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December 16, 2011

Huy Dao
Innocence Project
40 Worth Street, Suite 701
New York, NY 10013

Re: *Hooman Ashkan Panah*, USDC Case No. 06-2403

Dear Mr. Dao:

Our office represents Hooman Ashkan Panah in his habeas corpus proceeding. I, and my co-counsel on Mr. Panah's case, Firdaus Dordi, have written to the Innocence Project about Mr. Panah's case in the past. I enclose a copy of a letter I sent you on August 26, 2011 enclosing a case evaluation authorization signed by Mr. Panah. At Mr. Panah's request, I again write to seek the Innocence Project's assistance, and to provide you with Mr. Panah's own account of the factual bases demonstrating his innocence.

Mr. Panah was convicted in 1994 of the first-degree murder of a child found in a suitcase in his closet. At the time, the residence was shared by Mr. Panah, his mother, and an individual guest named Ahmed Seihoon, who was, incidentally, the last person seen with the deceased shortly before she went missing. The crux of the prosecution's case relied solely on circumstantial evidence including pathology and serological evidence. While DNA evidence was collected, the results of the DNA testing were not presented at Mr. Panah's trial. The prosecution's serological evidence purportedly showed that fluid found on various samples at the crime-scene contained a blood type AB mixture from the victim (blood type A) and Mr. Panah (blood type B), inferring intimate sexual contact between the two. The prosecution then used their pathologist to link Mr. Panah to the crime by establishing a time-of-death consistent with the state's theory.¹

¹ Indeed, there were multiple and material discrepancies with the prosecution's evidence regarding (1) the time of the girl's disappearance (11:15 a.m. v. 12:00 p.m.), (2) the location of the discovery of the girl's body (Apt. no. 122 v. Apt. no. 126), and (3) the time of discovery of the body (10:20 p.m., 10:30 p.m., and 11:00 p.m.).

Through his habeas proceeding, however, Mr. Panah has demonstrated that the conclusions derived from the pathology and serological evidence supporting Mr. Panah's conviction were false. Instead, the DNA and pathology evidence demonstrate that Mr. Panah is *innocent* of the crimes for which he was convicted. The DNA results conclusively disprove the prosecution's mixture-of-fluids theory, establishing the absence of sexual contact and the presence of blood type AB, a type which neither belongs to Mr. Panah nor the victim, at the crime scene. *See* Claim One (attached as part of Exhibit 2). Prior to trial, the prosecution should have known that the DNA evidence contradicted the serology evidence presented at trial. The prosecutor who presented the serology evidence and was responsible for the DNA evidence has since been disbarred from the practice of law, found to have lied while under oath, and deemed to be pathological liar who brought the judicial system into disrepute. *See* Claim Two (attached as part of Exhibit 2). Also, an independent pathologist confirmed that the victim likely died outside of the time-frame in which Mr. Panah was present in his apartment. The police admitted entering and searching Mr. Panah's apartment at least four times, including his closet, and moving suitcases where the victim's body was ultimately discovered, before obtaining a search warrant. Each of those searches yielded negative results for the body or any evidence of wrongdoing with the victim. No traces of blood, fluids, or other signs of struggle were found in the apartment. Moreover, there is evidence, obtained through post-conviction discovery, to suggest that additional warrantless searches of the apartment were conducted by the authorities, all with negative results. K-9 Units were brought to the vicinity, and did not alert the authorities to Mr. Panah's apartment.

With Mr. Panah's trial counsel explicitly prioritizing the settling of Mr. Panah's case over a complete investigation into the facts described above, much of this exculpatory evidence was left undeveloped. Even with competent counsel, however, the ability of Mr. Panah to obtain a fair trial was impeded by, *inter alia*, the fact that the trial court worked with the victim's mother and fiancé in the Courthouse, and the fact that a sitting juror was a member of the same Church-parish as the victim's family and the juror's children attended the same school as the victim.

For further explanation, I have enclosed copies of reports by Keith Inman and Lisa Calandro, the DNA experts retained by Mr. Panah's state habeas counsel, and a copy of two pathologists' reports. First, the report of Dr. Gregory Reiber, a pathologist also retained during habeas proceedings, who opines that based on the victim's body being found in full rigor mortis, the time of death argued by the prosecution could not have been correct. Dr. Reiber also takes issue with the prosecution's asserted cause of death. The second, a report by Dr. Michael Baden, a renowned pathologist who refuted the prosecution's asserted cause of death. During trial, the prosecution unequivocally advised the Court that it was pursuing a felony murder theory, not a premeditated murder theory. I have also enclosed the introduction and the first three claims from our habeas petition, which discuss the above issues in detail.

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Finally, I also include a letter drafted by Mr. Panah, with exhibits. Addressing the evidence described above, as well as the other circumstantial evidence presented against him at trial, Mr. Panah has thoughtfully addressed how the newly obtained evidence in his case demonstrates his innocence. With such overwhelming evidence pointing to Mr. Panah's innocence, we respectfully seek the Innocence Project's help in further developing and presenting Mr. Panah's claims for relief.

If you have any other questions do not hesitate to give me a call. Also, please let us know of your decision regarding our request so that we may plan accordingly. I thank you for your time and look forward to your response.

Sincerely,



Mark R. Drozdowski
Deputy Federal Public Defender

MRD/ih
Enclosures