



KEVIN COOPER FACT SHEET

Kevin Cooper is an African-American man who was wrongly convicted and sentenced to death in 1985 for the gruesome murders of a white family in Chino Hills, California: Doug and Peggy Ryen and their daughter Jessica and their house-guest Christopher Hughes. The Ryens' 8 year old son Josh, also attacked, was left for dead but survived.

The State of California intends to execute Mr. Cooper in the next few months. *Mr. Cooper is innocent.* In 2009, referring to Mr. Cooper's case, five federal judges of the Ninth Circuit Court of Appeals signed a 82 page dissenting opinion that begins: **"The State of California may be about to execute an innocent man."** 565 F.3d 581.

Mr. Cooper was prosecuted, tried and convicted 30 years ago in an atmosphere of racial hatred. When the San Bernardino County Sheriff's Dept. identified their suspect in the Ryen/Hughes murders as an African-American man, it set off a wave of racial hatred that culminated in acts such as a monkey being hanged in effigy outside the courthouse with a sign saying "Kill the Nigger."

Mr. Cooper has never received a fair hearing on his claims of innocence. Commenting on the most recent legal proceedings in Mr. Cooper's case, five federal appellate judges said: "There is no way to say this politely. The district court failed to provide Cooper a fair hearing. ... The district court impeded and obstructed Cooper's attorneys at every turn. [T]he court imposed unreasonable conditions, ... refused discovery that should have been available as a matter of course; limited testimony that should not have been limited; and found facts unreasonably, based on a truncated and distorted record." 565 F. 3d 583.

Six *additional* Ninth Circuit judges stated in 2009 with respect to Mr. Cooper's conviction and death sentence: "Public confidence in the proper administration of the death penalty depends on the integrity of the process followed by the state. ... So far as due process is concerned, twenty-four years of flawed proceedings are as good as no proceedings at all."

There is significant evidence that exonerates Mr. Cooper and points toward other suspects:

- The coroner who investigated the Ryen murders concluded that the murders took four minutes at most and that the murder weapons were a hatchet, a long knife, an ice pick and perhaps a second knife. How could a single person, in four or fewer minutes, wield three or four weapons, and inflict over 140 wounds on five people, two of whom were adults (including a 200 pound ex-marine) who had loaded weapons near their bedsides?
- The sole surviving victim of the murders, Josh Ryen, told police and hospital staff within hours of the murders that the culprits were "three white men." Josh Ryen repeated this statement in the days following the crimes. When he twice saw Mr. Cooper's picture on TV as the suspected attacker, Josh Ryen said "that's not the man who did it."
- Josh Ryen's description of the killers was corroborated by two witnesses who were driving near the Ryens' home the night of the murders. They reported seeing three white men in a station wagon matching the description of the Ryens' car speeding away from the direction of the Ryens' home.
- These descriptions were corroborated by testimony of several employees and patrons of a bar close to the Ryens' home, who saw three white men enter the bar around midnight the night of the murders, two of whom were covered in blood, and one of whom was wearing coveralls.
- The identity of the real killers was further corroborated by a woman who, shortly after the murders were discovered, alerted the sheriff's department that her boyfriend, a convicted murderer, left blood-spattered coveralls at her home the night of the murders. She also reported that her boyfriend had been wearing a tan t-shirt matching a tan t-shirt with Doug Ryen's blood on it recovered near the bar. She also reported that her boyfriend owned a hatchet matching the one recovered near the scene of the crime, which she noted was missing in the days following the murders; it never reappeared; further, her sister saw that boyfriend and two other white men in a vehicle that could have been the Ryens' car on the night of the murders.

Lacking a motive to ascribe to Mr. Cooper for the crimes, the prosecution claimed that Mr. Cooper, who had earlier walked away from custody at a minimum security prison, stole the Ryens' car to escape to Mexico. But the Ryens had left the keys in both their cars (which were parked in the driveway), so there was no need to kill them to steal their car. The prosecution also claimed that Mr. Cooper needed money, but money and credit cards were found untouched and in plain sight at the murder scene.

The jury in 1985 deliberated for seven days before finding Mr. Cooper guilty. One juror later said that if there had been one less piece of evidence, the jury would not have voted to convict.

The evidence the prosecution presented at trial tying Mr. Cooper to the crime scene has all been discredited:

- At trial, the prosecution presented false evidence that the type of tennis shoe that left bloody shoeprints at the crime scene were prison issued. The discovery of the shoeprints themselves has been called into question, and the criminalist who tied them to Mr. Cooper was later fired for stealing heroin from the Sheriff's department property

locker. At a hearing in 2004, an executive of the tennis shoe company testified that, contrary to the evidence the jury heard at trial, the model of tennis shoe that supposedly left the shoeprint was not sold only to prisons, but was available to the public through both retailers and the company's catalogue.

- The prosecution claimed a drop of blood found in the Ryens' hallway was consistent with Mr. Cooper's blood type. However, as five Ninth Circuit judges found, the tests the prosecution's criminalist, Daniel Gregonis, performed on the drop of blood were falsified. Gregonis also lied when he testified at trial that he did not have Mr. Cooper's blood as a reference when he ran his tests, and he also later admitted that after his testing he altered his lab notes. In addition, although Gregonis claimed he "consumed" the blood spot in his testing, it twice reappeared when the prosecution thought it might help them to do further testing.
- To tie Mr. Cooper to the Ryen's car, the prosecution claimed at trial that Sheriff's deputies found cigarette butts consistent with prison issued tobacco in the Ryen's car when it was recovered, but the police report at the time the car was found reported no evidence of these butts after a thorough search. Later, the prosecution claimed cigarette paper from one of these butts had been consumed in testing in 1984, but the paper somehow "reappeared" in 2001 in time for DNA testing. The "reappeared" paper had inexplicably changed colors and grown in size from 4 millimeters to 7 millimeters.
- San Bernardino County Sheriff Floyd Tidwell, who headed the investigation of the Ryen murders, pleaded guilty in May 2004 to four felony counts of stealing over 500 guns from county evidence rooms during his tenure as Sheriff from 1983 to 1991.

As found by five Ninth Circuit judges, the prosecution and the Sheriff's office destroyed, tampered with and hid from the defense significant exonerating evidence that the jury never heard:

- As noted above, shortly after the murders were discovered, a woman turned over to the Sheriff's department her boyfriend's blood-spattered coveralls left at her home the night of the murders. The prosecution not only did not test the coveralls, but a Sheriff's deputy discarded them in a dumpster before the prosecution disclosed their existence to the defense.
- The Sheriff's deputy who destroyed the bloody coveralls lied at trial when he testified that he acted on his own in destroying them. In 1998, over 13 years after the trial, the defense uncovered a Sheriff's office "disposition report" that showed that the deputy's supervisor had in fact approved the destruction of the coveralls. That report was never turned over to the defense, and the jury thus never knew that the testimony they heard from the deputy was false.
- The Sheriff's office totally mishandled the crime scene investigation. In the first 24 hours after the Ryen murders were discovered, over 70 people walked through the Ryen house and untold evidence was lost or destroyed. The trial judge later said in open court: "Counsel, as I sat there and listened to the evidence over a prolonged period of time, I thought ... [without] any criminalistic experience at all, I could have gone in there and done a better job, I think, than [the Sheriff's Department] did."
- The two days after the crimes were discovered, the Sheriff's Department issued a "Criminal Bulletin" stating the suspects were "three (3) . . . white or Mexican males," one wearing a "blue short-sleeve shirt." In 2004, the defense uncovered that the day after the murders a Sheriff's deputy recovered a blue shirt with blood on it near the scene of the crimes. The prosecution never disclosed this blue shirt to the defense, and it is now "missing."
- In 2004, the pertinent prison warden testified that, shortly before trial in 1984, she called the Sheriff's department to tell them that the shoes that supposedly created the shoeprint were available at retail. The prosecution never disclosed this fact to the defense, and argued repeatedly to the jury that the shoes could only come from a prison.
- In 2002, at Mr. Cooper's request, DNA tests were done on a tan t-shirt with blood on it found near the crime scene and on the blood drop claimed to come from the Ryens' hallway. Those tests supposedly concluded that Mr. Cooper's DNA was on the tan t-shirt and the blood drop. In 2009, five federal judges concluded that Mr. Cooper's blood was likely planted by the prosecution before the 2002 DNA tests were run.
- In 2004, further tests on what was supposed to be Mr. Cooper's blood taken when he was arrested in 1983 showed that it contained not only Mr. Cooper's DNA, but that of another person. This finding throws into question all of the evidence the jury heard at Mr. Cooper's trial about the blood drop on the wall in the Ryens' house, as well as other post-conviction blood testing.
- In 2004, when tests were done to determine whether the prosecution had tampered with the tan t-shirt by planting Mr. Cooper's blood on it before the 2002 DNA tests, the results by the prosecution's own expert pointed to tampering, showing heightened levels of a blood preservative used by law enforcement to preserve a sample of Mr. Cooper's blood taken in 1983. When he learned what his test results showed, the prosecution's expert "withdrew" his results, claiming they were invalid because of contamination in his own laboratory.

Recently, a number of experts who have reviewed Mr. Cooper's case have testified to further infirmities in Mr. Cooper's prosecution:

- Thomas R. Parker, former FBI agent in charge of the FBI's Los Angeles Regional office, testified before the Inter-American Commission on Human Rights ("IACHR") that the Sheriff's Department investigators suffered from "tunnel vision" in pursuing Mr. Cooper and were blinded by what he describes as "abject racism," and that law enforcement ignored and/or destroyed exculpatory evidence that would have exonerated Mr. Cooper. Mr. Parker concluded that Mr. Cooper is totally innocent of the Ryen murders.
- Janine Arvizu, a chemist and certified Quality Auditor of forensic testing, told the IACHR that the forensic testing results the prosecution used to convict Mr. Cooper in 1984-85 were so lacking in integrity as to render those results invalid, and "[t]he observed facts are consistent with a concerted effort to tamper with evidence in a manner that would incriminate Kevin Cooper, and to hide evidence of the tampering."
- Gregg O. McCrary, a 25-year veteran of the FBI and a criminal "profiler," told the IACHR that based on his investigation, "multiple offenders" murdered the Ryens, and that burglary, robbery and motor vehicle theft as motives for the crimes, as ascribed to Mr. Cooper by the prosecution at trial, were "highly unlikely."
- Kathy Pezdek, Ph.D, a specialist on the reliability of eye witness memory, testified that Josh Ryen's statements shortly after the attack that the perpetrators were three white men was much more reliable than his later memory accounts, which came after the Sheriff's Department deputies, prosecutors and other adults told Josh Ryen that Cooper was the attacker.
- Michael Adelson, an experienced capital defense lawyer, testified before the IACHR that the performance of Mr. Cooper's trial counsel in 1984-85 was deficient, and had trial counsel been up to standard, Mr. Cooper would likely not have been found guilty and sentenced to death.

That an innocent person such as Mr. Cooper can be tried, convicted and sentenced to death, and all his appeals rejected, is not an isolated occurrence. Since 1973, 144 people sentenced to death in the United States have been exonerated. For at least five innocent men sentenced to death, exoneration came too late: that is, after they were executed. For instance, in 2004, Texas executed Cameron Todd Willingham for the arson deaths of his two daughters. We now know that Mr. Willingham was innocent, and that the prosecution obtained his conviction through false testimony from a jailhouse "snitch" and by using a purported arson expert whose opinions amount to unsupportable "junk science."

Mr. Cooper deserves a chance to prove his innocence before he is executed. Our system of justice cannot stand what former Supreme Court Justice Sandra Day O'Connor called the "constitutionally intolerable" event: the execution of an innocent man.

For more information: www.freekevincooper.org