

Chad Emery Evans #75414
New Hampshire State Prison
P.O. Box 14, Concord, NH 03302-0014

9 November 2010

RE: My wrongful conviction in New Hampshire in 2001, and the need for Maine and New Hampshire to re-investigate my case and the death of Kassidy Bortner.

John E. Baldacci
Governor, State of Maine
1 State House Station
Augusta, ME 04333-0001

John Lynch
Governor, State of New Hampshire
State House
107 North Main Street
Concord, NH 03301

Michael A Delaney
Attorney General, State of New Hampshire
33 Capitol Street
Concord, NH 03301

Janet T. Mills
Attorney General, State of Maine
6 State House Station
Augusta, ME 04333-0006

Dear Governors Baldacci and Lynch and Attorneys General Delaney and Mills:

Until November 9, 2000, exactly ten years ago, I was a productive citizen of Rochester, New Hampshire. I was living with my 3-year-old son, part-time through shared custody with my to-be-ex-wife, and with the woman I loved, Amanda Bortner, and her young daughter, Kassidy, whom I also loved. As an area manager for eight McDonald's restaurants, my income was more than adequate for current expenses and for saving for the future, including education for my stepson, my son, and Kassidy. We were melding a family, embraced by our larger families, and life was good.

On November 9, 2000, Kassidy Bortner died in Kittery, Maine, at the home of her babysitter that day, Jeffery Marshall, where she had been for four-plus hours. I hadn't seen her

since 7:20 that morning when she was being driven by Amanda to Jeff's. She had already opened her bag of Reese's Puffs that she had chosen for breakfast and that I had placed in that bag. The police of Maine and New Hampshire determined within a few hours of Cassidy's death on that day that I killed her. Then, they reinforced that belief with an investigation centered on me, and focused on persuading others that their belief was correct. That investigation led to my wrongful conviction in Strafford County Superior Court on December 21, 2001. I was convicted of the charge of child endangerment, a single count of assault against Amanda Bortner, several charges of assault against Cassidy Bortner, and the charge of second degree murder of Cassidy Bortner; and was sentenced to a minimum of 28 years to life in prison.

We didn't understand the effects of known incidents with Cassidy, and didn't know of others; and we certainly had no idea that she was at any risk of dying. In retrospect, we should have taken her to see a doctor, or to a hospital, on several occasions, but we missed the signs and misunderstood their severity. For those oversights, I am forever regretful. However, I never hit Cassidy Bortner in any way that could have caused her death. I never spanked her, and I never struck her.

Of all those charges, it is true that I did, on a few occasions in the fall of 2000, and with the full consent of her mother, hold Cassidy Bortner's face to establish eye contact with her. Also, it is true that on the evening of Wednesday, November 8, 2000, after Amanda Bortner tossed an empty mug at me from a few inches away, I pushed Amanda into the couch behind her. A few minutes later, the argument was over and we were upstairs in bed together. None of these actions contributed in any way to the death on 9 November 2000 in Kittery, Maine of Cassidy Bortner. Whether those incidents constituted crimes awaits full and fair re-consideration. The only reason that the short argument of November 8 was included in the charges was to somehow persuade the jury that I was sufficiently and violently angry that evening to hurt Cassidy, which was absurd. All of the other charges had no factual basis whatsoever, and were prosecuted on the basis of mistakes, selective and incorrect memories, faulty investigative techniques, the pursuit of hunches and beliefs over facts and truth, a few lies and an overall biased investigation. One example of the biased investigation were the statements, later denied, to one of my best friends, that Cassidy's babysitter on November 9th, Jeff Marshall, had taken a lie detector test. In fact, he never took a lie detector test. Those statements were made to my friend, like other statements to other potential witnesses, not to pursue the truth in the case but to inflame and persuade them, only hours after Cassidy's death, that I was Cassidy's killer.

Using the same techniques, the investigators momentarily persuaded a grief-stricken 18-year old mother that I was her daughter's killer and she then made untrue statements about me in order to agree with the police, and their obvious authority. She has since recanted those incriminating statements, as have the dozens of wrongfully convicted Innocence Project exonerees whose confessions were extracted through those same techniques.

After an appeal of the sentence by the State of New Hampshire, the minimum was increased to 43 years. So far, I have completed about 9 years of that sentence for crimes I did not commit. Amanda Bortner was wrongly convicted in 2002 of child endangerment for failing to stop the abuse that I was not inflicting, and served two years in the Strafford County Jail.

Recently, a March 22, 2001 report of DNA testing by the Maine State Police Crime Lab was found in documents reviewed through a Freedom of Information Access request by my advocate and private investigator. That report, which is enclosed, indicates that the blood underneath all ten of Cassidy's fingernails belonged to Cassidy, assuming that the redactions are for her name. Her DNA was also found on a napkin, which may have been referenced at my trial as a wrapper from a fast-food restaurant. Also, that report found male DNA from an apparent saliva stain on a paper towel recovered from the home of Jeff Marshall, who was babysitting Cassidy on the day she died.

There are several scenarios which could have resulted in Cassidy's blood being found underneath her fingernails, after not being seen before by me or her mother or the tenant in our home after Cassidy's bath the night before. These possibilities will have to be considered with common sense and by experts. Most importantly, in terms of my conviction, is that the request for DNA testing, and the report of that testing, were not known at the trial to me or to my attorneys. I do not know the reasons for those omissions, perhaps relating to the fact that the investigation was by agencies in two states; but the report contradicts several key statements by trial witnesses. The existence of the blood underneath Cassidy's ten fingernails was not known to me either, or presented at my trial, by either the prosecution or my attorneys. It was not known to Amanda Bortner until recently, and thus not presented at her trial. The DNA report was addressed to Maine State Police Detective Jeff Linscott, with copies going to the Office of the Maine Attorney General, and to "RMS" (Record Management System?) and to the Maine Crime Lab's files. It's not known who else knew of this testing and the results, besides the addressees and the writer of the report, who was the lab's forensic DNA examiner, Theresa Calicchio. It is not known how these DNA tests were requested, and how they were interpreted by State Police of Maine. I do not know how they were interpreted by the State Police of New Hampshire and the Office of Attorney General of New Hampshire, or even if the report came to the attention of those two, and other, New Hampshire organizations.

There can be little question in this era of exoneration of wrongly convicted people through such DNA testing, that the DNA testing report of March 22, 2001 would have had an important place at my trial. Had my attorneys known of the testing, they would have insisted on further testing prior to trial to determine the sources of the DNA already located, and for the testing of other items relating to Cassidy's death. For example, a red stain on a bed sheet found on the bed where she was sitting at Jeff Marshall's home was not tested and should now be tested. With the results of all the DNA tests, the jury could have more fairly weighed the evidence. By themselves, the

DNA tests may not have been determinative, but they could have shifted the direction of the evidence toward science and physical evidence and away from unreliable statements from people whose motives were mixed.

I write to ask that both Maine and New Hampshire join in a re-investigation of the death of Kassidy Bortner, and to release me from prison in the meantime, on bail or personal recognizance, until it's decided to drop all the charges or retry me on any of them.

I am currently unrepresented by counsel on the issue of my actual innocence of crimes relating to Kassidy Bortner's death. Can you please send to me an un-redacted copy of that 22 March 2001 DNA testing report? Can you please send to me the Maine State Police request for that DNA test and any other communications and documents about, or which refer to, that DNA test?

Since April 2010, my website, www.chadevanswronglyconvicted.org, has sought to present the entire truth about me and this case. There was much that the jury did not see or hear or understand. This letter is not the place to present the reasons for those deficits, arising generally from the nature of our adversarial system; but it is clear the jury did not see the evidence, or see enough of the evidence, of my actual innocence.

The jury did not:

- See timelines of Kassidy's cut-short life, especially of the five months I knew and loved her, and, in more detail, her last 40 days.
- Know that the only photograph the jury saw of Kassidy, showing the happy child that she was, was taken approximately on 1 October, only 40 days before she died.
- See other, more recent, photographs of Kassidy as a happy, and apparently healthy, child. One such photograph was taken on Friday, October 20, only 20 days before she died.
- Hear from additional witnesses who saw her within a few days of her death. One such witness was a school nurse, related to me by marriage, who observed Kassidy socially four days before her death. Kassidy was healthy then, although seemingly tired. That witness wrote, in a pre-sentencing letter to Judge Nadeau about Kassidy's closeness to me on that day, "She climbed onto his lap and lay her head against him."
- Know how Kassidy lived and was nurtured and loved in our home, and how we were teaching her the "ABC's" and "123's" and the words for parts of our bodies, such as "nose."
- Know that on the day of her death, 9 November 2000, there was blood under all ten of her fingernails, and did not know, as noted above, that the blood belonged to Kassidy.

- Hear of other possible contributing, and possibly non-criminal, causes of Cassidy's death, other than an alternate suspect.
- Hear from me. I didn't testify, which was a mistake. At the time of the trial, I was persuaded that the risks in our adversarial system of testifying outweighed the benefits. I did not understand that it was the best, and perhaps only, opportunity to present the truth as I saw it. At the time, the focus by both sides was on winning the trial, rather than presenting all of the relevant truth. If there is ever a retrial, I certainly will testify; and I am willing to discuss this case with investigators at any time.

Thank you for your consideration of this letter and its requests. None of you was in office in 2001, and I am confident that none of you has any interest in the continued imprisonment of any wrongfully convicted person in your states. This letter is, by necessity, an overview, but I welcome the opportunity to present details about any statements here, and about any aspect of this doubly tragic case.

Very sincerely,

A handwritten signature in cursive script that reads "Chad Evans".

Enclosure: 22 March 2010 Report of the Maine State Police Crime Laboratory by Theresa Calicchio. "Lab # L00-744/752" and "Agency Case # 20435897"