misconduct. "Multiple witnesses have provided testimony suggesting that the police planted evidence against Kevin Cooper and destroyed evidence that demonstrated his innocence, and that local prosecutors violated Kevin Cooper's Constitutional rights," Mr. Hile said. "We need a federal investigation to get to the bottom of this and stop the killing of an innocent man."

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