SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CRIMINAL DIVISION - FELONY BRANCH

UNITED STATES OF AMERICA)	CRIM. NO. F 6602-81
)	
V.)	JUDGE UGAST (SENIOR JUDGE)
)	
DONALD GATES	j	S:H: DECEMBER 23, 2009

GOVERNMENT'S MOTION TO JOIN IN DEFENDANT DONALD GATES' MOTION TO VACATE CONVICTIONS ON THE GROUNDS OF ACTUAL-INNOCENCE

The United States, by and through its attorney, the United States Attorney for the District of Columbia, respectfully provides notice to this Court that, after a further review of all the circumstances in this case, the government now joins in the Defendant's Motion to Vacate Convictions on the Grounds of Actual Innocence. The United States withdraws the government's previous request for time to complete additional DNA testing, and submits that defendant's convictions should be vacated and dismissed immediately.

WHEREFORE, based on all of the above, the government respectfully requests this Court issue the attached proposed order, vacating Donald Gates convictions for first degree felony murder while armed, rape while armed, and carrying a pistol without a license.

Respectfully submitted,

CHANNING D. PHILLIPS

ACTING UNITED STATES ATTORNEY

JOAN DRAPER

ASSISTANT UNITED STATES ATTORNEY

CERTIFICATE OF SERVICE

I certify that I caused the Government's Motion to be delivered by first class mail, and by electronic facsimile, this 18th day of December, 2009, to counsel for defendant, Sandra Levick and Parisa Dehghani-Tafti, Special Litigation Division, Public Defender Service, 633 Indiana Avenue N.W., Washington D.C. 20004.

JOAN DRAPER

SPECIAL PROCEEDINGS DIVISION

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555 4th Street, N.W.

Washington, D.C. 20530

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CRIMINAL DIVISION - FELONY BRANCH

UNITED STATES OF AMERICA) CRIM. NO. F 6602-81		
V.) JUDGE UGAST (SENIOR JUDGE)		
DONALD GATES) S:H: DECEMBER 23, 2009		
ORDER			
Upon consideration of Donald E.	Gates' and the government's joint Motion to Vacate		
his Convictions on the Grounds of A	actual Innocence, filed pursuant to the Innocence		
Protection Act, D.C. Code § 22-4135(a)), and the entire record herein, including Mr. Gates'		
Affidavit of Innocence and the results of DNA testing by National Medical Services and			
Bode-Technology Group that exclude Mr. Gates as the perpetrator, this Court finds by clear			
and convincing evidence that Mr. Gates is actually innocent of the June 22, 1981, rape and			
murder of Catherine Schilling, and of a	ll charges connected with that crime. Accordingly,		
it is on this day of December, 2009, ORDERED that:			
Donald E. Gates' convictions for first degree felony murder while armed, rape while			
armed, and carrying a pistol without a license are hereby VACATED, and the counts are			
DISMISSED WITH PREJUDICE on th	ne grounds of Actual Innocence.		
SO ORDERED.			

The Honorable Fred B. Ugast, Senior Judge

Sandra Levick, Chief Parisa Dehghani-Tafti, Staff Attorney Special Litigation Division Public Defender Service for the District of Columbia 633 Indiana Ave., NW Washington, DC 20004

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