



RICHARD
CORDRAY



TED STRICKLAND
GOVERNOR
STATE OF OHIO

August 3, 2010

Hon. Ramona Rogers
Ashland County Prosecuting Attorney
110 Cottage Street
Ashland, OH 44805

Re: Arthur Swanson

Dear Prosecutor Rogers:

As you may be aware, attorneys for Mr. Arthur Swanson have sought post-conviction DNA testing of evidence relating to Mr. Swanson's conviction of abduction, aggravated burglary, and robbery on September 3, 1999. They have also contacted our offices regarding their request for such testing.

We write today because we believe that when DNA testing has the genuine and real potential to clarify the guilt, innocence or identity of a person suspected or convicted of a crime, significant efforts should be made to accomplish that testing. Like you, we seek finality – our best certainty that the guilty are convicted and the innocent are set free – as a paramount goal of our criminal justice system.

While we understand that Mr. Swanson was lawfully convicted, the information that was provided to us and which we have reviewed in connection with this request suggests that newly available DNA testing technology, which was not available at the time of trial, may add greater certainty to the facts underlying this conviction. We also believe that the use of current DNA technology can help increase public confidence in the results obtained by our criminal justice system. It has also come to our attention that a victim of the robbery is now publicly supportive of this request.

This request is in no way meant to suggest that you have any legal obligation to make the requested evidence available for testing – that's a question for the courts. Ours is a request for you to exercise the discretion that you have to assist in voluntarily making such evidence available for testing as a matter of public policy and to further utilize the advances in DNA testing technology.

Mr. Swanson's attorneys have made this request as part of a larger review of 313 cases in which an Ohio inmate's application for post-conviction DNA testing was denied prior to January 2008. In 30 of these 313 cases, Mr. Swanson's attorneys and their colleagues contended that the continued pursuit of testing was merited. Testing has since been granted in 18 of those 30 cases either through court order or agreement of the county prosecutor.

In this particular case, attorneys for Mr. Swanson seek testing of a cigarette butt and a hair apparently left at the scene of the crime. This evidence has never been tested. Mr. Swanson's first application for post-conviction DNA testing was denied under prior law, and his second application was denied because the court determined that Mr. Swanson's death prevented it from ordering testing. In our judgment, the fact that Mr. Swanson is deceased should not preclude DNA testing. We believe the system is best served by serious efforts to bring greater certainty to convictions and to ensure the perpetrators of these crimes are brought to justice.

We understand that this evidence still exists and can be tested. If your office does not have actual custody of this evidence, we ask that you please help identify the local or county official who does possess the evidence and work with them to make it available. The Attorney General's office will assist the custodian with all efforts necessary to facilitate the requested testing, including transporting the evidence with a proper chain of custody through the Ohio Bureau of Criminal Identification and Investigation. This will be accomplished at no cost to your county, the State or Ohio taxpayers as Mr. Swanson's attorneys have arranged for the evidence to be tested free of charge at DNA Diagnostics Lab in Fairfield.

We have tremendous respect and gratitude for the work that you and your colleagues do each day to keep Ohio's communities safe by putting criminals behind bars. Recent advances in DNA testing technology provide law enforcement an additional tool to solve crimes and achieve greater certainty in our criminal justice system. We understand that forensic evidence may not be available in every case, and even in cases where it is available may not be dispositive. It is our understanding the evidence which testing is being requested of may in fact be dispositive. We make this request of you only to promote, as best and fairly as we can, confidence and certainty in the administration of justice.

Thank you very much for your attention to this matter. Please contact Kent Markus, Counselor to the Governor at 614-728-7355, or Chris Glaros, First Assistant Attorney General at 614-728-2318, should you have any questions, need additional information, and to make arrangements for the testing. And, as always, please do not hesitate to contact either of us if we can ever be of assistance to you.

Sincerely,



Ted Strickland
Governor



Richard Cordray
Attorney General