

125 BROAD STREET
NEW YORK, N.Y. 10004-2498

July 29, 2008

By Facsimile

The Honorable Bob Riley
Governor of the State of Alabama
State Capitol
600 Dexter Avenue
Montgomery, Alabama 36130

Re: Thomas D. Arthur – Execution Scheduled for July 31, 2008

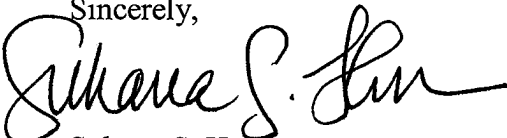
Dear Governor Riley:

On behalf of Thomas D. Arthur, I have enclosed the sworn affidavit of Bobby Ray Gilbert who has confessed to killing Troy Wicker. In light of the fact that the State of Alabama seeks to execute Mr. Arthur for this crime that someone else now claims to have committed, I urge you to stay the execution of Mr. Arthur and grant his request for access to physical evidence for purposes of DNA testing.

Although your office has stated that “overwhelming” evidence demonstrates that Mr. Arthur is guilty, such statement is untrue in light of Gilbert’s affidavit sworn to on July 28. DNA testing on critical pieces of physical evidence—such as the rape kit, the wig, and blood-stained clothing—could confirm whether Gilbert is telling the truth. Because someone else has confessed to committing the crime for which Mr. Arthur is about to be executed, there is simply no legitimate reason to deny Mr. Arthur’s request for DNA testing or to execute Mr. Arthur before such testing has been completed.

Please do not hesitate to call me at (212) 558-4647 if you have any questions or need additional information.

Sincerely,



Suhana S. Han

The Honorable Bob Riley

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(Enclosure)

cc: Mr. Troy King
(Attorney General of Alabama)

Mr. Scott Rouse
(Deputy Legal Advisor, Office of the Governor)

Affidavit of Bobby Ray Gilbert

I, Bobby Ray Gilbert, being duly sworn, deposes and says:

B.G. (1) My name is Bobby Gilbert. I am currently 43 years old. I was born on September 5, 1964. I am currently serving a sentence of life without parole, two life sentences, two 99-year sentences, a 40-year sentence, a 20-year sentence, and a 10-year sentence. I am currently serving this sentence at St. Claire Correctional Facility in Alabama.

B.G. (2) I first met Judy Wicker around early January 1982 at a bar or nightclub. I was 17 years old at the time. I had a sexual relationship with Judy Wicker. She was a petite blond.

B.G. (3) In 1982, I lived in Grove Oak, Alabama with my girlfriend at the time. At this time, I was

working at Beason & Son Construction in Huntsville, Alabama.

B.G. (4) During the period when I had a sexual relationship with Judy Wicker, she mentioned to me that her husband was physically abusive. Judy told me that her husband beat her and was jealous.

B.G. (5) Around a month after Judy and I started our sexual relationship, she asked me if my cousin, Gerald Gilbert, would kill Judy's husband. Judy heard that Gerald was in jail and thought he might be willing to kill her husband. I told Judy that I would be willing to kill Troy. Judy offered to ~~that she would~~ give me something in return but she didn't say what this would be.

B.G. (6) Judy and I talked in advance what the plan would be to kill Judy's husband. Judy suggested that I wear an Afro wig and dark make-up.

B.G. (7) Judy initially wanted me to ~~drive~~ meet her at her home, but my cousin, Gerald, thought it would be better to meet somewhere else. So we agreed to meet at a parking lot of a trade school, which was not far from Judy's house.

B.G. (8) One ^{early} morning in late January / early February 1982, ^{Gerald} Gilbert drove me to the parking lot of the school, and Judy met me there and picked me up in her car, which I believe was a maroon color. Judy gave me an Afro wig and make-up, which I applied while in her car. Judy then drove me in her car to her home.

B.G. (9) When I entered Judy's house, I went to her bedroom. Judy told me that her husband would be there. Her husband was sleeping in the bed. I used a .22 sawed-off rifle and shot him in the face. I was standing less than 20 inches from him.

B.C. (10) I got this rifle from my dad when I was about seven years old. I got .22 caliber longs from Gerald, who told me that a dancer or stripper got the bullets for him.

B.C. (11) I shot Judy's husband once in the face. Judy then held a mirror to her husband's face to see if he was still breathing. ~~I~~ Judy and I ransacked the house, pulled out drawers, and turned over furniture. We then had sex up against a wall in the hallway. We didn't use a condom. Judy asked me to beat her up, so I did and punched her in the face a couple of times.

B.C. (12) I drove Judy's car to the parking lot of the trade school. The keys were still in the ignition. I ~~put~~ ^{was still wearing} ~~so~~ ~~back~~ the Afro wig and make-up, and met my cousin at the parking lot. I had not

removed the wig or make-up while I was at Judy's house. My cousin Gerald picked me up in his car and I left Judy's car in the parking lot.

RG (13) ^{Before} ~~When~~ I left Judy, she had called her sister to come over.

RG (14) When my cousin Gerald picked me up in the parking lot, we drove to Morgan's Cove ~~off~~ off of Monosanto Highway. I threw the .22 sawed-off rifle into the lagoon around early afternoon.

RG (15) Around two or three weeks later, I met Judy at a club called the Hourglass in Huntsville, and she paid me \$2000 for killing her husband. Judy thanked me for doing this, and said that we should not see each other. After that meeting, I had not heard from Judy.

B.C.
(16) I spent my money on a 1972 Grand Torino and chicken fighting and alcohol.

B.C.
(17) In February 1985, I was put in county jail in Fort Payne, DeKalb County for first-degree murder. Since 1985, I have been incarcerated and spent time in different prisons. I did spend some time in Holman Prison but did not personally know Tommy Arthur.

B.C.
(18) I previously have never met Tommy's lawyers. I told certain people for the first time last year that I killed Judy's husband. I told Misty Michelle ~~Martin~~ Norton and asked her if she would try to contact Tommy's lawyers during her visit with me while I was at Holman Prison. I think this visit was in late August or early September of 2007. I also told two inmates from Holman Prison, Steve Murphy and Charles Hastings, that I had killed Judy's husband.

I also asked whether they know how to get in touch with Tommy's lawyers. I believe I spoke with Steve and Charles separately around September 2007 before Tommy's scheduled execution date. And I also told two guards at Holman Prison around September 2007, Captain Bishop and Sargent Fralick, that they would be making a big mistake by executing Tommy Arthur and ~~asked~~ ^{told} them that I needed to speak to Tommy's lawyers. Nobody from Tommy's legal team ever contacted me, and I don't know whether any of my messages were ever passed to Tommy's attorneys.

¹⁹ (19) I heard this year that another execution date had been set for Tommy Arthur. I am finally coming forward again to set the record straight. I spoke up in 2007 and do ~~so~~ now because I am no longer afraid since the U.S. Supreme Court ruled that a minor cannot receive the death penalty.

B.G. (20) I killed Judy Wicker's husband and I would be willing to agree to a DNA test.

P.G. (21) I have not been offered anything by anybody for this confession.

M.G. (22) Before the Supreme Court's decision holding that minors cannot be executed, I would not have confessed to Tray Wicker's murder.

B.G. (23) I am not on any drugs or pain medication or anything else that would prevent me from telling the truth.

P.G. (24) I have read this entire affidavit and to the best of my knowledge, everything is true and accurate.

JULY 23, 2008

Bobby Gilbert

Latacha Hawkins

Sworn to me this 28th day of July, 2008

My commissive expires 2/2/2011