

C. J. Watson
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31 May 2009

Jeff Orr
Chief Legal Counsel
Office of Legal Counsel
Ministry of Justice
PO Box 180
WELLINGTON

Dear Mr. Orr

Re- Further correspondence regarding your application for the Royal prerogative of mercy

I have been requested to reply to your letter of 28 April by my son Scott. He believes that he has made clear enough his preferred line of communication over a period of some six months and with the seeming reluctance on your part to note these preferences I am complying with his wishes. I speak for him in this matter with his express permission and under the terms of the enduring power of attorney he has granted in my favour.

'Fresh evidence' and the Court of Appeal

It is my understanding that while it is generally assumed that "fresh evidence" is the test for referral to the Court of Appeal, it is in fact the occurrence or perception of a "substantial miscarriage of justice", which is the final test. In this case one of the perceived substantial miscarriages of justice lies squarely on the doorstep of the Court of Appeal. Your examination of the material supplied will have no doubt alerted you to this. Please advise on the procedure that the Court of Appeal might follow in considering it's own shortcomings in any meaningful way. I suggest that referral to the Court of Appeal is not an option in this case.

In your letter you make the observation that: "*You appealed both of these convictions and the length of your minimum non-parole period to the Court of Appeal in December 1999*". I believe this statement is incorrect. At no

time was there considered any appeal against sentence or non parole period. To have done so would signal some acceptance of the verdict. You will have come to this view by misinformation contained in the Court of appeal judgment (*THE QUEEN v SCOTT WATSON [2000] NZCA 46 (8 May 2000)*) and have inadvertently supplied a further objection to the consideration (or rather lack of it) given the case by the Court of Appeal.

Kristy McDonald QC

We welcome the appointment of an independent Queen's Counsel to review Scott's case. While not wishing to cast any aspersions on Ms McDonald's integrity, her credentials are hardly those of what I would consider an '*independent*' investigator. Major portions of this petition concern actions of the New Zealand Police, the then Deputy Solicitor General (Crown Law Office), Trial judge and Court of Appeal (judiciary) one would think that her involvement with these bodies would make it particularly difficult to be '*seen*' to be independent. Those involvements would certainly be cause for criticism should the petition produce an adverse result.

That said, I would hope that any '*independent*' investigator would easily identify the important points leading to the miscarriage(s) of justice that occurred in this case from the supplied book and documentary. You will realise that there was a massive amount of research involved in the preparation of these. You will of course want to verify the facts presented and to assist I am prepared to supply, at your request, the trial transcript, disclosed police file (databased and referenced) along with photographs and charts. There is also an amount of evidence and correspondence obtained post trial and I can also supply summaries of various propositions put forward in the book, (for example, a summary of the cross examination of the various witnesses in relation to the appeal court's alleged "*extensive cross-examination on those issues*" of the '*two trip theory*').

You will appreciate that the case file is a massive collection of documents (over 9000 and including over 200 photographs) and I would avoid dumping on you the proverbial 569 page submission along with 58 Eastlight folders of supporting material, which would in all probability never be read, and as you have said in previous

correspondence with Scott –“ *There is no obligation on you to present your application in any particular way*”. I would therefore prefer to approach this task in a spirit of cooperation and with an ongoing dialogue to clarify the various points of contention as they are identified rather than in an adversarial fashion. To this end I, along with my advisors Keith Hunter, Greg King and Mike Antunovic are willing to meet with Ministry of Justice officials and/or Kristy McDonald QC and actively invite such a meeting to occur at your earliest convenience.

Free pardon

“In the Crewes case of the 1970s, Arthur Allan Thomas was released from prison on the ground that the Crown case was not proven beyond reasonable doubt. The sole criterion was that the time of death in the Crown case, being “late evening”, was not proven and could have varied from early evening to the following mid morning. The lawyer appointed by the government to investigate the Thomas conviction, Robert Adams-Smith QC, reported that:

“...I feel that the Crown’s contention that it was late at night that Thomas came upon this couple by stealth is not warranted by the evidence as I believe it to be. This is so serious a flaw in the Crown’s case, a case based mainly on circumstantial evidence, that I have real doubt whether it can properly be contended that the case against Thomas was proved beyond all reasonable doubt”.

“As I understand it, a great deal of significance was attached to evidence given by or on behalf of Thomas as to his whereabouts late in the evening of 17 June. If, as I believe it to be, that point is largely irrelevant, it not having been established that the Crewes were in fact killed at that time, it seems that an injustice may have been done...”

Mr. Adams-Smith took over a year to carry out his inquiry. The then Minister of Justice, Mr. McLay, acted directly on this single issue as reported in these terms by Mr. Adams-Smith, and on nothing else. He released Thomas”.

The above excerpt from a letter by Keith Hunter to the Minister of Justice is included to demonstrate that our quest for a free pardon is not an impossibility. The Thomas pardon was seemingly based not on any “new evidence”, but on a failure in the crown case leading to a reasonable doubt. We can certainly demonstrate a far more

comprehensive case than that available to free Thomas. I therefore include and endorse this letter for your consideration.

I await your acknowledgement, upon which I will commence supply of additional documentation.

Yours Sincerely

C. J. Watson

Enc. Keith Hunter/ Minister of Justice -1/04/09