



# KEVIN COOPER FACT SHEET

Kevin Cooper is an African American man who was convicted and sentenced to death in 1985 for the murders of a white family: Doug and Peggy Ryen and their daughter Jessica and their house-guest Christopher Hughes. The Ryen's 8 year old son Josh was also attacked and left for dead, but survived. The State of California intends to execute Mr. Cooper in the next few months.

Mr. Cooper is innocent. In 2008 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*.

Kevin Cooper was prosecuted, tried and convicted in an atmosphere of racial hatred. When the police 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 proceedings in Mr. Cooper's case, the five 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 as they sought to develop the record. ... [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."

Six additional Ninth Circuit judges stated 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 was significant evidence that exonerated Mr. Cooper and pointed toward other suspects:

- 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 pictures of Kevin Cooper as a suspect on TV, 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 Ryen's 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, one of whom was covered in blood.
- 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 she saw him and two other white men in a vehicle that could have been the Ryens' car and said she suspected they were involved in the murders.
- The coroner who investigated the Ryen murders concluded 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 in five people, two of whom were adults (and Doug Ryen was a 200 pound ex-marine) who had a loaded rifle near their side?

Mr. Cooper had no motive 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 the area. But the Ryens left their keys in both their cars, so there was no need to kill the Ryens to steal their car. The prosecution also claimed that Mr. Cooper needed money, but money and credit cards were found in plain sight in the Ryens' home when the murders were discovered.

The jury in 1985 deliberated for seven days before finding Mr. Cooper guilty. One juror has said that if there 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:**

- As found by five Ninth Circuit judges, the prosecution presented false evidence that the type of shoe that left bloody shoeprints at the crime scene could only be acquired in prison. The discovery of the shoeprints 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 shoe company testified that, contrary to the evidence the jury heard at trial, the model of shoe that supposedly left the shoeprint was available to the public through both retailers and the company's catalogue.

- The prosecution claimed a drop of blood found in the Ryen's 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. Such dishonesty appears not to have been limited to Mr. Cooper's case. A federal court recently granted a writ of habeas corpus in another case, based in part on Gregonis manufacturing evidence to frame an innocent man who has now been exonerated.
- The prosecution claimed at trial that sheriff's deputies found cigarette butts consistent with prison issued tobacco in the Ryens' car when it was recovered, but the police report made at the time the car was found reported no evidence of these butts. Later, the prosecution claimed the paper from one of these butts had been consumed in testing in 1984, but the paper "reappeared" in 2001 in time for DNA testing. What paper "reappeared" had grown in size from 4 millimeters to 7 millimeters.
- The San Bernardino Sheriff, Floyd Tidwell, 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 alerted the sheriff's department that her boyfriend left blood-spattered coveralls at her home the night of the murders. The prosecution did not test the coveralls, and the sheriff's deputy discarded them in a dumpster before the defense knew of their existence.
- The Sheriff's office totally mishandled the crime scene investigation. In the first 24 hours after the murders were discovered, over 70 people walked through the Ryen house and untold amounts of 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, that [the Sheriff's Department] did."
- In 1998, over 13 years after the trial, the defense uncovered a sheriff's office "disposition report" that showed the deputy's supervisor approved the destruction of the coveralls. That report was never turned over to the defense, and the jury thus never knew the deputy lied at trial when he testified that he acted on his own in destroying the bloody coveralls worn by one of the likely killers.
- In 2004, the defense uncovered the fact that the day after the murders a Sheriff's deputy took into custody a blue shirt with blood on it found near the sight of the crimes. The prosecution never disclosed this blue shirt to the defense, and it is now "missing."
- In 2004, the warden at the prison from which the shoes that created the shoeprint supposedly came testified that, shortly before trial in 1984, she called the sheriff's department to tell them that the shoes were available at retail. The prosecution never disclosed this fact to the defense.
- In 2001, at Mr. Cooper's request, DNA tests were done on a tan t-shirt with blood on it found near the bar and on the blood drop from the Ryens' hallway. Those tests supposedly concluded that Mr. Cooper's DNA was on the t-shirt and the blood drop. In 2008, five federal judges concluded that Mr. Cooper's blood was likely planted by the prosecution before the DNA tests were run.
- In 2004, further tests of what was supposed to be Mr. Cooper's blood in vial VV-2 showed that it contained not only Mr. Cooper's DNA, but that of another person. This finding throws into question all of the blood type evidence the jury heard at Mr. Cooper's trial about the blood drop on the wall in the Ryens' house, as well as the post-conviction blood testing.
- In 2004, when tests were done to determine whether the prosecution had tampered with the t-shirt by planting Mr. Cooper's blood on it before the 2001 tests were done, testing results by the prosecution's own expert pointed to prosecution tampering when they showed heightened levels of a blood preservative used by law enforcement, including in vial VV-2. 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.

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. 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 by using a purported arson expert whose opinions amount to unsupportable "junk science."

In 2009, as a result of an investigation of the State of North Carolina's Crime Laboratory, two former FBI agents concluded that false forensic evidence had been used, and exonerating evidence hidden from the defense, in 280 criminal cases over 16 years. In three of those cases men were executed before the truth was uncovered.

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

*For more information: [www.freekevincooper.org](http://www.freekevincooper.org)*