

TO THE HONORABLE GOVERNOR OF THE STATE OF CALIFORNIA

GAVIN NEWSOM

In re the Re-Application of)
)
 JOE HUNT)
)
 Petitioner,)
)
)
 For Clemency.)
 _____)

APPLICATION FOR EXECUTIVE CLEMENCY

Tracy Renee Lum, SBN 256703
 Law Office of Tracy Renee Lum
 46 South Del Puerto Ave., Ste. B, #106
 Patterson CA 95363
 (209) 894-7794 (T)
 (209) 894-7239 (F)
 trlum@hotmail.com

Attorney for Joe Hunt

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TO: GOVERNOR GAVIN NEWSOM

I. INTRODUCTION

Joe Hunt has been incarcerated for 34 years for a murder that not only he did not commit, but that never actually occurred. Mr. Hunt was convicted of the murder of Ronald Levin and sentenced to life without the possibility of parole (LWOP). However, there is no physical evidence that Mr. Levin was murdered or even died on June 6, 1984 – no blood, no bullets, no DNA and most importantly, no corpse. Additionally, Mr. Levin was subsequently seen alive by several people. Mr. Levin was under investigation by the FBI and had been arrested on several felony charges, and then engaged in behavior that indicated that he was intending to flee to escape his legal problems. Despite these issues with his conviction, he has exhausted all judicial remedies and is without hope for release unless he receives the mercy of an executive commutation.

¹ Mr. Hunt made a prior application for executive clemency to former Governor Edmund G. Brown, Jr. in January 2018.

Mr. Hunt has spent the past 34 years working to better himself and correct his character defects that led him to commit many financial crimes and breach the trust of virtually everyone he came into contact with when he was a young man in his early twenties. He is now 60 years old with a failing heart. His family wants him home and many people who know him, including fellow prisoners, correctional officers, and community members support his release from prison.

II. ISSUES WITH CONVICTION

The most compelling issue with Mr. Hunt's conviction, is that there is no physical evidence that a murder even occurred. Although the prosecution contends that Mr. Levin was shot in the head in his house, investigators did not recover any physical evidence indicating that a murder had occurred – no blood, no bullets, no DNA and most importantly, no corpse.² Neither was there any blood found in the car the prosecution alleges Mr. Hunt and his accomplice used to transport Mr. Levin's body after he was shot.³ Nor did Mr. Levin's neighbor who lived directly above him and often heard him yelling at his dog, hear a gunshot the night he was purportedly murdered.⁴ Not only was Mr. Levin's body never found despite extensive efforts by the authorities to locate it, *seven* independent, neutral eyewitnesses saw Mr. Levin alive after his purported murder and testified under oath on multiple occasions about this.⁵

There is substantial evidence that Mr. Levin, a notorious conman, planned and executed his own disappearance in order to avoid prosecution on grand theft charges and the prospect of a lengthy prison sentence.⁶ In the days before his disappearance, Mr. Levin had researched extradition treaties between the U.S. and Brazil, purchased clothes that were not his usual style,

² Exhibit A, pp. 4, 18. The trial transcripts are quite voluminous, and therefore are not attached to this petition. The transcripts can be provided at any time upon request.

³ Exhibit B, pp. 4, 11, 36-37, 47.

⁴ Exhibit B, pp. 3-4, 17, 35-36, 64-65.

⁵ Exhibit A, p. 4; Exhibit B, pp. 5-6, 16-17-19, 29-32

⁶ Exhibit A, p. 18; Exhibit B, pp. 15

dyed his hair and purchased a large quantity of traveler's checks.⁷ At the time of his disappearance, Mr. Levin was being investigated by the F.B.I. on numerous other charges.⁸

Mr. Hunt was convicted of Mr. Levin's murder based primarily on the testimony of Dean Karny. Karny was a fellow member of BBC who escaped prosecution for the murder of Mr. Levin, which actually never occurred, and the murder of Hedayat Eslaminia, by testifying against Mr. Hunt in exchange for immunity. Another important piece of evidence was a to-do list that Mr. Hunt authored and used as a ploy to intimidate Mr. Levin into tendering money owed for investments Mr. Hunt had made on behalf of Mr. Levin. Mr. Karny testified that Mr. Hunt took the to-do list with him on the night of Mr. Levin's murder to use as a guide for the crime and mistakenly left the list behind. However, Mr. Levin's neighbor, Karen Marmor, saw the to-do list on Mr. Levin's desk the day prior to his disappearance.⁹ A witness also testified that she spoke with Mr. Hunt on the phone at the time that Mr. Karny alleged Mr. Hunt was murdering Mr. Levin and disposing of his body.¹⁰

Mr. Hunt's attorney in his trial for the murder of Mr. Levin failed to investigate or present much of the above exculpatory evidence and the judge demonstrated a significant bias against Mr. Hunt throughout the trial.¹¹

In a second trial for the murder of Hedayat Eslaminia in San Mateo County, the prosecution presented evidence related to the disappearance of Mr. Levin.¹² The jury in this case voted 8 to 4 in favor of acquittal.¹³ The jury in the San Mateo case found that Mr. Karny and other prosecution witnesses were not as credible, whereas Ms. Marmor whose testimony directly

⁷ Exhibit A, pp. 1, 22, Exhibit B, pp. 4-5, 12-16, 36, 46, 63-64

⁸ Exhibit B, pp. 46, 58.

⁹ Exhibit A, p. 19; Exhibit B, pp. 3, 29, 45-46, 59-60, 68.

¹⁰ Exhibit B, pp. 6-7, 17-18, 36-37

¹¹ See generally Exhibit A.

¹² Exhibit C, p. 1.

¹³ *Ibid.*

contradicted Mr. Karny's regarding the to-do list, and the witnesses that testified they had seen Mr. Levin alive were credible.¹⁴ In fact, one juror described Ms. Marmor as "a one person justification for an acquittal" for the murder of Mr. Levin.¹⁵ Not only did a majority of the jurors in the San Mateo case vote to acquit Mr. Hunt of the murder of Mr. Eslaminia, they also stated their belief that he was not guilty of the murder of Mr. Levin, whom they believe was still alive after June 6, 1984 and staged his own disappearance.¹⁶

Despite the complete lack of evidence that Mr. Levin was ever murdered, and considerable evidence that Mr. Levin planned his own disappearance and Mr. Karny lied to save himself from being convicted of murdering Hedayat Eslaminia, reviewing courts have upheld Mr. Hunt's conviction. Reviewing courts have refused to consider the jury declarations in the San Mateo County case as evidence to challenge the validity of Mr. Hunt's conviction related to Mr. Levin's disappearance based on procedural bars.¹⁷ Mr. Hunt's case was upheld in part because evidence newly discovered within the first decade after his conviction, in the courts' views did not undermine the entire prosecution case and point unerringly to Mr. Hunt's innocence, which was the standard to reverse a conviction at that time. This nearly impossible standard was abrogated by the Legislature in 2016 in favor of a more reasonable standard.¹⁸

Under current law, a conviction must be vacated when "new evidence exists that is credible, material, presented without substantial delay, and of such decisive force and value that it would have more likely than not changed the outcome at trial."¹⁹ In 1993, the lead detective who investigated Mr. Levin's disappearance stated that a retrial of the murder charge "would be hard

¹⁴ See generally Exhibit B.

¹⁵ Exhibit B, pp. 60-61.

¹⁶ See generally Exhibit B.

¹⁷ Fed. R. Civ. P. § 606(b) and Fed. R. Evid. §§ 401 and 402.

¹⁸ 2016 Cal Stats. ch. 785 (SB 1134).

¹⁹ Pen. Code § 1473, subd. (b)(3)(A).

to win,” thus Mr. Hunt would have a far better chance of having his murder conviction reversed under today’s standard of review.²⁰ Unfortunately, Mr. Hunt’s “newly discovered evidence” was discovered decades ago and cannot serve as a basis for challenging his conviction today. Thus, his only remaining hope for relief from his unjust conviction and harsh sentence of LWOP, is executive clemency.²¹

III. YOUTH OFFENDER FACTORS

Mr. Hunt’s father was a violent man who abused drugs and alcohol. Mr. Hunt regularly witnessed his father physically abuse his mother. Mr. Hunt was also the victim of his father’s abuse—he once overturned a table on top of Mr. Hunt when he was only 10 years old.

Mr. Hunt’s father worked for Dr. William Bryan, Jr.²² at the American Institute of Hypnosis (AIH). Beginning at around the age of six, Mr. Hunt’s father regularly brought Mr. Hunt to AIH and subjected him to hypnosis to implant thought suggestions that he would be successful and powerful into his subconscious. These sessions continued into Mr. Hunt’s teenage years. As a result, Mr. Hunt was driven to succeed no matter the cost or consequence.

This influenced Mr. Hunt to lie, cheat and steal in attempt to attain success at any cost. Ultimately, it led him to create the BBC, a vehicle to aggressively gain success and riches. Mr. Hunt quickly began to lose the money he had gotten friends and their families to invest with him. Rather than admit this and accept the consequences of his actions, Mr. Hunt lied and covered up his losses. Around this time, he met a conman named Ronald Levin who promised to invest millions of dollars with Mr. Hunt, but instead scammed Mr. Hunt.

²⁰ Exhibit D, p. 2.

²¹ Many of the key court documents related to challenging Mr. Hunt’s conviction can be found at the following link: <https://freejoehunt.com/the-legal-odyssey/>

²² Dr. Bryan began his career as a military psychiatrist and was involved in the CIA’s mind control programs project ARTICHOKE and Project MKUltra, a research project into behavioral engineering of humans through use of psychoactive drugs such as LSD and hypnosis.

Mr. Hunt was 24 years old when Mr. Levin disappeared. Although he is innocent of the murder, he was nonetheless involved in an elaborate investment scheme and reacted impulsively when he learned that Mr. Levin had scammed him, by devising a plan to threaten and force Mr. Levin to sign a check so he could keep the BBC afloat. He also impetuously told fellow members of the BBC that he had murdered Levin in order to impress and intimidate them in a misguided attempt to keep control of his fellow members of the BBC and assure his place at the top of the pecking order.

Under California law, Mr. Hunt was a youth offender when he committed his financial crimes and when the alleged murder occurred.²³ Scientific evidence on adolescence and young adult development and neuroscience shows that certain areas of the brain, particularly those affecting judgment and decision-making such as the prefrontal cortex, do not develop until the early-to mid-20s.²⁴ The prefrontal cortex is responsible for a variety of important functions of the brain including: attention, complex planning, decision making, impulse control, logical thinking, organized thinking, personality development, risk management, and short-term memory.²⁵ These functions are highly relevant to criminal behavior and culpability.²⁶ The prefrontal region (the region of the frontal cortex anterior to the motor areas) of the human cerebral cortex appears to play an important role in suggestion.²⁷ Children, with still-developing prefrontal cortices, are

²³ Mr. Hunt was 24 years old when the alleged murder occurred. In California, a youth offender is a person who commits a crime before age 26. (Pen. Code § 3051, subd. (b).)

²⁴ Exhibit E, p. 3.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Asp, E., Manzel, K., Koestner, B., Cole, C. A., Denburg, N. L., & Tranel, D. (2012). A neuropsychological test of belief and doubt: damage to ventromedial prefrontal cortex increases credulity for misleading advertising. *Frontiers in neuroscience*, 6, 100. <https://www.frontiersin.org/articles/10.3389/fnins.2012.00100/full>

more susceptible to suggestion.²⁸ Accordingly, of people who engage in criminal behavior prior to age 25, only a relatively small proportion develop entrenched patterns of problem behavior.²⁹

Although highly intelligent, Mr. Hunt was deficient in several areas mentioned above, including complex planning, decision making, impulse control, logical thinking, organized thinking, personality development, and risk management at the time he was involved in the BBC. He was also highly influenced by the thought suggestions planted into his subconscious by his father when his prefrontal cortex was forming.

These considerations both lessen Mr. Hunt's moral culpability and enhance the prospect that, as he matured into an adult and neurological development occurred, he can become a contributing member of society.³⁰ Additionally, even if Mr. Hunt were guilty of the murder of Mr. Levin, the sentence of LWOP, given the circumstances of the crime compared to other murders, is extremely harsh. None of the other alleged participants in the murder have been convicted of murder. Dean Karny was given immunity and never served a day in jail, and Jim Pittman received a three-year sentence for accessory to murder after the fact after being tried twice for murder.³¹

IV. REHABILITATION

The turn for Mr. Hunt came in 1987 at the age of 27. Shortly after being sentenced to LWOP, he read the highly acclaimed spiritual book, *Autobiography of a Yogi*, by Paramhansa Yogananda. The book had a profound effect on him, revolutionizing his entire life and worldview.

²⁸ Ceci, S. J., Ross, D. F., & Toglia, M. P. (1987). Suggestibility of children's memory: Psycholegal implications. *Journal of Experimental Psychology: General*, 116(1), 38–49. <https://doi.org/10.1037/0096-3445.116.1.38> and Bruck, M., & Ceci, S. J. (1995). Amicus brief for the case of State of New Jersey v. Michaels presented by Committee of Concerned Social Scientists. *Psychology, Public Policy, and Law*, 1(2), 272–322. <https://doi.org/10.1037/1076-8971.1.2.272>

²⁹ 2013 Cal Stats. ch. 312, § 1

³⁰ 2013 Cal Stats. ch. 312.

³¹ Pittman's first trial, which occurred prior to Mr. Hunt's trial, resulted in a hung jury voting 11 to 1 in favor of guilty. Pittman's second trial, which occurred after Mr. Hunt's trial, resulted in a hung jury voting 10 to 1 in favor of acquittal. (See Exhibit D.)

He read all of Yogananda's other books and carefully studied his lessons in "Self-Realization." The effect Yogananda's teachings had was to bring him back to those qualities of spirit and heart with which he was endowed by God.

Mr. Hunt has practiced a form of Raja Yoga taught by Yogananda for over 30 years and meditated twice a day on average throughout his term of imprisonment. The teachings of Yogananda and the inspiration of his example were instrumental for Mr. Hunt to navigate through nearly 30 years on Level-IV prison yards without concession to the authority of the gangs, and without any resort to violence, drugs, alcohol, or theft. He actively practiced "non-cooperation with evil," refusing to move drugs and weapons, participate in the riots, and has made friends across all racial lines.

Mr. Hunt has devoted himself to serving the best interests of those around him. Whenever Mr. Hunt has by chance learned of an attack planned against an inmate or other malfeasance, he has found a way to anonymously convey that information to the prison administration through an attorney or investigator. He has served as a Chaplain's Clerk and Law Library Clerk.³² He has been lauded for his participation in the Inside Circle Men's Group.³³ He has also assisted dozens of fellow prisoners in challenging their convictions and/or sentences, with sixteen people obtaining release.³⁴ Many of his fellow prisoners attest to Mr. Hunt's character and how he has assisted them.³⁵

Correctional Officer M. Saesee attests to Mr. Hunt's character and suitability for reintegration into society, stating:

³² Exhibit F, pp. 1-2.

³³ Exhibit F, pp. 3-5.

³⁴ Exhibit G, p. 9.

³⁵ Exhibit G.

“In my opinion, Hunt has no inclinations to re-offend. All of his activities appear directed towards positive goals. He has a reputation for helping others in ways consistent with institutional policies. I would place him solidly in the top one percent as far as suitability for reintegration with society. He has a calm and affable bearing, responds to orders without hesitation, and exhibits absolutely no interest in drugs, pruno,³⁶ or affiliations that are associated with prison violence.”³⁷

Correctional Lieutenant K. Kendall has known Mr. Hunt for over twenty years and attests to Mr. Hunt’s character and suitability for reintegration into society, stating:

“Inmate Hunt has demonstrated a positive attitude and a willingness to assist Custody staff in any way he can. In all my interactions with Hunt over the past twenty (20) years he has always remained respectful and demonstrated a level of integrity not normally seen in a prison setting. Hunt is very intelligent and has a very productive work history during his incarceration. In his many years incarcerated, Hunt has managed to have a minimal amount of disciplinary issues. To be able to live on a Level 4 yard for as long as Hunt did and manage to not get into the politics or any trouble should speak volumes about the character he has. Hunt has managed to stay away from gang activities not to mention he has never been cited for any drug or alcohol violations.”

“I believe that Hunt, if given the opportunity, can definitely reintegrate back into society with no issues. I believe that Hunt has done everything possible during his 33 years of incarceration to demonstrate his ability to be successful outside of prison.”³⁸

Correctional Officer J. Murphy also attests to Mr. Hunt’s character and suitability for reintegration into society, stating:

“Hunt demonstrates a level of integrity and responsibility far beyond the expectations of his duties and his behavior is indicative of someone who strives to be a productive member of society. Hunt has been incarcerated within CDCR for many years, it should be noted he does not participate in any gang related activities. Hunt has good work ethics and is self-motivated. I believe he has the ability to support himself and reenter back into society as a productive member of his community. Hunt has proven as an ideal candidate for parole under Penal Code 1170(d)(1). I also believe, if given the opportunity, Hunt would become a productive and law-abiding citizen.”³⁹

³⁶ Pruno is prison-made wine.

³⁷ Exhibit F, p. 6.

³⁸ *Id.*, p. 7.

³⁹ Exhibit F, p. 8.

V. ELDERLY PAROLE FACTORS

Mr. Hunt is now 60 years old and has served more than 34 years in prison. California's Elderly Parole Program affords "special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence."⁴⁰ If his sentence were commuted to 25 years to life, Mr. Hunt would qualify for this program.

Mr. Hunt has been diagnosed with atrial fibrillation, commonly known as a heart flutter, which puts him at an increased risk of stroke and heart failure and required hospital stays.⁴¹ He also has congestive heart failure and cardiomyopathy.⁴² He has a heart ejection fraction of 21 percent, significantly lower than the 50-70 percent fraction that is normal. He has had skin cancer, and currently has a high white blood cell count and is scheduled to have a bone marrow biopsy.⁴³

In short, Mr. Hunt is experiencing the onset of heart failure and may have other yet unknown serious medical issues. Mr. Hunt's medical issues, in particular his heart condition, reduce his risk for future violence.⁴⁴

VI. FAMILY AND COMMUNITY SUPPORT

Mr. Hunt has a tremendous amount of community support for his clemency petition. His petition includes 518 letters of support from fellow members of the Ananda Church of Self-Realization.⁴⁵ In addition, nearly 26,000 people have signed an online petition supporting commutation of Mr. Hunt's sentence.⁴⁶

⁴⁰ Penal Code § 3055, subd. (c).

⁴¹ Exhibit H.

⁴² *Ibid.*

⁴³ Exhibit H, p. 1.

⁴⁴ Penal Code § 3055, subd. (c).

⁴⁵ Exhibit I.

⁴⁶ Exhibit J. <https://www.change.org/p/to-the-governor-of-california-free-joe-hunt>

Mr. Hunt also has the support of a loving family. His wife Jamie, his sister Katherine and her husband Michael, his nephews Evan and Alexander, and his first wife Tammy all request that Mr. Hunt's sentence be commuted.⁴⁷

VII. CONCLUSION

Mr. Hunt readily admits that he did not lead a blameless life prior to his incarceration.⁴⁸ However, he is not guilty of murdering Ronald Levin. In fact, it is high questionable if Mr. Levin was even murdered at all. Notwithstanding the issues with Mr. Hunt's conviction, he has served 34 years in prison and demonstrated a profound change in his personality makeup transforming himself from a person who sought personal gain and success at the expense of others to a person who puts others before himself. Today at age 60, Mr. Hunt is no longer the impetuous young man who was driven by relentless pursuit of success instilled in him as a child by his father. Today he is a caring man who helps others around him in any way he can. He has made these changes in himself, despite being sentenced to LWOP with no hope of obtaining parole. None of the other individuals alleged to have been involved in Mr. Levin's murder served more than three years in prison. Mr. Hunt has the onset of heart failure and is not a danger to anyone. Mr. Hunt, his family, friends and church community plead for your mercy, Governor Newsom, and request that his sentence be commuted down to time served, or in the alternative, 15 years to life so that he can have the opportunity to demonstrate his rehabilitation to the parole board and gain a rapid release and reintegration back into society.

Mr. Hunt recognizes that normally the request would be for commutation to 25 to life. However, based on the truly extraordinary factors, a commutation to a lesser charge, e.g., second degree murder or manslaughter, is justified to better redress the balance of equities in this highly

⁴⁷ Exhibit K.

⁴⁸ Exhibit L.

unusual situation, i.e., a probable miscarriage of justice which the judicial system has not addressed due to technical and procedural factors unrelated to doing justice in this individual case, coupled with remarkably persuasive evidence showing that Mr. Hunt has become not just a model prisoner, but a productive and valued member of society.

Dated: September 3, 2020

Respectfully submitted,

/s/ *Tracy Lum*

Tracy Lum

Attorney for Joe Hunt