

PETITION FOR COMMUTATION

(Must be received by Commission prior to first of hearing month)

NAME: Donald M. Paradis # 18362
CRIME: Murder SENTENCE: Death
SENTENCE BEGAN: April 7, 1982 PAROLE ELIGIBLE: _____
COUNSELOR: Rick Anderson Yes ___ No When _____

TYPE OR PRINT NARRATIVE:

I respectfully request, as provided by Idaho law, that the Commission of Pardons and Parole recommend to the Governor of the State of Idaho that I be granted:

(1) A reprieve from my sentence of death so that this Commission may consider my request for clemency; and

(2) A conditional pardon subject to the following: (a) the right of the State of Idaho to retry me for the murder of Kimberly Palmer within a reasonable period of time; and (b) my voluntary waiver of any claims of double jeopardy in connection with such a retrial; or

(3) If this Commission determines that it cannot recommend that I be granted a conditional pardon, then I ask that it recommend to the Governor that my death sentence be commuted to an indeterminate sentence of life.

This request is supported by the attached Memorandum in Support of Petition for Clemency and Request for Reprieve dated April 3, 1996 and Exhibits thereto.

April 3, 1996



Donald M. Paradis

Table of Contents

	<u>Page</u>
I. INTRODUCTION	1
II. WHAT REALLY HAPPENED: ACCORDING TO THE PEOPLE WHO WERE THERE, PARADIS IS INNOCENT OF KIMBERLY PALMER'S MURDER	4
III. THE EVIDENCE PROVES PARADIS IS INNOCENT	11
a. The Medical Testimony Presented by the Prosecution against Paradis	12
b. What Medical Testimony State Medical Expert Witness Failed to Reveal to the Paradis Jury Shows the Testimony was Misleading or False	14
c. Brady's Truthfulness Is Now in Doubt	19
d. Forensic Pathologists Come to Paradis' Defense	21
IV. BROWN'S INEXPERIENCE AND CONFLICT AS A POLICE OFFICER INFECTED THE ENTIRE TRIAL AND LED THE JURY TO CONVICT AN INNOCENT MAN	23
V. THOMAS GIBSON'S CONFESSIONS EXONERATE PARADIS	27
VI. WHY WITNESS MOLINE'S TESTIMONY BY ITSELF WAS NOT ENOUGH TO CHANGE TRIAL JUDGE'S MIND	33
VII. WHY STATE COURTS HAVE REFUSED TO CONSIDER ALL OF THE EVIDENCE OF PARADIS' INNOCENCE	34
VIII. THE FEDERAL APPEALS HAVE NOT RULED ON PARADIS' GUILT OR INNOCENCE.	37
IX. DONALD PARADIS -- HIS PAST	40
X. DON PARADIS - NOW	45
XI. LETTERS FOR DON PARADIS	50
XII. RELIEF SHOULD BE GRANTED BY THIS COMMISSION AND THE GOVERNOR	51

Paradis Clemency Petition: List of Exhibits:

1. Moline Testimony, Motion for New Trial, February 24, 1982.
2. Moline Polygraph Tests, February 24, 1982.
3. Terry Jones Affidavit, May 5, 1994.
4. Wurzburg Affidavit, January 17, 1995; Luster Affidavit, November 7, 1994.
5. Excerpts of Evans Testimony, August 28, 1987.
6. Police Map of Mellick Road site.
7. Ruth Jones' Statement to Kootenai County Sheriff and Testimony, Paradis Trial, Volume 2, December, 1981.
8. Brady Testimony, Paradis Trial, Volume 3, December, 1981.
9. Letters from Prosecutor to Brady, December 11 & 22, 1981.
10. Brady Testimony, Evans Trial, August 28, 1987.
11. Grey Affidavit, January 6, 1996.
12. Sperry Affidavit, January 12, 1996.
13. Peterson Affidavit, December 29, 1995.
14. Peven Affidavit, October 15, 1986.
15. Kesonen Article, Coeur d'Alene Press, March 12, 1995.
16. Excerpts of The New Yorker Magazine Article, February 13, 1995.
17. Gross Affidavit, December 19, 1984.
18. Brown Affidavit, September 15, 1986.
19. Photo of Brown as a Police Officer; Letter from City of Coeur d'Alene, August 6, 1993 (with attachment); Watson Affidavit, April 19, 1994.
20. Gibson Confessions.

I. INTRODUCTION

Fifteen years ago, Don Paradis did something that was very stupid and wrong. Early one morning on June 21, 1980, he came home to find the two dead bodies of a man and a woman in his house in Spokane, Washington. There had been a terrible fight the night before between the male victim, Scott Currier, and Charles Amacher and others staying in the house, and Currier was killed in the fight. To cover up Currier's murder, Thomas Gibson killed Currier's girlfriend, Kimberly Palmer. Paradis was not home when these murders occurred. Foolishly and wrongly, Don Paradis helped those who committed the murders take the bodies out of his house and hide them in the woods near Post Falls, Idaho.

Paradis should have immediately called the police, but he was afraid he would be blamed for the murders in his own house. As a member of the Gypsy Jokers, a motorcycle gang in persistent conflict with the authorities, Don did not trust the police. Because of his bad judgment, but not because he killed anyone, Don Paradis was convicted of murder in Idaho and has spent the last fifteen years on death row.

It is difficult to believe that a person who is not guilty can go through a jury trial and many appeals in the best and fairest legal system in the world and still be convicted and sentenced to death. Even in our legal system, of which we are justly proud, many things can go wrong. It will be apparent from this clemency petition, as well as from a careful review of the trial transcript and the evidence, that something has gone terribly wrong in Paradis' case. If this Commission does not act, Don Paradis, although he has not killed anybody, will be executed.

This petition seeks to explain what went wrong at each stage of the Paradis case. We beg the Commission's patience with this detailed explanation and necessary supporting exhibits. It is essential to understand that Don Paradis is not a killer and that to put him to death would simply add a further terrible wrong to the wrongful killing of Kimberly Palmer. It is also important to understand how and why no court has heard all of the evidence of Don Paradis' innocence.

The prosecution needed to prove to the jury at Don Paradis at trial that Kimberly Palmer died in Idaho. The State has acknowledged that if Kimberly Palmer did not die at the Idaho site where her body was found and where Paradis was seen, it has no case against Don Paradis. Circumstantial evidence could not prove this, and the prosecution relied on the testimony of Dr. William Brady, the State's key witness and pathologist who performed the Palmer autopsy. To obtain its conviction and death sentence, the prosecution presented questionable medical and circumstantial evidence that has since been discredited.

Medical evidence which has come out over the past fifteen years, and which was not presented at his trial, conclusively establishes that Kimberly Palmer did not die in Idaho, but died hours before her body was brought to Idaho. Three witnesses have come forward, none of whom were presented at his trial, to swear that they saw Kimberly Palmer killed in Spokane and that Don Paradis was not there and had nothing to do with the killing. Two more witnesses have come forward, also not presented at Paradis' trial, to swear that they saw Kimberly Palmer dead in Spokane before her body was brought to Idaho. One of these witnesses has actually confessed to the killing. Also uncovered since the trial is the unbelievable fact that, unknown to Paradis, his court appointed lawyer, who was only six months out of law school and handling his first trial, was working for the local police at the same time that he was supposedly representing Paradis. This may explain why the evidence of Paradis' innocence was not developed at his trial.

Paradis has tried to present much of what is in this petition to the Idaho State Courts. However, the prosecution successfully argued that the courts are closed to Paradis because his other meritorious claims were raised too late. The lengthy federal appellate proceedings in this case, including a hearing before U.S. District Judge Ryan, have been preoccupied with legal issues of federal constitutional law, and did not address the central question of Paradis' innocence. These proceedings also occurred before much of the evidence of his innocence came to light. All of these court proceedings have been no more than a hollow procedural shell. This case is indeed the kind of miscarriage of justice that the clemency process can recognize and remedy.

Moreover, Don Paradis does not deserve the death penalty. He is not a killer, is not dangerous and, although, until he went to prison, he led a deeply troubled, rebellious life full of drug use and lesser crime; he has always been a loving, religious person. In prison he has grown from a confused and angry young man to a responsible mature adult. Ironically, the agonizing torment of awaiting his execution for a crime he did not commit has not made him rage at the world, but has led him to become more thoughtful, more caring. We do not make these statements to evoke sympathy, but to show the Commission that Paradis will lead a meaningful life if his requested relief is granted.

The present application can by no means convey the full story of the Paradis case or all the arguments for relief from this Commission. Paradis therefore requests that, as provided by the law, the Commission grant him a hearing at which time he could present orally his arguments for relief and address any questions the Commission may have.

II. WHAT REALLY HAPPENED: ACCORDING TO THE PEOPLE WHO WERE THERE, PARADIS IS INNOCENT OF KIMBERLY PALMER'S MURDER

In June 1980, Don Paradis lived in Spokane, Washington. On Friday evening of June 20, 1980 and on into the morning of Saturday, June 21, a group of bikers from different places and their girlfriends were staying in Don's house. Paradis did not know all of the people at the house and was not home during much of the night.

At about 1 or 2 a.m. Scott Currier suddenly showed up at the house with his girlfriend, Kimberly Palmer. Don was not home when Currier and Palmer arrived, but Thomas Gibson and Charles Amacher were there. Gibson, from Oregon and a member of the Vagos, another motorcycle gang, was staying at Paradis' house with his girlfriend, Cindy Simera. Amacher was a Gypsy Joker also from Oregon who had just been released from prison. Amacher was also staying at the house with his girlfriend, Roseanna Moline. Also, there was Larry Evans, who was trying to become a member of the Gypsy Jokers.

Currier was from California and a member of another motorcycle gang. When he arrived at the house late at night he was angry and accused the other bikers at the house of having stolen guns from his car. A violent argument broke out in the kitchen. As soon as the argument began, Gibson asked his girlfriend, Cindy Simera, to leave the house. Kimberly Palmer, Currier's girlfriend and Roseanna Moline were told to go into a bedroom and close the door.

While the argument was going on, Don Paradis returned to his house and became involved in the argument. At one point, Scott Currier reached into his boot for a gun and Don, in an attempt to stop Currier, hit him. In the ensuing brawl, Charles Amacher's arm went through a window and was seriously cut. The fight then subsided. The kitchen was splattered with blood. Don, enraged by this fight in his home and angry at everyone there, announced he

was leaving and demanded that his house be cleaned up and that everybody clear out by the time he returned.

Don then left. At that time he believed that the fight was over and that everyone would leave his house. But while Don was out, a terrible fight ensued between Currier and Amacher. Amacher beat Scott Currier to death and a short time later, apparently to keep her quiet, Thomas Gibson strangled Kimberly Palmer.

Neither the prosecution nor Paradis' defense lawyer, in possibly his greatest error, called to testify at Paradis' trial any of the witnesses who were at the house that night. However, Roseanna Moline, who was there, testified under oath after the Paradis trial at a motion for a new trial as to how Kimberly Palmer was killed.¹ Moline testified that she and Kimberly Palmer stayed in the bedroom for several hours, talking and drinking wine. They had turned the radio up full volume so that, while they were aware that there was an argument and fight going on elsewhere in the house, they did not realize how serious the fight was. At some point after Scott Currier was killed, Gibson called to Moline and Palmer from the hallway outside the bedroom: "Kimberly, you can come take your old man home now." Moline described what then followed:

Q. Then what happened?

A. Kimberly grabbed her purse, got up, headed through the door, and I was right behind her, right with her, and when we got through that door, we got through that doorway she was grabbed.

Q. Who grabbed her?

A. Thomas Gibson grabbed her.

Q. What did you do?

A. He choked her.

¹ A copy of Moline's testimony given on February 24, 1982, is attached as Exhibit 1.

Q. Now what did you do?

A. I ran out the front door.

Q. From that period that he grabbed her until you got out the front door, did you observe anything?

A. I heard her choke, I saw her purse drop on the floor, she was like lifted off. I looked down and went out the front door.²

Moline also testified that Don Paradis was not at the house when Kimberly Palmer was strangled.³ The truth of her testimony was confirmed by two polygraph tests.⁴

Moline testified in convincing, graphic detail about what she had witnessed. She was not charged in Kimberly Palmer's murder and had no interest in lying about the murder. (To the contrary, Moline incriminates herself in her testimony because she admitted that she was present when Palmer was killed in Spokane.) Further, she has stated that she was not a friend of Don Paradis and did not like him.

Moline also described a singularly alien event that she could never have invented: sometime later in the night she saw Gibson on top of Palmer's limp, dead body on the floor apparently trying to have sexual intercourse with the corpse.⁵ In order to perform this gruesome act, Gibson apparently cut open the front of Kimberly Palmer's jeans and in the process cut her genitals; since this wound was inflicted well after her death, it did not bleed at all and there was no trace of blood in her jeans which covered the wound. The absence of blood from this wound

² Exhibit 1, Moline Testimony, February 24, 1982, p.15. See also pp. 82-83.

³ See Exhibit 1, Moline Testimony, February 24, 1982, pp. 19-20, 64 & 81.

⁴ See Exhibit 2, Moline Polygraph tests, February 24, 1982.

⁵ See Exhibit 1, Moline Testimony, February 24, 1982, pp. 17-19 & 58-61; see also Exhibit 5, Evans Testimony, August 28, 1987, pp. 162-64.

in the victim's jeans would turn out to be a key fact in this case, since it cannot be explained unless the victim was dead hours before it was inflicted. As will be further explained below, the absence of blood from this wound proves that the victim did not die in Idaho.

After the murders, someone called another biker to the house to help decide what to do. Don Paradis learned only in 1994 that Terry Jones, the local president of the Gypsy Jokers, had been at the house. Before the Paradis trial, the police received an anonymous tip that Jones had been there. Jones came forward in 1994 to testify that he entered the house and saw two dead bodies and quickly left.⁶ Jones says that he never liked Paradis and it wasn't until 1994, when he had stopped drinking and had become religious, that he felt an obligation to come forward as a witness that he had seen the two dead bodies that night in Spokane. He had nothing to gain by coming forward and risk being charged. No one called Jones to testify at Don Paradis' trial.

Charles Amacher later confessed to his own lawyer that he had killed Currier. He also stated that Kimberly Palmer was killed in the Spokane house and that Don Paradis was not present when she was killed or otherwise involved in her murder.⁷ This confession only came to light in 1995 after Amacher's death and after Amacher's lawyer was released by court proceedings in Oregon from his duty of secrecy. This confession mirrors statements made in 1985 to John Luster, who is now an Idaho judge.⁸

Don Paradis returned home in the early morning to find a bloody kitchen and two dead bodies in his house. He panicked. He was afraid to call the police. He was also afraid that the other bikers were going to depart and leave him with two dead bodies in his house. He agreed to help remove the bodies from his house and take them elsewhere.

⁶ See Exhibit 3, Terry Jones Affidavit, May 5, 1994.

⁷ See Exhibit 4, Wurzburg Affidavit, January 17, 1995 and Luster Affidavit, November 7, 1994.

⁸ See Exhibit 4, Luster Affidavit, November 7, 1984.

Currier's large, 220 pound body was put in a blue sleeping bag and tied shut. Kimberly Palmer's slight body weighing only 105-115 pounds was placed in a red sleeping bag which was not tied shut. As Larry Evans testified years later, both sleeping bags containing the bodies were loaded into Currier's VW van in Spokane.⁹

With Gibson driving, Paradis in the front passenger's seat and Evans in back with the bodies, they drove 20 miles across the state line into Idaho to Post Falls and then across the Spokane River and up Mellick Road, looking for somewhere to put the bodies. All three men were sick and disoriented from their days of drug use, drinking, and their lack of sleep. During the trip they hardly talked. They were not thinking coherently.

Gibson drove the van up Mellick Road past Mrs. Jones' house. The van was noisy. Mrs. Ruth Jones was watering her garden and saw the van and looked at her clock. She wondered who was going up the road at 6:30 a.m. Almost .4 miles past her house the van had a flat tire. There was no spare. While Gibson dealt with the stranded van, Evans dragged the blue sleeping bag containing Currier's body out of the van, up the road and 20-25 feet into the bushes. Currier's 220 pound body was heavy and very hard to move. He did not take it very far.¹⁰

Gibson picked up the red sleeping bag containing Kimberly Palmer's body from the van and then handed it to Paradis, who headed a few feet along the road, then down a steep, overgrown, brush-covered hillside into a ravine. As Paradis headed down the hillside with Palmer's body, the body slipped out of the open end of the red sleeping bag. Paradis then picked up her body, leaving the red sleeping bag behind. After about 30 feet, Paradis came to a barbed-wire fence. He climbed over the fence and then pulled Kimberly Palmer's body under

⁹ See Exhibit 5, Excerpts of Evans Testimony, August 28, 1987, pp. 56-61, 80-81 & 133-35.

¹⁰ See Exhibit 5, Excerpts of Evans Testimony, August 28, 1987, pp. 62-70, 180-82 & 196-97; see also Exhibit 6, Police Map of Mellick Road site.

it. Kimberly Palmer's chest was scraped on the ground as her body was dragged a few feet under the fence. The lowest strand of barbed wire snagged the back of Kimberly Palmer's jeans and tore her rear pocket. Kimberly Palmer was wearing a tank top which slipped over her head and hooked on her arm. Paradis continued carrying her body to the bottom of the ravine and laid Kimberly Palmer's body in an almost dry stream bed and partially covered her with some branches he found. He then struggled back up the very steep slope. When he arrived at the top, he found that the van was still stuck. In their haste and confused state, they tipped it over on its side.

The three men then walked back down Mellick Road past the Jones' house. Mrs. Jones has stated more than five times that she saw the van go up the hill at about 6:30 AM and the three men walk down the hill past her house no more than 15 to 30 minutes later.¹¹ She looked at her clock when the van went up the hill and was watching her regular television program when the van went back down. This time period is crucial to this case and proves Paradis' innocence. It has been accepted by both the defense and the prosecution. The three men were positively identified later in the morning in Post Falls.

The next night, early Sunday morning, June 22, 1980, someone set fire to Paradis' house in Spokane, apparently to hide evidence of the murders. Don was appalled. All his possessions were lost in the fire. The two bodies were discovered off Mellick Road that Sunday afternoon. On June 23, 1980, Don Paradis was arrested in Spokane at a gas station and charged in Washington, along with Gibson, Amacher and Moline, with the murder of Scott Currier. Don Paradis was represented at his Washington trial by Roger Peven, an experienced trial attorney from Spokane who now directs the office of the Federal Public Defender for Eastern Washington. (Roger Peven is convinced that Paradis is innocent.) At this trial, the State of Washington presented no evidence to show who was responsible for Currier's death. At the

¹¹ Exhibit 7, Statements by Mrs. Jones to Kootenai County Sheriff's Department and Mrs. Jones' Testimony at Paradis trial, December, 1981, pp. 230-33 & 235-37.

conclusion of the State's case, the defense rested without presenting any evidence. All the defendants were acquitted.

At this point Don thought that this nightmare was over. He was wrong. It had just begun. Based upon a wholly improbable scenario put together by the prosecutors and supported by their medical expert who was willing to mislead the jury, Paradis was then prosecuted for the murder of Kimberly Palmer in Idaho.

III. THE EVIDENCE PROVES PARADIS IS INNOCENT

Don Paradis was tried in Idaho for Kimberly Palmer's murder in December 1981. Because the prosecution had no witnesses to what actually happened, its case against Paradis was based entirely on circumstantial evidence. The prosecutor argued to the Paradis jury that Kimberly Palmer was transported alive in the van along with Currier's dead body to Mellick Road, Idaho where she escaped, ran into a steep ravine, and was strangled there by one of the three men. The State has conceded that if Kimberly Palmer did not die on Saturday morning, June 21, 1980 at Mellick Road, they had no evidence that Don Paradis was guilty of her murder. However, the truth is that Kimberly Palmer was strangled to death by Thomas Gibson in Spokane when Don Paradis was not there.

The circumstantial evidence presented by the State to show that Paradis had killed Kimberly Palmer in Idaho included the following:

- that Kimberly Palmer's body was found in Idaho;
- that Palmer's body was not in a sleeping bag (as compared with Currier's) and was found in a different place at the Mellick Road site; and
- that Paradis and the two other men were seen leaving the scene and were identified nearby later the same morning.¹²

However, the circumstantial evidence does not at all say that Kimberly Palmer died in Idaho; indeed, if anything, it points to her death, along with Currier's, in Spokane. Neither the police

¹² See Respondent's Post-Hearing Brief in Opposition to Petition for Writ of Habeas Corpus, May, 1987, pp. 32-33 and Respondent's Brief, Court of Appeals, April 28, 1988, pp. 3-8.

who investigated the crime nor any of the judges who bound Paradis over to trial could conclude, based on the circumstantial evidence, that Palmer was killed in Idaho.

We now know that Palmer's body was not in the red sleeping bag because she slipped out of the bag while being carried. The prosecution argued that if Kimberly Palmer was transported in the red sleeping bag, there would have been traces of blood found there. However, there was no blood in the red sleeping bag because Palmer had been dead for several hours before she was put in the bag and the blood from the wound to her nose had dried and there was no blood from her other more serious wound. The different circumstances in which the bodies of Currier and Palmer were found off Mellick Road are explained by the hurried disposal of one heavy body (Currier), tied in a bag and dragged not far from the van, and another much lighter body (Palmer), slipping out of the red sleeping bag and carried down the hill, dragged under the fence, tearing her jeans pocket in the process, left at the bottom of the hill partly concealed by a branch. Don Paradis admits that he helped bring the two bodies to the Mellick Road site. Therefore, it is logical that there would be evidence found at Mellick Road which was linked to Paradis' house in Spokane. Without something more, however, the circumstantial evidence does not prove where Palmer died and it most certainly does not prove that Don Paradis killed her.

The prosecution had no witnesses to the crime. They could not present any of the witnesses who were at Paradis' house when the murders took place, because these witnesses contradict the prosecution's theory. Gibson had already testified at his own trial in Idaho that he killed Kimberly Palmer in the Spokane house. He had written and told the judge before his trial that Paradis had nothing to do with Palmer's murder. Moline later testified that she had seen Gibson strangle Kimberly Palmer at the house when Don Paradis was not there. Evans was in hiding and was not arrested until 1986 and would also have contradicted the prosecution's case. Terry Jones, another witness, had visited the house and had seen the bodies. Amacher later confessed that he killed Currier and stated that Gibson had killed Palmer in Spokane when Paradis was not at the house. All these witnesses, had they testified at the Paradis trial, would have testified that Kimberly Palmer was dead in Spokane long before Don Paradis and the others

took her body to Idaho and/or, equally important, that Paradis had nothing to do with her death. None of them were called to testify.

Instead, the prosecution relied on the misleading testimony of Dr. Brady, an Oregon pathologist hired to do the autopsy of the victims before they were cremated, to present testimony to convince the Paradis jury that Kimberly Palmer died at Mellick Road in Idaho. We know from the result in the Evans trial in 1987 that, without Brady's misrepresentation of the evidence and under competent cross-examination, Paradis would have been acquitted.

a. The Medical Testimony Presented by the Prosecution to Show Palmer Died in Idaho

To show that Palmer had been killed in Idaho, Brady testified at the Paradis trial that:

(1) Currier died before Palmer: Based upon his observation that Palmer's body was less decomposed than Currier's, Palmer had died "a number of hours" after Currier,¹³ which permitted the prosecution to infer that, although Currier had been killed in Spokane, Palmer had been killed later in Idaho.

(2) Position of Palmer's body in stream shows she died there: The victim's body appeared to follow the contour of the stream where she lay. Brady testified that rigor mortis sets in 1 to 2 hours after death,¹⁴ which allowed the prosecutor to tell the Paradis jury that since her body was in a "natural position", Kimberly Palmer was alive when she was placed in the stream,¹⁵ and

¹³ Exhibit 8, Brady Testimony, Paradis Trial, December, 1981, Volume 3, pp. 453-55.

¹⁴ Exhibit 8, Brady Testimony, Paradis Trial, December, 1982, Volume 3, pp. 455-56.

¹⁵ Paradis Trial, Prosecutor's Closing Argument, pp. 705-06.

(3) Kimberly Palmer inhaled water from the stream: Based on his observation that Palmer's lungs were heavy and wet, she had inhaled water as she was dying from the stream where her body was found.¹⁶

A careful reading of Brady's testimony at the Paradis trial leaves the reader, and certainly left the Paradis jury, convinced that Brady's expert medical opinion was that Kimberly Palmer died at Mellick Road. In closing to the Paradis jury, the prosecutor argued:

. . . let's talk for just a moment, ladies and gentlemen, about . . . where Kimberly Palmer was killed. There is medical evidence to show that Kimberly Palmer's lungs were twice as heavy as they should have been, there was fluid in them. Kimberly Palmer was found face down in a creek, a natural source for fluid. Dr. Brady's opinion was that Kimberly Palmer was strangled, and then that she was placed down in the water, she didn't drown, but in her agonal responses, the diaphragm of any living organism is going to try to respond, to regain life, sucked water into those lungs.¹⁷

The Paradis jury believed him.¹⁸ Paradis was convicted. On appeal, the Idaho Supreme Court concluded that Palmer must have died in Idaho, because, based on Brady's testimony, Palmer's "lungs were half filled with water."¹⁹

b. Medical Evidence That the State Medical Expert Witness Failed to Reveal to the Paradis Jury Shows His Testimony was Misleading or False

Dr. Brady failed to mention to the Paradis jury medical evidence, to which he has admitted since the Paradis trial, that proves Paradis did not kill Kimberly Palmer in Idaho:

¹⁶ Exhibit 8, Brady Testimony, Paradis Trial, December, 1981, Volume 3, pp. 447, 450-51, 467 & Volume 5, 651-52.

¹⁷ State v. Paradis, Trial Transcript, pp. 702-03.

¹⁸ See Exhibit 9, Prosecutor's letters to Brady, December 11 & 22, 1981.

¹⁹ Idaho v. Paradis, 676 P.2d 31, 33 (Idaho 1983).

(1) Palmer could have died before Currier: Given the different conditions in which the two bodies were kept (i.e. Currier's body in a closed, warm sleeping bag vs. Palmer's body, exposed in a cold stream) and the passage of two days before Brady's observations of the bodies at the autopsy, no conclusions as to which victim died first could be drawn from the relative states of decomposition of the bodies; at the Evans trial in 1987, Brady testified that he was unable to say whether Palmer had died before or after Currier and that, based on relative measurements of decomposition, it was equally possible that Palmer died before Currier;²⁰

(2) Kimberly Palmer died elsewhere on her back; fluid cannot shift after death: Fluid becomes fixed in the lungs no more than 6 hours after death; therefore the fluid in Palmer's lungs could not have resettled to the back of her lungs two days after her death when her body was taken to Portland, which means that she must have died and lain for hours on her back before she was placed face down in the stream and therefore could not have died facedown in the stream where she was found;²¹

(3) The position of Palmer's body does not show she died in the stream where her body was found: At the Evans trial, Brady testified that rigor mortis does not set in for 2 to 4 hours (contradicting his testimony at the Paradis trial that it sets in 1 to 2 hours) and that, given the time frames in this case, rigor mortis and the natural position of Palmer's body could not help determine the place of death;²² Rigor mortis would have been delayed long enough for Palmer to have been killed in Spokane and for her body to have been placed in the stream within 2 to 4 hours after her death.

²⁰ See Exhibit 10, Brady Testimony, Evans Trial, August 28, 1987, pp. 143-44. See also Exhibit 1 Grey Affidavit paras. 15-17 and Exhibit 12 Sperry Affidavit, paras. 16-18.

²¹ See Exhibit 10, Brady Testimony, Evans Trial, August 28, 1987, pp. 155-56. See also Exhibit 11, Grey Affidavit, para. 18 & Exhibit 12, Sperry Affidavit, paras. 14 & 15.

²² See Exhibit 10, Brady Testimony, Evans Trial, August 28, 1987, pp. 154-55.

(4) It is not probable that Kimberly Palmer inhaled water from the stream: Contrary to his testimony at the Paradis trial, at the Evans trial, Brady testified that it was not probable that Kimberly Palmer's heavy, wet lungs were caused by her inhaling water from the stream and that it was common to find heavy lungs in cases of manual strangulation;²³

(5) The lack of water in Palmer's stomach contradicts the Brady supposition that she had inhaled water: At the Evans trial, Brady testified that had the victim inhaled water from the stream before she died, he would have expected to find water in her stomach, but did not;²⁴

(6) The medical evidence does not prove Palmer died in Idaho: Surprisingly, at the Evans trial, Brady admitted that none of the medical evidence in the case proves that Palmer died at Mellick Road, as opposed to Spokane;²⁵ and

(7) The genital wound without blood proves that Kimberly Palmer did not die at Mellick Road: At the Evans trial, Brady admitted that the absence of blood on the victim from the genital wound "troubled" him and "we have got to explain what happened to the blood"²⁶ because the absence of blood on the victim's jeans from a post-mortem wound on her genitals meant that it was impossible that she was killed at Mellick Road during the few minutes when Paradis was present and she must have been dead before her body was left in the stream. Brady

²³ See Exhibit 10, Brady Testimony, Evans Trial, August 28, 1987, pp. 167-70 & 173-74. See also Exhibit 11, Grey Affidavit, paras. 5-14, Exhibit 12, Sperry Affidavit, paras. 5-13 and Exhibit 13, Peterson Affidavit, December 29, 1995, paras. 5-7.

²⁴ See Exhibit 10, Brady testimony, Evans Trial, pp. 167. See also Exhibit 11, Grey Affidavit, paras 10 & 14 and Exhibit 12, Sperry Affidavit, para. 11.

²⁵ See Exhibit 10, Brady Testimony, Evans Trial, p. 142 & 90-93.

²⁶ Exhibit 10, Brady Testimony, Evans Trial, p. 120.

further testified at the Evans trial that the absence of blood from the wound meant that the wound must have been inflicted at least 1/2 hour after death and not at the Idaho scene;²⁷

Since it has been established that Paradis was at the Mellick Road site for substantially less than 15 to 30 minutes, and that, because of the total absence of blood, the genital wound must have been inflicted more than 1/2 hour after death, it was absolutely impossible that Palmer was killed at the site and she must have been killed hours earlier in Spokane as Moline, Gibson, Jones, Amacher and Evans have now all testified.²⁸

Since the trial the prosecution has offered changing and contradictory, fanciful theories to explain the absence of blood, but all of them are contradicted by the evidence:

- Mr. Thomas first argued that the genital wound could have occurred with no bleeding.²⁹ However, Brady himself has testified

²⁷ See Exhibit 10, Brady Testimony, Evans Trial, pp. 90-91, 116, 119-20, 125, 127-28, 130, 185-87.

²⁸ It is accepted that Mrs. Jones saw the van driving past her house up Mellick Road and 15 to 30 minutes later she saw the three men walking down Mellick Road past her house. Mrs. Jones house is .38 miles from the site where the bodies were found. That means that allowing for time to drive .38 miles up the road and walk .38 miles back down, the three men were at the site for no more than 5 to 20 minutes, during which time, according to the prosecution's theory, her killer would have had to first chase the victim down the hill through the fence to the stream, strangle her (Brady testified at Evans' Trial this alone would take 3-5 minutes), place her in the stream, wait for her to die and inhale water from the stream, remove her body from the stream, wait at least one-half hour, inflict the post mortem genital wound, put her body back in the stream, cover her body with branches and climb out of the ravine. In addition to being unbelievable, this scenario is simply not possible and, as the evidence now reveals, did not happen.

²⁹ Respondent's Post-Hearing Brief, U.S. District Court, May _____, 1987, p. 30.

at the Evans trial that the wound would have bled profusely if it had been inflicted any sooner than 1/2 hour after death.³⁰

- Mr. Thomas then argued that a downpour of rain the night after the murder would have washed the blood away from the wound and out of the jeans.³¹ But this ignores that Palmer was found on her stomach and that Brady testified that the genital wound was completely covered by her jeans³² and that, as every parent knows, blood does not easily wash out of cloth jeans.³³ This also ignores that the State's crime laboratory, using the most sensitive ultraviolet and chemical tests available found that there was no trace of blood on her jeans and that their tests would have detected blood in the jeans if they had been repeatedly washed or scrubbed with soap, which does not remove all traces of blood, and therefore profuse bleeding could not have entirely washed out of her jeans.³⁴ Moreover, neither the rain nor the stream was strong enough to wash away the blood which Brady admitted at the Evans trial was on Palmer's nose.³⁵ Common sense dictates that profuse bleeding could not have been entirely washed out of Palmer's jeans.

³⁰ See Exhibit 10, Brady Testimony, Evans Trial, pp. 90-91, 116, 119-20, 125, 127-28, 130, 185-87. See also Brady Testimony, U.S. District Court, April ____, 1987, p. 316-18, 887-88 & Lindholm Testimony, U.S. District Court, April ____, 1987, pp. 997-1000 & 1044..

³¹ Respondent's Brief, U.S. Court of Appeals, April 28, 1988, p. 29.

³² Brady Testimony, U.S. District Court, April 7, 1987, pp. 312-15.

³³ Brady Testimony, Evans Trial, August 28, 1988, pp. 89 and 181-82.

³⁴ Testimony of Ms. Marcum, State Crime Laboratory, U.S. District Court, April 15, 1987, pp. 1095-98 and 1126-27.

³⁵ See Exhibit 10, Brady Testimony, Evans Trial, August 28, 1987, pp. 85 and 88-89.

- Mr. Thomas next argued that the genital cut, which was 1 1/2" long and 1/2" deep, was caused by sticks and rocks when the police moved the body.³⁶ This theory supposes that the police would have mutilated the victim's body -- of which there is of course no evidence at all -- and ignores that the police noticed the dramatic cut on the front of Palmer's jeans when they found her body. The theory also contradicts Brady's own testimony that the genital wound was inflicted within a few hours of death, not 33 or more hours later.³⁷

Mr. Thomas has recently begun to call the genital wound an "artifact", although it is not apparent how this curt dismissal explains away the scientific significance of this evidence.

The prosecution has never explained specifically how, given what we know now about the medical evidence, Kimberly Palmer could have been killed in Idaho.

At the trial, Paradis' attorney, William Brown, did not ask Brady whether he believed it was probable that the victim had inhaled water from the stream. He did not ask Brady whether the absence of water in the victim's stomach showed that she did not inhale water. He did not ask Brady to explain how the absence of blood from the genital wound could be reconciled with her supposed death in Idaho. Had Brown done so, Brady would have had to answer as he did at the Evans trial. Had Brown done so, Paradis would not be before this Commission now. Because of the 42 day rule, no Idaho court since the Paradis trial has been willing to look at this medical evidence, except of course, at the trial in 1987 of co-dependent Larry Evans where Evans, based upon Dr. Brady's revised medical testimony, was acquitted.

³⁶ Lynn Thomas, Argument to Court of Appeals, August 4, 1988.

³⁷Paradis v. Arave, 667 F. Supp. 1361, 1379

c. Brady's Truthfulness Is Now in Doubt:

Statements and sworn testimony made by Brady before and after his testimony at Paradis' trial also contradict his testimony at that trial. At a briefing of law enforcement officials the day after the autopsy, the prosecutor, Marc Haws, noted that Brady had found "no water in [the] girl's lungs", that there was only a "spoonful of water in [her] lungs", and that Kimberly Palmer was "probably dead when [she] went in [the] water." This information appears in notes taken by the prosecutor on June 24, 1980 before the Paradis trial. These notes were received by Paradis' counsel in December 1995, although in 1987 Paradis had been denied the right to see them. These notes also confirm that during a meeting with Washington defense lawyers in September 1980, Brady assured defense counsel that he could not say where Kimberly Palmer died.³⁸ Mike Vrable, who represented Thomas Gibson, has given sworn testimony that Brady told him then as follows:

"So I asked him [Brady], '...Is it your testimony, are you in agreement that Kimberly Palmer, your examination supports the conclusion that she had a dying gasp and inhaled creek water?' And he said, 'No, that would be overreaching.'"³⁹

In 1995, top crime reporters questioned Brady. On March 5, 1995, on KPTV television in Portland, Northeast Reports, Brady admitted that the absence of blood was inconsistent with Kimberly Palmer being murdered in Idaho.⁴⁰ On ABC television Day One on March 9, 1995, Brady admitted that he could not explain the absence of blood.⁴¹

³⁸ See also Exhibit 14, Peven Affidavit, October 15, 1986.

³⁹ Paradis v. Arave, Vrable Testimony, U.S. District Court, April 8, 1987, pp. 617-18.

⁴⁰ KPTV, Northwest Reports, March 5, 1995.

⁴¹ ABC Television, Day One, March 9, 1995.

In 1995, District Judge Craig Kesonen, of the Kootenai County District Court, who presided at the 1980 Preliminary Hearing where he ordered Paradis to stand trial for Palmer's murder after he had reviewed all of Brady's testimony and statements, declared to the press:

I'm really distressed with what I've heard about this fellow [Brady]. It's strongly suggestive of perjury. It subverts the process and nobody wins. The system only works if people will honor their oath. It presumes people will honor their oath, no matter how agonizing. Otherwise, we've lost it all.

In the same statement, Judge Kesonen acknowledged that:

"the only thing that placed her [Palmer's] death in Idaho was the aspiration of water from the creek" and that "it was the only evidence . . . she died here [in Idaho]."

Judge Kesonen told the newspaper that, had he known at the time of the Preliminary Hearing what he knows now, he would not have ordered Don Paradis to stand trial for this murder.⁴²

Soon after the Paradis trial, Brady came under investigation and was fired as Medical Examiner for the State of Oregon. In the course of the investigation it was discovered that Brady performed private autopsies using state facilities, sold body parts for profit, and used bags of human blood saved from autopsies for his garden. It was also reported that Brady mutilated a corpse to hamper review of his initial autopsy by a medical examiner hired by a defendant.⁴³

⁴² See Exhibit 15, "Paradis Case Magistrate Airs Concerns", Coeur d'Alene Press, March 12, 1995, p. 1.

⁴³ See Interview with Dr. John Eisele, Kings County Medical Examiner, July 10, 1985; Investigation Report, August 19, 1985 at 28 (Interview with Dr. Larry V. Lewman, Deputy State Medical Examiner); Investigation Report, July 28, 1985, at 23-24 (Interview with Dr. Frank Whyte, Chief Deputy Coroner, Clark County, Washington), at 44-45 (Interview with John Lundy, Deputy Medical Examiner), at 69-70 (Interview with Richard Melcher, Pathologist's Assistant) & at 88-90 (Interview with Dr. Brady).

d. Forensic Pathologists Come to Paradis' Defense:

Three nationally recognized, forensic pathologists have furnished affidavits following their independent review of Brady's testimony in the Paradis case.⁴⁴ They are Dr. Todd Grey (the Utah Medical Examiner), Dr. Kris Sperry (Deputy Medical Examiner, Atlanta, Georgia) and Dr. Gary Petersen (Medical Examiner, Minneapolis). These doctors have donated their time to this case out of a sense of professional responsibility and a desire to see justice done. All three doctors concur that Brady's testimony at the Paradis trial was conjecture, without scientific basis and misleading or false. Among other things, these affidavits state:

1. A review of Dr. Brady's autopsy of Kimberly Palmer clearly indicates that she died of strangulation and did not inhale water from the stream;
2. It is normal for a strangulation victim to have fluid-filled lungs, and indeed it would be unusual if a victim of manual strangulation did not have fluid in her lungs;
3. The absence of foam or waterborne debris in Kimberly Palmer's throat or chest indicate that she did not inhale water prior to her death;
4. The absence of a significant amount of water in her stomach indicates that Kimberly Palmer did not inhale water before her death and that Brady's testimony on inhalation of water was without scientific basis, misleading, unprofessional or false;
5. The relative states of decomposition of the bodies of Kimberly Palmer and Scott Currier at the time of Brady's forensic examination did not give Brady a reasonable scientific basis to say who died first and that Brady's testimony was misleading and unprofessional;

⁴⁴ See Exhibit 11, Affidavit of Todd Grey, M.D., January 6, 1996; Exhibit 12, Affidavit of Kris L. Sperry, M.D., January 12, 1996; and Exhibit 13, Affidavit of Garry F. Peterson, M.D., December 29, 1995.

6. The settling of fluid (lividity) in the back of Ms. Palmer's lungs is entirely inconsistent with the State's theory that she died on her stomach in the stream and that Palmer must have died on her back and is consistent with her having died in Spokane and her body moved to Idaho several hours after her death;

7. It is impossible that Kimberly Palmer's genital wound was inflicted during the thirty minutes while Paradis was at the Idaho site; and

8. The absence of blood on Kimberly Palmer's jeans from Palmer's genital wound indicate that the wound was inflicted at least several hours after death and that therefore Kimberly Palmer was dead before her body was brought to the Idaho site.

These affidavits establish that Brady's testimony that convicted Don Paradis, which Brady himself has been forced to repudiate, is pure conjecture, without scientific basis, unprofessional, misleading and/or false.

Other recognized pathologists independently consulted by The New Yorker Magazine have also agreed that Kimberly Palmer did not die where her body was found.⁴⁵

⁴⁵ See Exhibit 16, The New Yorker Magazine, p. 68. See also Exhibit 17, Elliot Gross Affidavit, December 19, 1984.

IV. BROWN'S INEXPERIENCE AND CONFLICT AS A POLICE OFFICER INFECTED THE ENTIRE TRIAL AND LED THE JURY TO CONVICT AN INNOCENT MAN

When Don Paradis was charged for the murder of Kimberly Palmer in Idaho he had no resources to hire a lawyer. Don Paradis informed the Kootenai County Court at his preliminary hearing that Roger Peven (the lawyer who had successfully represented him in his trial for the murder of Scott Currier in Washington) was willing to represent him free of charge in Idaho. However, the Idaho court instead appointed a neophyte, William Brown, to represent him. Brown was only six months out of law school. Before attending law school, Brown had worked in New Jersey for many years in law enforcement. He had just moved to Coeur d'Alene and had been working for the prosecutor's office while trying to start a law practice when the judge offered him the Paradis case.

Brown had never studied criminal law. Brown had never tried any felony or jury case, let alone a murder case where the State was seeking the death penalty. Brown's half-hearted defense lasted a mere three hours. The prosecution took seven days.

Among the many errors that Brown made in Paradis' defense are:

- Brown failed to call any witnesses to the crime who would have testified that Palmer was killed in Spokane by Gibson when Paradis was not there and he would not let Paradis testify on his own behalf;

- Instead of calling any of the eyewitnesses to Kimberly Palmer's murder to the stand to testify to Don Paradis' innocence, Brown insisted on presenting an alibi witness, Aera Beaver, who he knew would contradict her previous statements to the police in saying she was with Paradis when he was seen in Post Falls and undermine the credibility of the defense's entire case.

- Brown failed to explain to the jury what had actually happened and where Palmer had been killed;
- Brown failed to cross examine his fellow police officers as to the condition and position of Kimberly Palmer's body when it was found and the lack of any signs of struggle where the body was found;
- Brown did not ask Brady, the State's only witness to the place and time of death, whether it was probable that Palmer had inhaled water from the stream, whether the absence of water in her stomach showed that she did not inhale water whether any of the medical evidence proved that Palmer died in Idaho;
- Brown failed to introduce Brady's autopsy report on Palmer into evidence which documented the genital wound which showed no bleeding;
- Brown did not ask Brady to explain, or even mention, the medical evidence that irrefutably proves that it was impossible for Don Paradis to have killed Kimberly Palmer in Idaho as alleged by the prosecution; and
- Rather than put forward the substantial evidence of Paradis' innocence, Brown presented irrelevant testimony as to such matters as soil samples on shoes, microscopic tests on water and stress tests on cloth that the prosecution could call a "smoke screen."

Brown's performance at Paradis' trial harmed rather than helped Paradis' cause. Some of the Paradis jurors referred to Brown as "Barley Fife", the bungling, comic character from

the Andy Griffith Show. Afterward Mr. Brown himself admitted to his many errors and omissions during Paradis' trial.⁴⁶

In defending Brown's performance, the prosecution often refers to an early Idaho Supreme Court decision which refers to Brown's performance as of the highest quality, and the affirmance of that decision by the federal courts. However, it is important to realize that under the law, the only issue the courts could decide was whether Brown's performance fell below "the standard of reasonably effective assistance of counsel contemplated by the Sixth Amendment."⁴⁷ To fall below this minimum standard, Paradis had to show that Brown's performance fell below other lawyers in the community, an almost impossible standard to meet. Furthermore, at the time of their decisions, the appellate courts were not aware of a further serious problem -- that Brown was working for the Police Department at the same time he defended Paradis -- because Paradis himself did not know this until 1993, when the Coeur d'Alene police disclosed that while he had been representing Paradis, Brown had been working for the Coeur d'Alene Police and was a Deputy Sheriff of Kootenai County.⁴⁸

A charitable view of Brown's inept representation is that his inexperience led him to commit so many blunders and omissions. However, a more likely explanation of Brown's unwillingness to challenge the State's case may be that he was constrained in zealously defending Paradis because of his allegiance to the local police. Brown, the local police, the trial judge and the prosecutor all knew Brown worked for the police, but this conflict was concealed from Paradis, his client. This egregious conflict of interest, even without the evidence of Paradis' innocence, undermines all confidence in the trial.

⁴⁶ See Exhibit 17, Brown Affidavit, September 15, 1986.

⁴⁷ Paradis v. Arave, 667 F. Supp. at 1388.

⁴⁸ See Exhibit 19, Photo of Brown as a Coeur d'Alene police officer sometime after the Paradis trial; letter from City of Coeur d'Alene dated August 6, 1993 (with attachments) and Affidavit of Roland Watson, April 19, 1994.

A defendant's right to be represented by an attorney totally loyal to his interests is at the core of our criminal justice system. Brown concealed his conflict from Paradis and his present counsel. Brown died in 1990. Even if Brown were alive, we could never know how this conflict affected his handling of this case, but it is apparent that his failure even to present a credible defense or challenge the State's theory of the events surrounding the crime proves that this conflict tainted his performance. The conviction of an innocent man, as proven by the evidence discovered since the trial, is further proof.

The State has alleged, without proof, that Don Paradis consented to have a policeman represent him. It defies our understanding of Don Paradis to imagine that he would have trusted a policeman to represent him. After all, he got in this whole mess because he did not trust the police enough to call them when he found the bodies in Spokane.

In the late 1980's, Brown resigned from the Coeur d'Alene police because the City concluded that it was not proper for a defense lawyer to work for the police. Brown represented Paradis from 1981 until 1986. Afterwards, Brown went back to work for the Kootenai County Prosecutor's Office where he belonged.

Because of Idaho's 42 day rule, the Idaho courts have refused to hear Paradis claims based on Brown's conflict of interest.

V. THOMAS GIBSON'S CONFESSIONS EXONERATE PARADIS

Since the crime, Thomas Gibson has confessed at least seven times to being responsible for Palmer's murder in Spokane. Although over the years there are differences in his description of the murder in Spokane, Gibson has clearly and consistently said that Paradis was not involved:

1. June, 1981 - Gibson Statements to the Trial Judge Before His Trial Exonerate Paradis:

Thomas Gibson and Paradis were originally scheduled to be tried together in Idaho. However, on the morning of jury selection for the joint trial, Gibson wrote and delivered a letter to the presiding judge, Judge Gary Haman, which stated that Palmer was killed in Washington and that "Don Paradis was not involved in anyway [sic], he is totally innocent of her death."⁴⁹

It was not to Gibson's benefit to call Paradis' innocence to the attention of Judge Haman. By stating that Paradis was innocent and not claiming any innocence himself, Gibson's note amounted to a tacit confession to responsibility for the murder of Kimberly Palmer. In writing the note, Gibson ran the risk that the charges against Paradis would be dismissed, leaving Gibson to face the murder charge alone. Judge Haman did not dismiss the charges against Paradis. Instead, he separated the two trials, allowing Paradis to call Gibson as a witness at his trial. But when it came to trial, Paradis' lawyer failed to call Gibson to testify.

⁴⁹ Exhibit 20, Gibson letter to Judge Haman, June 5, 1981.

2. June, 1981 - Gibson Confesses at his Own Trial and Exonerates Paradis:

At his trial in June 1981, Gibson testified that he knocked Palmer out at the house, that Larry Evans then choked her and that Paradis was not yet home.⁵⁰

3. August, 1982 - Gibson Confesses to the Prison Chaplain and Exonerates Paradis:

In 1982, Gibson confessed to Harley A. Brueck, the Idaho prison chaplain, that he (Gibson) had killed Palmer and that Paradis did not kill Palmer. Chaplain Brueck has testified as follows:

A. He (Gibson) told me that before he took the bread and wine, that there was something on his conscience that he had to tell me, that the man down the other end of the death row tier was innocent and that he, Tom, had done the crime and that he wanted me to do what I could to get Paradis off of death row.

Q. Did he specifically refer to Donald Paradis?

A. Yes, he did.

Q. Did he tell you what crime he was referring to?

A. The killing of the girl in north Idaho.

Q. Do you recall her name?

A. Palmer.

Q. Did he specifically mention that name to you?

A. Yes, he did.

Q. What else do you recall that he told you about at that time?

A. Nothing.

Q. Did he explain to you why in his opinion Paradis was innocent of killing Kimberly Palmer?

⁵⁰ See Exhibit 20, Gibson Testimony, Gibson Trial, June, 1981.

- A. He just said that he had done it and that Don did not do it.⁵¹

In 1983 Chaplain Brueck executed an affidavit recording this conversation with Gibson which stated that Gibson said that Paradis "was totally incapable of participating in the plan or design or the actual commission of the murder because he was not guilty of the crime for which he was convicted."⁵²

4. December, 1982 - Gibson Signs Affidavit which Exonerates Paradis:

On December 17, 1982, Gibson signed an affidavit saying that he had deliberately lied at his trial in order to shift guilt from himself to Paradis and that "at the time of the commission of this murder, DONALD M. PARADIS was nowhere in the vicinity nor had any knowledge of this murder" and Paradis "was totally incapable of participating in the plan or design -- the actual commission of the murder because he was not there."⁵³

5. March, 1983 - Gibson Gives Deposition under Oath which Exonerates Paradis:

On March 14, 1983 Gibson testified in a deposition, subject to cross examination by the prosecutor, that "Don Paradis had nothing to do with Kimberly Palmer's death, he wasn't there, present when she was killed."⁵⁴

6. January, 1985 - Gibson Confesses to The Spokesman-Review and Exonerates Paradis:

In January, 1985, Gibson confessed to David Bond, a reporter for The Spokesman-Review in Spokane. Gibson stated that he (Gibson) killed Palmer in Spokane and that Paradis

⁵¹ Exhibit 20, Brueck Testimony, April 6, 1987, pp. 147-62.

⁵² See Exhibit 20, Brueck Affidavit, January 24, 1983.

⁵³ See Exhibit 20, Gibson Affidavit, December 17, 1982.

⁵⁴ Exhibit 20, Gibson Deposition, March 14, 1983, pp. 7-10.

was nowhere around when Palmer or Currier were killed and that Paradis did not kill anyone. Bond reported on this conversation in an article published on January 5, 1985.⁵⁵ Bond later testified about this conversation:

A. . . . Gibson said he went downstairs, Paradis' home, this was happening on the main floor. Went downstairs, obtained a piece of bailing wire, and returned upstairs and as Miss Palmer was running through a doorway, he was on the other side and garroted her, you know, caught her from behind around the neck with the bailing wire.

Q. Did he indicate whether Paradis was present at all?

A. He was not.

Q. Would that have been true at the time of Scott Currier's death as well?

A. According to Gibson, Paradis was not at the house when Currier died. He was there before and afterwards.

Q. Go on from where you left off with Mr. Gibson describing this bailing wire that he put around the throat of Kimberly Palmer. What else did he describe to you?

A. Well, he described striking her twice very hard with his -- it doesn't say in the story but it was in the chest with his fist. This was after she had been dropped and he said he then -

Q. When you say dropped, you mean to the floor?

A. Yes.

Q. And what impression did you have, she was dropped on her knees, her back?

A. On her back. She was on her back and he then attempted to -- he said he felt for her pulse on her neck with his

⁵⁵ See Exhibit 20, "Killer: A Man on Death Row is Innocent", Spokesman-Review, January 5, 1985.

fingers and he didn't know whether he was feeling his own pulse or hers.⁵⁶

7. March, 1995 - Gibson confesses to ABC Television and Exonerates Paradis:

In early 1995, Gibson told correspondent Forrest Sawyer on ABC Television speaking of Kimberly Palmer's murder: "I feel culpable and remorseful for my participation in this crime. Don Paradis was in no way responsible for her death."⁵⁷

Gibson has no allegiance to Paradis. Gibson was not a Gypsy Joker, but rather a member of a rival motorcycle gang. Although confused and guilty himself of a horrible crime, it is obvious that Gibson's statements over fifteen years clearing Paradis have been solely motivated by Gibson's concern that Paradis might be convicted and executed for a crime that he did not commit.

The State argues that Gibson must have been lying when he said that he was involved in Palmer's murder in Spokane because if established he would subject himself to life imprisonment in Washington and avoid the Idaho death penalty. However, this argument gives no reason for Gibson to exonerate Paradis. Gibson never stood to gain anything by clearing Paradis of this murder. Further, Gibson's testimony accords with all the evidence in this case, including that of everyone else who was there: Evans, Moline, Amacher and Jones. No one has ever said Paradis had any responsibility for Palmer's murder. If Gibson's repeated statements are discounted, one must also discount the testimony of four other witnesses who were there.

Because of Idaho's 42 day rule, the prosecution has prevented Idaho courts from considering all of Gibson's statements and the statements of other witnesses in this case who were, like Gibson, not called to testify at Paradis' trial. Like the other witnesses, Gibson's

⁵⁶ Exhibit 20, Bond Testimony, U.S. District Court, April 6, 1987, pp. 132-42.

⁵⁷ ABC Television, Day One, March 9, 1995.

testimony should have been heard in open court and his credibility tested by cross examination.
As this has not been done, it is left to this Commission to consider Gibson's confessions.

VI. WHY WITNESS MOLINE'S TESTIMONY BY ITSELF WAS NOT ENOUGH TO CHANGE TRIAL JUDGE'S MIND

Following Paradis' conviction, Brown moved for a new trial and belatedly brought Roseanna Moline testify before Judge Haman. Ms. Moline, who was an eyewitness to the murder of Kimberly Palmer, was not called by the prosecution or the defense to testify at Paradis' trial. Ms. Moline gave a detailed and graphic description of how Kimberly Palmer was murdered in Spokane by Thomas Gibson.⁵⁸

Taken alone, Judge Haman did not believe Roseanna Moline's testimony, although she had passed two polygraph examinations that very day. None of the other eyewitnesses or medical evidence which came to light later and which fully corroborate Moline's testimony were presented to Judge Haman. Judge Haman made his decision to deny Paradis' motion for a new trial because, taken by itself, he did not believe Moline's testimony. Judge Haman was not able to look at the cumulative evidence of Paradis' innocence that has now come to light.

It is understandable why Judge Haman would not choose to overturn both Gibson and Paradis' convictions and sentence on the basis of Moline's testimony alone. She was, after all, in his eyes just some biker's girlfriend. However, it would be very difficult to imagine Judge Haman denying Paradis' motion for a new trial if he had heard all the medical evidence and the new witness testimony which support Moline's testimony. Unfortunately for Paradis, this evidence only came to light after Judge Haman had denied Paradis' motion for a new trial.

⁵⁸ Exhibit 1, Moline Testimony, February 24, 1992.

VII. WHY STATE COURTS HAVE REFUSED TO CONSIDER ALL OF THE EVIDENCE OF PARADIS' INNOCENCE

The Supreme Court of Idaho narrowly affirmed Paradis' conviction and sentence by a vote of only three to two. Two justices vigorously dissented. Justices Huntley and Bistline found this case to be "literally fraught with error at every stage of the proceedings," noting in particular that the jury and the sentencing judge had been prejudiced against Paradis. Justice Huntley found that the Paradis trial

"was conducted in a manner which violates all reasonable concepts of due process However costly and inconvenient it might be, I would think it better that we remand this case for a new and proper trial rather than to permit the prostitution of those safeguards of individual liberties which make it possible for this democracy to function."⁵⁹

When The Idaho Supreme Court affirmed Paradis conviction three to two, the court did not know about: (a) Brown's conflict of interest; (b) the medical evidence that proves Kimberly Palmer did not die in Idaho; (c) the eyewitness testimony of Evans, Jones and Amacher; (d) Gibson's repeated confessions and exonerations of Paradis; or (e) the acquittal of Evans on the same evidence as against Paradis. Since then, Paradis has filed post conviction petitions in State court asking the Idaho courts to consider these issues. Because of the procedural technicalities, notably Idaho's 42 day rule⁶⁰, these petitions have repeatedly been dismissed without hearing any of this new evidence. Finally, on February 21, 1996 the Idaho Supreme court decided that, because of the 42 day rule, it did not have the legal power to consider Paradis' claims.

⁵⁹ State v. Paradis, 676 P.2d 31, 47.

⁶⁰ This rule is provided in Idaho Code Sec. 19-2719. It gives a defendant one opportunity to raise all challenges to a death sentence or conviction within 42 days after judgment. A narrow exception is made for successive claims if it can be demonstrated that they were not known and reasonably could not have been known within 42 days of judgment. The 42 day period in Paradis' case expired in May 1982.

In his petitions to the Idaho courts from 1984 through 1995, Paradis has attempted, without success, to get the Idaho courts to consider specifically the following evidence of his innocence, none of which was presented at his trial:

(1) Evans, who was outside the Paradis house when Palmer was killed, testified at his own trial that Kimberly Palmer's dead body was loaded in the van in Spokane and taken to Idaho;⁶¹

(2) The medical evidence presented at the Evans trial, including Dr. Brady's changed testimony, which proves that Palmer must have been dead before her body was brought to Idaho and that it was impossible that Paradis killed her;⁶²

(3) Evans acquittal which itself undermines confidence in Paradis' conviction and sentence of death, since on much less evidence of innocence than is now available to Paradis, Evans was found not guilty; it is unconscionable that for the same crime and with the same evidence against them, one defendant, Don Paradis, would be executed for helping Evans kill Kimberly Palmer, and the other defendant, Larry Evans, would be set free;

(4) The confession of Charles Amacher and statements to his lawyer and an Idaho magistrate that Gibson killed Palmer in Spokane when Paradis was not present;

(5) In 1994, Paradis' counsel was first contacted by Terry Jones, who has sworn that upon entering the house he saw the body of a woman lying on the floor and that he was certain that she was dead.⁶³

⁶¹ See Exhibit 5, Evans Testimony, August 28, 1987.

⁶² See full discussion above under "III. The Evidence Proves Paradis' Innocence."

⁶³ See Exhibit 3, Jones affidavit, May 5, 1994.

(6) Roseanna Moline's testimony (confirmed by two polygraph tests) that she was present in Spokane at the Paradis house when she saw Gibson strangle Palmer and that Paradis was not there when Palmer was killed;⁶⁴ and

(7) Thomas Gibson's numerous confessions and consistent statements beginning prior to his trial that he killed Palmer at the Paradis house in Spokane and that Paradis was not involved and continuing to this day.⁶⁵

On January 26, 1995, Lynn Thomas wrote the Kootenai County District judge: "As the state has previously argued, Paradis is not entitled to further access to state courts."⁶⁶ Based upon procedural technicalities, Mr. Thomas had thus far successfully prevented any Idaho court from hearing critical evidence on any of Paradis' claims. The prosecution argued in 1994 to the Idaho Supreme Court in this case, "the safety valve relating to new claims of innocence is the clemency process [I]f there in fact is actual innocence, there is another place to put it on after judicial proceedings have come to an end, and that's in the clemency process."

⁶⁴ See Exhibit 1, Moline Testimony, February 24, 1982.

⁶⁵ See Exhibit 20, Gibson Confessions.

⁶⁶ Letter from Lynn Thomas to the Honorable James F. Judd, January 26, 1995.

VIII. THE FEDERAL APPEALS HAVE NOT RULED ON PARADIS' GUILT OR INNOCENCE.

The federal courts have had to decide the factual issue of Paradis' innocence. Issues of actual innocence must be first decided by State courts. Mr. Thomas has argued successfully over and over again in federal proceedings: "federal habeas corpus was never intended to supplant a state criminal proceeding as the primary fact-finding event" and "the role of federal habeas corpus is secondary and limited and is not devoted to repeating state decision-making on the question of guilt or innocence."⁶⁷ In this case the federal courts have only considered issues of federal constitutional law and have not reviewed the new evidence to determine Paradis' innocence.

In 1986, Paradis filed his first Petition for a Writ of Habeas Corpus with the United States District Court for the District of Idaho. A Petition for a Writ of Habeas Corpus is a request to the federal courts to consider whether petitioner's conviction and sentence violated provisions of the U.S. Constitution. Among other legal claims attacking Paradis' conviction and sentence, Paradis asked the federal court to consider whether there was enough evidence presented at his trial, construed in favor of the prosecution, to convict Paradis as a matter of federal constitutional law. This claim required Paradis to prove that no rational juror would have found him guilty on the evidence presented at his trial. An evidentiary hearing took place in 1987 before Judge Ryan on this claim, as well as Paradis' other constitutional claims. Paradis attempted to show that there was not enough evidence presented at his trial to convict him as a matter of federal law. He could not meet this heavy burden.

Moreover, when the U.S. District court considered his case in 1987, the following key evidence of his innocence had not yet come to light:

⁶⁷ State's Brief in Court of Appeals, April 28, 1988, pp. 30-31; see also State's Post-hearing Brief in Opposition to Petition for Writ of Habeas Corpus, U.S. District Court, May 1987, pp. 1-2.

- (1) Evans had not yet testified that Palmer's body had been transported from Spokane to Idaho;
- (2) Dr. Brady had not yet testified at the Evans trial contradicting his testimony at the Paradis Trial and proving that Palmer could not have been killed in Idaho;
- (3) Evans had not yet been acquitted;
- (4) Amacher's confession to his own lawyer which absolved Paradis was not yet known;
- (5) The existence of Jones as a witness to the murders having occurred in Spokane was unknown; and
- (6) The police had not yet revealed that Bill Brown was working for the police while he represented Paradis and the trial judge had not yet revealed that he knew of Brown's conflict when he appointed him to represent Paradis; indeed, when asked before Judge Ryan about how he was chosen to defend Paradis, Brown actively concealed his police connections and misled the court.

Mr. Thomas will make much of the lengthy federal proceedings in this case and argue that after many reviews by many judges over many years, we can be sure that Paradis is guilty and deserves to die. However, none of the federal proceedings decided his guilt or innocence. Although long and complex, that critical issue now before this Commission has never been addressed. No court anywhere has considered Paradis' innocence in the light of all the evidence.

In December 1995, Paradis filed a second habeas corpus petition before the U.S. District Court in Boise asking the court to rule under recent U.S. Supreme Court precedent, that the refusal of the Idaho Courts to consider the evidence of his innocence and the carrying out of his death sentence in the face of this evidence violates his rights under the U.S. Constitution. Paradis has also raised his trial lawyer's conflict of interest. The State avoided the actual merits of the claims asserted and moved to dismiss Paradis' petition on the ground that it is too late and constitutes an abuse of the habeas corpus remedy. On April 1, 1996, the District Court dismissed the petition without a hearing to consider the evidence of Paradis' claims. Paradis will appeal this dismissal to the Court of Appeals. In ruling, the District Court ruled that the second

petition either did not present a U.S. Constitutional violation or raised issues which could have been raised earlier or which had already been decided by other courts. The District Court placed the burden of examining the actual merits of Paradis' claims on this Commission in noting that Paradis had another forum for presenting his new evidence and that he must process his claim of actual innocence by executive clemency in accordance with Idaho procedure.

Despite the issues then pending in the federal district court, Mr. Thomas nevertheless asked in February and March 1996 that Judge Haman of the Kootenai County District Court sign a warrant for Paradis' execution within thirty days. Paradis has objected to the death warrant, among other things, because of his pending federal petition (which has yet to be presented to the Court of Appeals) and in order to give this Commission the chance to consider this petition for clemency. Paradis also requested that Judge Haman reconsider Paradis death sentence in light of Larry Evan's acquittal in 1987. Judge Haman is the trial judge that sentenced Paradis to death in 1982. As of April 2, 1996 Judge Haman had not signed the death warrant.

IX. DONALD PARADIS -- HIS PAST

For many people Donald Paradis has been a faceless number on death row. For those who know him, he is a man who has struggled against incredible odds to survive a bleak childhood in which he was unwanted and unloved, a youth in which he was misguided and made unfortunate choices that often overshadowed the good ones and now a person who gives generously of himself and his faith to follow inmates, friends and family.

The circumstances of Donald Paradis' life are not presented here to, in any way, excuse his decision to help hide the bodies of Scott Currier and Kimberly Palmer. Nor do they excuse his choice of friends and way of life in the past. However, understanding Paradis' rejection and abuse as an adopted child, and his desperate need to belong somewhere, offers insight into the misplaced loyalty and allegiance which led him to aid his fellow bikers in covering up these heinous crimes, and which led to his tragic fate of being mistakenly accused of murder.

Understanding how Don Paradis has tried to cope with the obstacles of his early life explains why and how he has matured and grown over the past fifteen years. It will also give this Commission confidence that Don Paradis presents no danger to others. He is not a killer, and he has demonstrated in prison that he is able to take his place as a productive, law-abiding citizen. Don Paradis' life experience and life-long commitment to religion would be of benefit to others should the Commission give him the opportunity.

Don Paradis was the illegitimate child of an unmarried mill worker, who turned to her priest for help. He arranged for the baby to be taken to nearby Fall River, Massachusetts, and given to a childless couple, who had tried unsuccessfully to have a child of their own.

It has been said that an adopted child's fate is determined by the "luck of the draw" - but even so early in life Don was not lucky. His adoptive father was a quiet, ineffective man, but his adoptive mother was an hysterical woman, who seemed never to forgive him for not being the perfect son she might have had.

He was an awkward child - bright but dyslexic. Speech came slowly. He was pigeon-toed and couldn't walk without tripping. It enraged her. "Stupid, stupid!" she would scream. His Aunt Sara tells us she would plead with his mother: "he's not stupid, he just has trouble walking." As he grew older, his adoptive mother's verbal rages combined with physical abuse. She beat him regularly. She refused to give him a key to his own house, so that as a young child he often walked the streets in the late evening waiting for someone to come home and let him in.

Like most adopted children, Don fantasized a great deal then, and throughout his life, about his birth mother. Who was she? What did she look like? Why did she give me up? He imagined how sweet life would have been with her. It made him sad and angry that she hadn't kept him. He wanted to find her, but he didn't know how. When a cousin told him his real name. He wrote it down and vowed someday to try to find his mother.

Don Paradis loved school. He is extremely intelligent, but his dyslexia was a problem. His learning disability wasn't diagnosed until he took courses at the Idaho prison. As a child, it was a source of frustration and anger for his teachers and for him. His isolation and loneliness deepened in his teenage years. He became rebellious and began using drugs in his early teens. An older boy introduced him to heroin. At age 13 he was addicted. It was the first time he found a way to relieve his deep emotional pain. He was a child careening out of control. Along with his addiction came involvement in petty crime, burglary and theft.

Once, while out drinking with a group of teenage friends, Paradis was left passed out on a park bench. When the police picked him up and called his adoptive mother to retrieve him from the station, she told them to lock him up. His record of petty crime and his mother's refusal to have him in her house meant that Paradis was sent to reform school, the Shirley Industrial School in Massachusetts.

The school was tough. There was no program to help him with his drug addiction, but he succeeded in quitting himself - cold turkey. There was some good counseling at the reform

school. There were several people at Shirley who recognized Paradis' potential and understood how harsh his life had been. They helped him and he did well in school. He was released early. He went back to Fall River to complete High School.

During that time, he made several attempts to find his birth mother. He went to the town and state records office. At one point, he thought that a sympathetic clerk had found some information. He remembers how thrilling and hopeful it was to imagine he would find his family. However, the information didn't turn out to be useful.

His adoptive mother insisted that he quit school at 16 to go to work to help support the family. He worked as a laborer, and lived at home. In despair and rebellion he got involved with some dangerous old friends in Fall River. He helped one of them steal from a former employer. But when they were caught, Don lead the police to all the stolen goods.

When he was 18 he was at a wild party full of drugs and sex. Two of the girls there were 17. The police raided the party. In the hope, and with a promise, of gaining help with his drug problem, Don led the police to his drug stash. He and his friends were arrested and sent to jail for possession of drugs and also, as two of the girls at the party were underage, statutory rape. Initially, in prison he was hospitalized for depression. Then, after an abortive attempt at escape, he spent two years in prison in Worcester, Massachusetts.

He does not remember that time very well, but he does remember that he was deeply depressed and unable to do much but get from one day to the next. When he was released, he didn't want to go back to Fall River and all the hurt and failure he associated with that place. He went to live with his cousin Mary in Virginia. She had always been like a sister.

In Virginia he lived a calm, productive life with Mary and her husband. He felt a sense of family. He worked at an Air Force base and fell in love with Barbara, the daughter of an officer there. When her father was transferred to Guam, Don stayed in Virginia and worked hard to save two thousand dollars so he could fly to Guam to see her. Soon after he arrived in

Guam, Don and Barbara decided to marry and set off for Alaska to start a new life together. He got a civil service job driving a truck. They had a small house in Anchorage and after a year and a half were blessed with the birth of their daughter, Sonya. Don adored his daughter and helped care for her. He finally had a family. The peace of that time was short lived, however. Barbara betrayed him, left and made it difficult for him to see his daughter.

Following that deep disappointment and loss, and still seeking some kind of a family to anchor him, Don got involved with motorcycle gangs in Alaska. He became a member of the Gypsy Jokers. The biker code of conduct mandated the kind of loyalty and support that Don had always desired. It was a loyal and caring family, even though dangerous and often violent. There was a lot of drinking and drugs. Twice he was charged with assault with a deadly weapon as a result of barroom brawls. In both cases he had used a pool cue to defend himself in fights and he was acquitted. He was also arrested for a traffic violation and charged with carrying a concealed weapon, a knife, although everyone in Alaska carried a knife. His association with the bikers caused the police to keep a close eye on him.

During this same time, Don, who had been raised a Catholic, became deeply interested in Christianity. It was a slowly growing interest inspired by conversations with a friend, Nathan Keith, who was a Christian.

Subsequently, he enrolled in a local Bible College in Anchorage. He thrived. Bob Horton, the Director of the Bible College remembers him "as a born leader", who did very well academically and contributed ideas, energy and a deep faith to every project.

After several years of study, Don participated in an effort to bring religion into the remote regions of Alaska. He helped build a church in Big Lake, Alaska, 250 miles north of Fairbanks, and carried religious literature to settlers in the woods. Sadly, this endeavor also ended in more disillusion and failure. Another Pastor moved in on Don's territory, took advantage of his work, and pushed Don out.

When Paradis tells the story now, he laughs and says, "Now I wouldn't make such a big deal out of it, but I had put a lot of myself into that effort and really didn't understand the world very well. I thought the church would be absent of that kind of struggle for power. I was hurt. I quit and went to Spokane, Washington with some Gypsy Jokers. They wanted to expand the club and set up a motorcycle shop. I just wanted to get away. I didn't plan to stay in Spokane for too long."

He regretted being so far away from his daughter, Sonya, although Barbara had been making it more and more impossible for him to see her. In Spokane he got a temporary job with the Spokane Parks Department. He rented a large house on Dearborn Street and once again tried to make a home. He got a pet goat, tropical fish and some chickens. He allowed friends passing through Spokane and their friends from anywhere to stay at his house.

In December, 1979, some months before the crimes were committed at Don's house in Spokane, he contacted the director of the Bible College, Bob Horton, who was then living in Missoula, Montana. He told Reverend Horton that he felt that he had strayed from his faith and that he was spending time with the wrong people, doing the wrong things. Horton suggested that he come to Missoula, and Don made plans to do so. Unfortunately, he didn't leave Spokane soon enough. Those plans were cut short by his arrest for the Currier and Palmer murders.

Paradis' death sentence is the tragic culmination of a life of misfortune and lack of guidance and very bad choices. Despite a history of some petty crime and teenage drug addiction, biker brawls, despite all the pain in his life, Don was not a violent person. His search for a home and a sense of family or belonging has taken him to the wrong places and the wrong people, but he has not been aggressive or violent.

X. DON PARADIS - NOW

Paradis had many unresolved problems and arrests for lesser crimes prior to his arrest for the murder of Kimberly Palmer. But his life and behavior prior to the crime suggests no deep rooted sociopathology. He was an emotionally troubled and betrayed young man who displayed many signs of promise and the potential for living a worthwhile life. His development and maturation while in prison should give the board confidence that his life is worth saving.

Despite the injustice of his lengthy incarceration for a crime he did not commit, Don Paradis has not become an angry or bitter man. He has had time to consider his past and has grown to understand the psychological needs that motivated his behavior in the past.⁶⁸ Within the confines of his small jail cell, Paradis has grown from a rebellious insecure young man to a generous and responsible individual. He not only takes responsibility for his own life and future, but he involves himself and helps with the lives and problems of his friends within the prison⁶⁹ and friends and family without.

Anyone who spoke with Paradis today would perceive him to be a directed person who badly wants to help people escape from the world he came from -- the world of lost young people.⁷⁰ Through ministering to others, whether in prison or in a church, he hopes he can heal and help, and pass on the benefits of his experience. What he has become in prison is a tribute to his own character and intelligence, as well as to the counselors who have advised him and encouraged his development and faith.

Mr. Paradis began his time in prison deeply angry and frustrated. He had been unjustly accused, betrayed by his biker friends and by his own lawyer, convicted of a crime he didn't

⁶⁸ See attached letter from Henry Scammel, July 14, 1995.

⁶⁹ See attached letter from P. J. Waller, June 27, 1995.

⁷⁰ See attached Affidavit from Anthony G. Cootz, October 23, 1993.

commit. When on arrival at I.S.C.I. he was required to be tied to a chair while he had his hair cut, he vowed never to cut his hair again while in prison and to never give up trying to get the truth of his innocence out.

He is well liked by the guards and prison personnel and fellow inmates.⁷¹ The few problems he has had have been with guards who are occasionally hostile or deprecating. And, he has shared a few non-threatening rebellions in solidarity with fellow inmates.

Pastor Tom Blackburn, the head of the Community Christian Center in Garden City and one of the Idaho Statesman Men of the Year in 1995, has been ministering to Don for over ten years. With rare exception for bad weather or illness, he has seen him once a week for all these years. He has a firm belief in Don Paradis' innocence. He also understands that Don's religious faith and activity is no mere jailhouse conversion. It is backed up by Don's religious education and activity before prison and the knowledge of the pain of a fall from grace.⁷²

Pastor Blackburn has written: "Because of Don's efforts many inmates have peace with themselves and peace with their Creator." Don has worked to get Sunday services for people on Death Row, and has organized a Baptismal tank for their conversions, and organized Bible study.⁷³

For eighteen months in 1992-93, when Don Paradis' death sentence was set aside by the Court of Appeals, he was in the general prison population. During that time his life was a whirlwind of constructive activity. He organized a religious discussion group, passed his high school Equivalency Test, learned to use a computer well, took an anger management class and

⁷¹ See attached letter from Chuck A. Doan, September 13, 1993.

⁷² See attached letter from Pastor Tom Blackburn, June 29, 1995.

⁷³ See attached letter from Jack R. Muldoon, August 23, 1995.

got a certificate, became a serious member of the softball team, and even studied French and wrote a book of poetry.

During that time he was involved in one minor fracas. It was provoked by someone else and Don was ultimately cleared of any demerits or charges. After the U.S. Supreme Court decided the Creech case, in 1993 the Court of Appeals reinstated Paradis' death sentence. After eighteen months of constructive living with others, he was put back in the solitary confinement of Death Row.

Through his lawyers and various writers who have worked on his case, Don has developed meaningful new friendships with people outside the prison. On the telephone he is able to talk and be appreciated by people who understand his intelligence, his humor and his generous spirit.⁷⁴ There are many people who are prepared to help him get going when he gets out. He says he wants to go to a good college. Friends send him books and he reads all the time. In prison he has developed his intellect and his sense of possibility in these relationships. From his prison cell he has built a world of relationships very like the family he longed for. Nevertheless, he continued to speak of his need to find his biological family.

His friends are often the recipients of wonderful, funny letters and cards. Over the years his letters have included occasional poems and drawings. Recently, he produced a book of thirty of these poems. He put them on the computer, chose a beautiful "font" and sent them to his friends. Titled "From the Inside," they reflect his anguish, his faith, his celebration of life.

Last year good luck and great blessings entered Don Paradis' life for the first time. His daughter, Sonya, now 19, came to visit. Her mother had kept her father's whereabouts a secret from her all the years he has been imprisoned. As soon as she could, Sonya found him. She is a bright, attractive, hardworking girl who has sorely missed her father in her life. She flew

⁷⁴ See attached letters from Henry Scammel, July 14, 1995, Alec Wilkinson, June 26, 1995 and Harry Moses, March 25, 1996.

from Anchorage to Boise last spring and spent a week seeing him. Now they write and speak regularly.

Sonya lives in Alaska with her husband and goes to college studying Computer Science. This spring she had a baby boy, making Don a grandfather. He was ecstatic. Unable to see or touch the baby, he keeps track of his grandson's progress and arranges for other people to send presents. As with any grandparent, the presence of this child increased his sense of responsibility and hope for the future. It also intensified his desire to find his own biological parents.

Last fall an adoption searcher, hired by a friend, after all these years, located Don's birth mother. Initially Don was afraid to contact her. "Hey," he said, "she is an old lady. Finding out where I am could be too shocking for her." Later, following the urging of his friends, Don wrote her a brief card, signing it, "your son, Don."⁷⁵

His mother responded immediately with a touching, welcoming letter. He called. Their first conversation was remarkable. She said that his contacting her made her feel very different about her life. She asked about his health, sang him a song, told him that every year on his birthday she had missed him. She could not understand why, if he was innocent, he was imprisoned.

In subsequent conversations with his mother and his sister, Don has been welcomed into his family. His sister says, "She was a great mother. How different his life would have been if he had been with us." His daughter hopes they can all be together and learn from one another. Finding his real family, his mother, his sister, his daughter and his grandson has brought Don a sense of completeness and true belonging for the first time in his life. It is remarkable that he has been able to find all this meaning on death row.

⁷⁵ See attached Letter from Dr. B. J. Lifton, June 15, 1995.

Dr. Betty Jean Lifton, an internationally recognized psychologist who has written on the psychology of adoption and violence, has corresponded with Don about his adoption issues for the past two years, as well as doing intensive interviews of him by telephone.

In her evaluation of Don, Dr. Lifton writes: "Like many children who find themselves in abusive adoptive situations, Don Paradis exhibited anti-social acting-out as a way of expressing his grief and rage. His self-destructive behavior reflected the trauma he experienced in losing the birth mother who might have loved him and being abused by the adoptive mother who should have loved him. Helping his fellow prisoners during his years of incarceration has given him a change to test his strength of character and to change a negative identity into a positive one. The connection he has made with his birth mother and sister, as well as his daughter and grandchild, has given him a sense of belonging in the world at last. I hope that the court will grant him his freedom so that he can contribute to society with his many gifts."⁷⁶

Don Paradis feels deep compassion for the parents of Scott Currier and Kimberly Palmer. "She was about the age of my own daughter." He wishes he had stayed at home the night of the murders. "If I had been there, those kids would not have died. Even if Currier was crazy enough to bring his girlfriend and pick a fight with those lunatics, I could have stopped them." Don Paradis has already been many times punished for his involvement in these crimes. He was sentenced to death on April 2, 1982. For fifteen years he has sat alone on death row while his case has moved slowly from court to court.

We ask this Commission to consider that Don Paradis has already been sufficiently punished and is no longer the same person who over fifteen years ago helped cover up the two awful crimes. He has already suffered a terrible sentence.

⁷⁶ See attached letter from Dr. B. J. Lifton, June 15, 1995.

XI. LETTERS FOR DON PARADIS

We realize we have asked the Commission to read and understand a great deal of material. We believe the letters attached to this petition are most important. From teachers, friends, journalists, fellow inmates, they best tell Don Paradis' story and best describe who he is.

HARRY MOSES

103 EAST 84TH ST
NEW YORK, N.Y. 10028

(212) 535-2699

March 25, 1996

To: Clemency Board, State of Idaho
Re: Case of Don Paradis

I am writing to ask that you recommend granting clemency to Don Paradis.

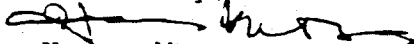
I am making this request after having spent six months for ABC News investigating the circumstances surrounding Mr. Paradis' conviction for the murder of Kimberly Ann Palmer on June 20, 1980 in Post Falls Idaho.

After reviewing the original trial transcripts, interviewing most of the living relevant witnesses, and talking at length to the forensic pathologist, Dr. William Brady, whose false and misleading testimony was crucial to the conviction of Paradis, I am convinced that Don Paradis is innocent of this crime.

I do not come to this conclusion lightly. I am an investigative journalist who spent 14 years at CBS News. There I produced more than 60 stories for "60 Minutes" and was also in charge of the investigative unit for the CBS Evening News. Let me simply state that never in my professional experience -- which totals 37 years -- have I seen such an utter and complete travesty of justice.

If Don Paradis dies, the state of Idaho will be executing an innocent man. I hope you will not let this happen.

Sincerely,


Harry Moses

26 June 1995

Dear Members of the Commission of Pardons and Parole:

Over the course of several months last fall and winter I looked into all elements of the murder of Kimberly Palmer in order to describe what had happened to her in a story which appeared in The New Yorker magazine, where I have been a staff writer since 1980. Before publication, the story was subjected to the most rigorous examination by lawyers and fact checkers; every fact, statement, quotation, source, and description in it was verified.

After hours of conversations with Dr. William Brady, the medical examiner who testified for the prosecution at Don Paradis's trial; after reading the transcripts of the Paradis, Gibson, and Evans trials and their subsequent filings as well as all police reports and statements by witnesses; after visiting Idaho and Washington; after seeking the advice of five other medical examiners including both the former and current New York City Chief Medical Examiners; and after many, many hours of interviews with witnesses and nearly all other parties involved in the case--- interviews with more people, in fact, than the police, the prosecution, or the defense lawyers ever conducted ---I have come to be persuaded of the deeply disturbing and unsettling conclusion of Dr. Charles Hirsch, the New York City Chief Medical Examiner, who knows Dr. Brady, and who reviewed his autopsy report, as well as all of the photographic evidence entered at the trial of the autopsy and of Kimberly Palmer's body where she was found in Idaho and who said, "Everything I've seen here is consistent with this woman's being killed somewhere else and her body being dumped, and nothing indicates she died in Idaho."

When I afterward asked Dr. Brady what evidence he had to conclude that she had died in Idaho he said, "If you are asking me what evidence there is from the autopsy to indicate where Kimberly Palmer died---or

when---the answer is nothing."

Dr. Brady's remark is shocking because he allowed the impression to be made at Paradis's trial that he had a factual, scientific basis for saying that Kimberly Palmer died in Idaho. He knew perfectly well that he could not say so under oath, since he had no evidence or reason to believe it was true. He and the prosecutor eluded the requirement of truthfulness by the prosecutor's asking Brady, not how she died, but if he had an opinion of how she might have died. That is, he could not ask Brady where Kimberly Palmer died, or when, because Brady didn't know then and doesn't know now---in fact; as Brady later admitted at Larry Evans's trial, he doesn't even know whether Palmer died before or after her boyfriend, Scott Currier. The prosecution and defense agreed that Scott Currier was murdered in Spokane, Washington. If Brady can't even say whether Palmer died before or after Currier, then he can't say whether Palmer was killed in Washington, or Idaho. Evans, as you know, was acquitted of Palmer's murder because the jury did not believe that Palmer had been murdered in Idaho.

Brady noted in his autopsy report that Kimberly Palmer's lungs were heavy. Even though Brady knew that Palmer had been found lying face down in a stream, he did not believe that the weight of her lungs was of any significance---it is a minor notation in his autopsy report. Later, apparently, Brady decided that the weight might be accounted for by her having taken in water as she died. Although it is standard practice when reaching a conclusion after an autopsy to amend one's report to include the new information, Brady did not. Nor did he say, at Paradis's trial---as the other five medical examiners I consulted told me, and as Brady agreed to at Evans's trial---that Palmer's lungs were no heavier than you would expect to find in a person who had been strangled; that is, that the weight of her lungs was, as he originally believed, of no significance at all. Nor did he say that if Palmer had swallowed creek water, there would be evidence of particulate matter from the stream in her lungs or her throat or her stomach, and that he had found none. Nor did he say that he had found no evidence at all of her swallowing creek water. He did not find any evidence of it with his eye during the autopsy, and he did not find any evidence of it in the slides he prepared later from the tissues of her lungs.

In January, 1995, when Dr. Brady and I were having frequent conversations, he made an astonishing declaration. He said that he now had slides of Kimberly Palmer's lungs showing particulate matter from the stream. I did not ask him why he had not mentioned

these slides before; they appear nowhere in the prosecutions of Paradis, Gibson, or Evans. Instead I asked how long these slides had been in his possession. He said, "Since before Evans," meaning, since before the trial of Larry Evans. I said, "Really? Where were they then during the trial?" "I had them in my briefcase while I was on the stand," he said. This, of course, is quite a shocking statement. Anyone who has read the transcripts of the Evans trial knows that the prosecutor was all but begging Brady for any evidence whatsoever that would allow him to place Kimberly Palmer's murder in Idaho. Brady had none to give, and Evans was acquitted (because the jury did not believe she had been killed in Idaho). I said to Brady, "Why didn't you bring up the slides during your testimony? After all, they would have won the case decisively." "Oh," he said, "I was tired, and I forgot I had them."

In other words, Brady was asking me to believe that as he stood on the stand facing a prosecutor pleading for information to help him win his case, Brady forgot that ten or fifteen feet away, in his briefcase, were the slides that settled the issue unquestionably. Furthermore, he was asking me to believe that the prosecutor, who would, of course, have planned the climax of his prosecution on the slides forgot to ask Brady to display them. I find this explanation worse than unconvincing, as I also find unconvincing the idea that slides produced nearly fifteen years after the murder, under duress, and never mentioned before, could be shown to be actually drawn from the tissue of Kimberly Palmer's lungs, or that the particulate matter Brady claims they display could be shown to come from the stream she was found in. Brady, after all, made no tests of the stream water to show that this might be so. I feel quite certain that if it were to happen that Paradis were tried again, the prosecution would never dare introduce evidence with such a shoddy, dubious, discredited, and slipshod history.

I would like to say one more thing: I have never met Don Paradis. I have talked to him a number of times on the phone. I am not writing this letter because I consider myself someone coming to his aid. I do not know Paradis as well as I know Sherry Britz, Kimberly Palmer's mother, whom I consider a friend. I am writing this letter in the service of fact, and with some misgiving, because I know that much of the information in it can be used to help Thomas Gibson, whom I believe killed Kimberly Palmer in Spokane, Washington and who has confessed twice to her murder and also been identified by an eyewitness as the man who killed Palmer. Kimberly Palmer's murder was a

terrible, shattering, and gruesome event. All of us would like to believe that we raise our children in a world where such things would never happen. When they do, the most scrupulous and meticulous methods must be applied to see that the guilty are justly held responsible. Thomas Gibson has twice confessed to Kimberly Palmer's murder; he has described it as taking place in Spokane, Washington. Before he confessed, Roseanne Moline gave a description of Palmer's death that identified Gibson as her killer. The murder she described took place in Spokane, Washington. Two polygraph tests support her account. Five other people besides Paradis described seeing Kimberly Palmer's body in Spokane, Washington. There is no medical or forensic or scientific evidence of any kind whatsoever to indicate that Kimberly Palmer was killed in Idaho. The doctor who performed the autopsy agrees that he has no evidence; he said so under oath at the trial of Larry Evans, and he said this to me on several occasions during the course of our interviews. "All I did," he said, "was give an opinion," which he later acknowledged was not based on fact.

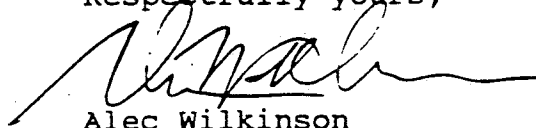
No evidence whatsoever, of any kind, in any form, either medical, or in the form of testimony, suggests that Kimberly Palmer died in Idaho, or disputes Dr. Hirsch's claim that she was killed somewhere else and her body brought to the place where it was found.

Finally, there is the evidence of the cut to Kimberly Palmer's crotch, undoubtedly made during a sexual assault carried out by Thomas Gibson and described by Roseanne Moline and verified by her polygraph results. The assault was committed in Spokane, Washington in the hours after Kimberly Palmer had died. The cut did not bleed (evidence from the autopsy and tests of the jeans she was wearing show that it did not). All five doctors I consulted support Dr. Brady's testimony at the trial of Larry Evans that a cut of this kind would be expected to bleed for anywhere from half an hour to a few hours after death. Paradis, Gibson, and Evans, were identified by a witness as being in the hills above Post Falls for somewhere around thirty minutes. Therefore, it is simply and flatly impossible that they could have taken Kimberly Palmer alive into the hills, chased her, strangled her, then waited at least half an hour, if not more, before making that cut then walking past the house of the witness on their way into Post Falls. Even without Dr. Brady's opinion supporting the timing of the cut's being made, this medical fact alone makes her murder in the hills above Post Falls, Idaho impossible. Several members of the Paradis jury have said that if they had been aware of all of the evidence

involved in the case at the time of Paradis's trial, they would have voted to find Paradis not guilty of murdering Kimberly Palmer.

The death penalty is the gravest responsibility residing in our hands as members of the state. We should never allow it to be applied in circumstances where the evidence is less than unassailable. A republic that would put a man to death without evidence cannot hold for long the respect and allegiance of its citizens.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "Alec Wilkinson", written in dark ink.

Alec Wilkinson

Southwest Bill Whorton

Pastor

Christian

Fellowship

3016 N. Dobson Rd.

Sulte 12

Chandler, Arizona 85224

345-1115 Fax 345-0222

July 17, 1995

Idaho Commission of Pardons and Paroles

To Whom It May Concern,

I am writing on behalf of Donald Paradise. I first met Don when he wanted to enroll in a Bible college in Anchorage Alaska where I was the administrator. He showed up at registration with a friend who was a student. I took him to my office and after spending some time visiting with him he prayed with me and asked the Lord into his life.

After two years in Bible school he went with a team of people to begin a new church in Big Lake Alaska. He had been a good student and had left his involvement with the "Brothers" motor cycle gang. His appearance had changed drastically and his life had turned completely around. I left Alaska at this same time and moved to Missoula Montana to start a new church. I heard that the church in Big Lake didn't ever get off the ground and lost track of Don at that time.

Just before Christmas in 79', Don called me and said he was living in Spokane. He said he was not doing well and needed to make a break from the life he had fallen back into. I invited him to come to Missoula and spend the holidays with me and my family and he said he would try to make it. I fully expected him to roar in on his bike but he didn't arrive. Some time later I spoke with him again and he said that snow had not allowed him over the pass that is on the Idaho-Montana border and he had to turn back. I have always wondered what would have happen to Don's future had it not snowed and kept him from spending Christmas with us.

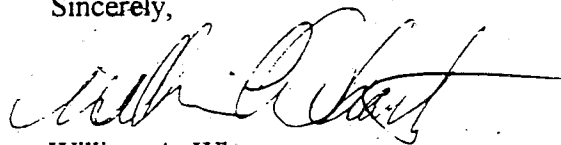
I spent some time with Don while he was in jail in Spokane and testified at his sentencing in Idaho. I have always believed that Don had nothing to do with killing those two people. When I spent time with him, he always maintained he innocence. I believed him then and I believe him now. I don't believe that he should have ever been sentenced to capital punishment. I do not defend his lifestyle during that time but I do believe that he was sincerely trying to make a break and get his life back together.

It is my firm conviction that the state of Idaho has nothing to gain from executing Don Paradise. I have seen a side of Don that probably none of you have seen outside prison walls. I have seen him work with and have a good and positive influence on high-school kids. He is intelligent and I believe, caring. I believe that Don has been and can again be

valuable to our society. I can say without reservation that I would be happy to work with Don again as I did twenty years ago.

Thank you for your time in reading this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "William A. Whorton". The signature is written in dark ink and is positioned above the printed name.

William A. Whorton
Pastor

BETTY JEAN LIFTON, Ph.D.
ADOPTION COUNSELOR
300 CENTRAL PARK WEST
NEW YORK, N.Y. 10024
TEL. (212) 877-4086

June 15, 1995

To the Idaho Board of Pardons and Parole:

I am a psychologist, author, adoption counselor, and an adult adoptee. I am writing to ask for clemency for Donald Parades, with whom I have been corresponding for the past few years. He has shared his innermost thoughts as an adopted person with me, and his poetry, which reflects the sadness of his fate.

Unlike most adopted children who are raised by loving parents, Don had the misfortune to have an abusive adoptive mother. He grew up without a sense of belonging anywhere, for he did not know who his birth parents were or why he was given up by them.

Don spent his life searching for family -- first in the church, then in marriage, and finally with the bikers. In his letters to me, he said that all his wanderings were really a search for his lost mother. He wondered if he might ever learn who she was. He worried that she might reject him again when she learned that he was in prison.

I was able to help find Don's mother. She is a widow, who has two daughters, and still lives in the town where he was born. I worried about the guilt she might feel when she learned that her son did not have the good life she had hoped for him.

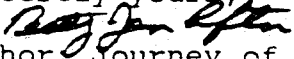
Two weeks ago Don picked up the phone and called his mother. She was overjoyed to hear from him. She said that she has celebrated his birthday every day since she had to give him up. "Not a day of my life has passed that I haven't thought about you," she kept repeating. She asked, with a mother's concern, how his health was, if he was getting enough exercise, and if not, if he was putting on weight. "If you're innocent, why don't they let you out?" she asked.

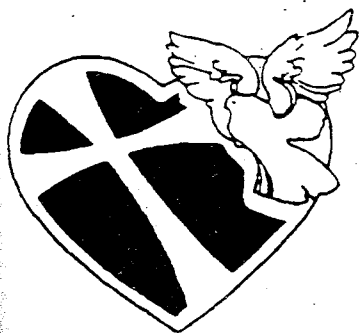
His sisters were thrilled to learn they have a brother. They told him what a great mother he has.

For the first time in his life, Don has found unconditional love. A mother and sisters who want to include him in their family. If, and when, he gets out of prison, he will have a place to go, and can begin to live the normal life he was meant to have.

Don has made many mistakes in his life -- but murder is not one of them -- and he has paid the price. I have worked with violent adoptees -- and Don is not one of them. I hope you will read the evidence that proves his innocence, and let Don begin life again with his mother and sisters.

Sincerely yours,


Author, Journey of the Adopted Self



COMMUNITY CHRISTIAN CENTER

202 East 42nd Street
Boise, Idaho 83714
Phone 208-375-3921

March 26, 1996

Regarding: Donald M. Paradis #~~1362~~¹⁸³⁶²

To whom it may concern,

I am Reverend Thomas J. Blackburn, an ordained American Baptist minister. I have been the pastor and director of the Community Christian Center located at 202 East 42nd Street in Garden City, Idaho since December 1960. I am known in the community as 'Pastor Tom'. We do extensive work with children and youth, feeding and clothing the hungry and operating a school.

In addition to my church responsibilities, I began visiting the prisoners at the 'old site' in Boise in 1961. I have over these thirty plus years visited individuals, conducted marriage counseling and worked with wives and children who have special needs while dad is away. My major in college was Sociology with a minor in Psychology. I had training at that time in "How Prisoners Think and Games Prisoners Play".

Garden City has been a low income residential area since it's founding in 1949. At one time, we (Garden City) received into our midst about 80% of the released parolees. For many years we were the only church in the community. So we were called for emergencies, family fights, juvenile problems and financial needs. I have heard all the excuses and been promised everything under the sun.

In all these years, I have never been in trouble with the law. I have never filed a law suit or been sued. I have never protested an execution. I have been in court many, many times with others. I am giving you this background so you will know that I am not totally unacquainted with these matters.

I was asked to visit a prisoner by the name of Donald M. Paradis, in approximately 1982, by I.S.C.I. Prison Chaplain Donald Stephan at the request of P. J. Wallor. I started taking the 'volunteers' classes and became an approved volunteer. Since that time, I have been visiting Don Paradis every Friday except for sickness or emergencies.

Page 2

Re: Don Paradis

It took a while to establish a real friendship, with me being a red-neck, bald headed farmer and him being a long haired biker. We soon found that we had many things in common; our love of God, our love of the outdoors, animals and family.

Of all the prisoners I have dealt with over the years, Don Paradis is the only one who:

1. Never asked me for money.
2. Never asked me to put his address on the church bulletin board, so women could write to him.
3. Never claimed that he "never did anything wrong".
4. Never put pressure on our friendship by pitting one friend or inmate against another.
5. Never said, "If you are really my friend, you'll . . .".
6. Never made me feel that I was being used.
7. Never changed a word of what he said. He said, "if you always tell the truth you don't have to remember what you said".
8. Never put the blame on someone else involved for his actions.
9. Never said, "take my word for it". He always says "check it out", and when I do, I find that the record proves him true.

The more I have learned about Don Paradis the more I love and respect him. He told me about the three plus years he spent in Bible school at the Abbott Loop Christian Center in Anchorage, Alaska. He went from there to Big Lake, Alaska to start a church. He cleared the land and began a work that still thrives today. I was just a little suspicious, at first, because of all the other 'jail house religion' I had experienced among inmates. It did not take but a couple of months to put my questions to rest.

Don Paradis received an execution order. I had visited and came to know many prisoners, but never one who had a date for execution. I was devastated. I did not know what to say to him. It must have shown on my face because when Don saw me come into the visiting room, he took one look at my face and shaking his finger at me said, "don't do that to me! Either way I win. If they kill me, I'm outa' here to a much better place. If they don't, I'll have another day to seek the truth!" I went there to minister to him, and he gave me such an absolute statement of faith that my own faith was greatly strengthened.

Page 3
Re: Don Paradis

I have asked him many times about the murders. each time he would say. "I don't know. I wasn't there." When I came home the first time there was a fight going on in my kitchen. Scott Currier had shoved Chuck Amachur's arm through the window. It was bleeding real bad! I stopped the fight. then they sat at the table and I bandaged Amachur's arm. I then told them to clean up the mess and I left again". According to testimony the girls had been sent to the bedroom and didn't come out until Thomas Gibson told them that they could. Donald Paradis never met Kim Palmer. He never, ever saw her alive. He said, "When I came home (the second time) there were two bodies in my house. That was the first time I ever laid eyes on Kimberly Palmer. She was already dead. I never knew what she looked like until I saw her picture on the ABC program.

Scott Currier and his girlfriend, (not Kim Palmer) had come along some time before when Don's Harley had blown a transmission in Montana, and gave him and the motorcycle a ride back to Spokane. Don explained, "There was no reason for those kids to be dead. There was no reason to have a problem with Scott Currier. He evidently didn't expect a problem either or he wouldn't have brought Kim Palmer to the house with him".

Our real nature comes out when we are under pressure. I can not imagine any pressure greater than being within a couple of days of execution and knowing it. Don Paradis never wavered in his faith, nor did he change any of his story.

I sat through the entire hearing before Judge Ryan and then again in Coeur D'Alene before Judge Judd. I have read the transcripts and many of the letters from witnesses. I have many more questions in my mind about the trial than I do about Donald Paradis.

Don Paradis admits that he panicked when he came home and there were two dead bodies in his house, and that it was wrong to help transport those bodies from Spokane to Post Falls. Then he asks "doesn't fourteen years on death row pay for that mistake?". He kneeled beside Kim Palmer's body and prayed for her and did the same for Currier on his way back up the hill.

Someone needs to pay for the brutal slaying of Kim Palmer. Perhaps it should be the one who has confessed several times that he did it in Spokane and that Don Paradis was not there at the time. It will not serve justice to execute a man who has not killed anyone.

Page 4
Re: Don Paradis

It has been very gratifying to me to watch Don Paradis continue to minister to fellow inmates at the I.M.S.I. Death row. Don did Bible studies, taught Max to read, held religious services introducing men to his Savior. Don Paradis worked hard to get Sunday services on death row. He worked to get a baptistery tank brought in so they could baptize converts. Don saved food and juice from his own tray to serve communion. It is because of the efforts of Don Paradis that many inmates have peace with themselves and peace with their creator, even on death row. Don Paradis was put out in the population for a few short months. During that time he started small group discussions centered on the Bible.

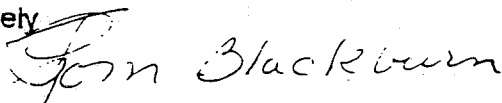
I, Tom Blackburn, have probably spent more quality time with Donald Paradis than anyone else in the last twelve years. I am fully convinced that the State of Idaho is determined to execute an innocent man without giving him the fair trial that is guaranteed to him by the Constitution of the United States of America.

With Donald Paradis, I too say "Don't believe what I say, just give me a chance to present all the evidence and put forth all the witnesses, with a real attorney instead of an active police officer. Then let the chips fall where they may." It seems strange to me that Idaho would pass laws that prevent a citizen from presenting new evidence, and then another to prevent witnesses from coming forth to testify.

When I interviewed Scott James of the Attorney Generals office for the State of Idaho, I asked him if he was interested in finding the truth. He said, "No, only in winning!" My heart is sick. My heart is sick for Kim Palmer's family. My heart is sick for Don Paradis, a man condemned, not because he was guilty, but because he was a biker. My heart is sick for the judicial system in Idaho, Idaho a proud state with a proud heritage of Western ideals of honor, integrity, fairness and truth. My heart is sick because I have watched men 'play' with a man's life by going to any means to win, with little regard for finding the truth.

Please, please take another look!

Sincerely



Pastor Thomas Blackburn

730152, Idaho
8-31-95

Rev. Tom Blackburn
Garden City Community Christian Center

Dear Tom,

As I thought back over the years in reference to Don Paradiz, I am pleased to remember so many positive things. Even before coming to prison Don had led men to Christ while in jail. During his years of incarceration he maintained a regular bible study and prayer time. He did his best to encourage inmates and staff in daily activities and was instrumental in helping start the monthly church service at IMSI for B block inmates.

When Don moved to A block and had access to the ball field, his first effort was to start a bible study during recreation time. His influence on the men in that study was lasting and profound.

At times during 1995 Don appeared under stress and depressed, however, when I talked to him he never weakened in his faith in God, and would share with anyone who would listen that his Hope for today and for the future was in Jesus Christ.

Don Paradiz has shown remarkable faith, patience, and endurance while in prison and has been a good witness to both believers and non believers.

Yours in Christ,



Harley A. Brueck
Director, Idaho Chaplains Corps

Henry Scammell

Box 507 Orleans MA 02653 • (508) 255-8422

July 14, 1995

Idaho Commission of Pardons and Paroles
Boise, Idaho

Re: Donald M. Paradis, I.M.S.I. Inmate 18362

To the Commission:

Because I am writing on behalf of Mr. Paradis, I will start by outlining my credentials to address his case. I am an author of six books and some 500 articles on forensics, medicine, business and the law, and have interviewed many people who have committed murder. The books include: An American Company (1976); On the Inside (1987); The Road Back (1989); Mortal Remains (1991); Bones, A Forensic Detective's Casebook (1992); and The Arthritis Breakthrough (latest edition 1995.) My work has been nominated for the Pulitzer Prize; featured by numerous book clubs including Doubleday, Fortune, and Book of the Month; translated into several languages; produced on television; and published by Macmillan, Crown, HarperCollins, Evans, the Smithsonian Institution, the National Museum of Natural History, Boston Museum of Science, Law Enforcement Technology, Boston Globe, Associated Press, Equities, and Washington Times, among many others.

In addition I am an elected official of the Town of Orleans and served on the vestry of the Episcopal Church of the Holy Spirit, and have consulted, both professionally and as a volunteer, with former Orleans Court Prosecutor and Wellfleet Police Chief Richard O'Hara on a number of criminal cases involving alternative sentencing and pre-trial diversion programs. I am a *magna cum laude* graduate of Harvard College (BA 1960), a diplomate of the International Marketing Institute at Harvard Business School, and winner of the Bell Prize "for contributing to the understanding of American literature."

I first became acquainted with Mr. Paradis in early 1990 through my editor at HarperCollins, for whom I was then writing two books on the FBI's work in forensic anthropology. Although we initially reviewed his case as a possible model for a study of capital punishment, it soon became apparent to both of us that it was something very different, a paradigm of justice miscarried. In the following years the facts that led to that conclusion have been widely reported and I will leave it to others to represent them to the Commission. Instead, I would like to focus on what I have come to know of Donald Paradis' character.

Over the past five years, I have spoken with Don several times a month by telephone and, principally at his request, have had many

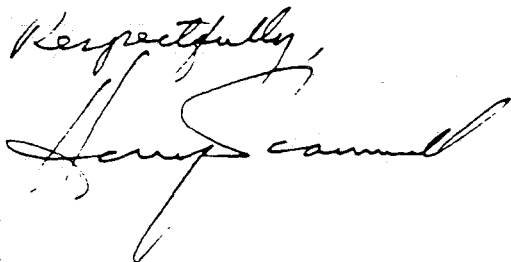
contacts with his friends, his adoptive and natural families, and his daughter. Those contacts began with my acting as Don's proxy in attending the funeral in Fall River of his adoptive mother, and most recently included his natural mother and sister whom my wife and I visited just last week in Fall River.

In every aspect of his relationship with me, or through me with his family and with others, Don has not once allowed his situation, even when death seemed near, to subvert or displace his strong Christian values. He has unshakable faith in God's love and an absolute reliance on his Maker's promise that the truth will set him free - even if it is not in this life. He has resisted all temptation of emotion or expediency to in any way exploit his relationships with his daughter or his birth mother and sister, and is a jealous guardian of their privacy even when the public telling of their stories might be used to illuminate his unjust imprisonment and prospective death. Although it is only in the past couple of years that he has been able to re-establish contact with his daughter, his legacy to her, whether he lives or dies, will be the memory of a warm, good-humored, loving, attentive, unselfish father and grandfather who by some miracle of grace has passed to her the nurture he so rarely got from others in his own childhood.

Even toward those who are responsible for his false conviction and any who would see him executed for a crime he did not commit, although he occasionally has shown some understandable anger, there has never once been the slightest vindictiveness or unforgiveness. Moreover, he has long ago accepted that his present extremity began with his own mistakes, not just as an accessory after murder but in his choice of friends and the way he lived much of his prior life. Conversely, one might ask whether the third of Don's life spent awaiting his execution has had more effect on his character than the abuses he suffered in his youth or his excesses as a biker, I believe it has.

Don's formal education was severely handicapped by learning disorders and social adjustment problems from a blighted childhood starting with his unwanted birth. Despite those deficits, he has acquired a thorough, well-balanced, scholarly knowledge of the Bible which he easily and effectively shares with others. He also has a hard-earned education in the law. Whatever its outcome, Don's case is certain to provide both a powerful cautionary tale and an important, highly visible legal model for years to come. Your decision for or against clemency will determine, among so many other things, whether Don himself will have a role in extending its future use to others.

I am honored that we have become close friends. I would trust him with any member of my family, and with my life.

Respectfully,


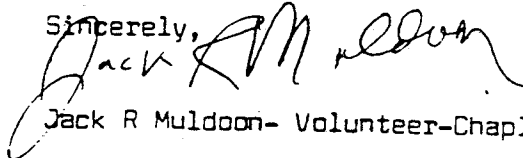
August 23, 1995

To Whom It May Concern:

Five years ago we were allowed to start a non-demonational church service for the Inmates on death-row. The service is held on the first Sunday each month at the Idaho Maximum Security Prison in Boise, Idaho. Donald Paradis, an inmate on death-row was instrumental in helping this service get started.

Donald Paradis has also been instrumental in helping other inmates in the study of the Bible.

Sincerely,

A handwritten signature in cursive script that reads "Jack R. Muldoon". The signature is written in dark ink and is positioned above the typed name.

Jack R Muldoon- Volunteer-Chaplain

AFFIDAVIT OF CHUCK A. DOAN

State of Idaho)
(ss
County of Ada)

I Chuck A. Doan depose and say the following under the penalty of perjury:

That I have been incarcerated within the confines of the Idaho department of corrections for approx: three years two months:

that my institutional number is #32.505

That I have known Donald Paridis for approx: two years:

That I communicated with Donald Paridis on a daily basis while we were both housed in A-Block of the Idaho maximum security institution:

That Donald Paridis was the A-Block foyer janitor for over a year and communicated with the majority of the inmates as well as staff members with a good attitude and a good sense of humor as well:

That Donald Paridis was and still is a member of the Western Association of Indian Tribesmen, [W.A.I.T.] here at IMSI:

That Donald Paridis has participated and contributed much of himself and his time to his Native American Beliefs and cultures:

That I have attended sacred sweatlodge ceremonies with Donald on several occasions and witnessed his strong sincerity towards the creator as he knows him, as well as witnessing the gentle spirit that lives inside the man:

That Donald Paridis is an un-selfish individual who cares about others and tries to help people when ever it is neccisary:

That Donald Paridis helped me through a very hard time when a member of my family passed away, without his friendship, compassion and kind words my situation would have undoutedly been un-bearable to cope with:

That at NO TIME have I nor do I feel in any way threatened by Donald Paridis, on the contrary, I feel very much at ease in Donalds presense:

That I DO NOT believe Donald Paridis is a threat to myself or any other human being:

That I DO NOT believe for even a mere second that Donald Paridis possesses an "utter disregard" for human life:

That Donald Paridis is respected and liked by the majority of the inmates here at IMSI, as well as staff members who have known him and worked with him:

That I have always found Donald to be a very giving person, who has a very good sense of humor and a possative out look on life:

That Donald is kind and, considerate and courteous to others, Donald always tries to make people laugh when they look down or upset, in short Donald Paridis is a good man:

That Donald Paridis has suffered well over a decade of mental torcher on death Row, he spent a little over a year and a half on A-Block, in that year Donald touched many hearts with his easy going way of life, his appreciation for life, Donald Paridis is a credit to those who have had the privelage of knowing him, it is those people who have yet to meet him who are being deprived the chance to learn many good things from a very spiritual and good hearted person:

FURTHER THIS AFFIANT SAYETH NAUGHT

Dated this 13th day of September 1993;

Chuck A. Doan
Chuck A. Doan
affiant

THIS AFFIDAVIT WAS SUBSCRIBED AND SWORN BEFORE ME ON THIS 13th DAY OF September, 1993.



James L. Raymond
Notary Public for the State
of Idaho, residing at Boise Idaho,

My commission expires June 25, 1999
1 1 1 1

AFFIDAVIT OF LEON R. MURRAY

State of Idaho)
(ss
County of Ada)

I Leon R. Murray hereby depose and say the following under the penalty of perjury;

That I have been incarcerated within the confines of the department of corrections in the State of Idaho for approximately six years and ten months;

That my institutional number is 24.820;

That I have known Donald Paradis #18.362 for approximately five years;

That I communicated with Donald Paradis while he was on Death Row in unit # (8) at the Idaho State Correctional Institution, while being held as a administrative segregated inmate for disciplinary reasons;

That I also had the opportunity to communicate with Donald Paradis while in the Idaho Maximum Security Institution while being held on the Death Row tier as a administrative segregated inmate;

That I have lived with Donald Paradis when he was let off Death Row and placed in Close Custody on A Block at the Idaho Maximum Security Institution;

That while living in Close Custody with Donald Paradis I found him to be a good person to me and other inmates;

That I had the opportunity to go to Christian Services with Donald Paradis and listen to him profess his belief in Jesus Christ;

That I have never felt threatened or in danger while living with Donald Paradis on Close Custody A Block at the Idaho Maximum Security Institution;

That I do not believe Donald Paradis has "Utter Disregard" for human life;

That I feel Donald Paradis is a very spiritual person and has alot to offer intellectually to others;

That regardless of guilt or innocence in his case I do not believe society needs can be met through the execution of this individual;

That I say the foregoing because I felt it important to those involved in the Judicial process to reconize Donald Paradis as the person I believe him to be at this point in his life not the person he is accused of being;

FURTHER SAY THIS AFFIANT NAUGHT

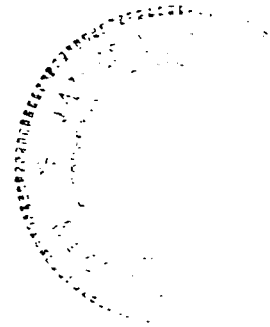
Dated this 3rd day of September 1993;

Leon R. Murray
Leon R. Murray
Affiant

Dated this 3rd day of September 1993;

SEAL

James L. Raymond
Notary Public for the State of Idaho



Boise, Idaho
Residing at:

June 1 25 1999
Commission Expires:

STATE OF IDAHO)
) ss:
County of Ada)

AFFIDAVIT OF ANTHONY G. COOTZ

I, Anthony G. Cootz, being first duly sworn according to law, depose and say:

1. That I am an inmate confined in the Idaho State Department of Corrections presently classified to medium custody;
2. That during my incarceration I have been assigned to work in key employment positions of responsibility whereby I have had direct contact with inmates of all custodys;
3. That I have been assigned as and worked as the administrative Law Clerk, Education Clerk and Program's Clerk during my incarceration;
4. That in each of these positions I have had constant opportunity to work with, assist and otherwise be involved in helping other inmates educationally and in their legal endeavors;
5. That I have known, been in contact with, and associated with Donald Paradis for at least the last thirteen (13) years;
6. That my association, contact and relationship with Mr. Paradis had begun on a professional basis and through the years has evolved into being a personal friendship;
7. That my thirteen (13) year association, contact, and relationship with Mr. Paradis has allowed me to get to know him quite well;
8. That in the last thirteen (13) years I have been able to see Mr. Paradis interact with hundreds of people, to include inmates, staff and free persons. Mr. Paradis has always been respectful and friendly with those I have known him to be associated with and he has, at no time, posed a

threat to any of these people;

9. That in the last thirteen (13) years I have been able to see Mr. Paradis go out of his way to help dozens of people. Mr. Paradis has expended a great deal of energy and time in this endeavor. Mr. Paradis has helped many people through personal crisis' with his comfort, consolation and willingness to just be there. He has helped many in their educational needs, personally helping to tutor illiterate persons in learning how to read and write;

10. That I know Mr. Paradis' size, appearance and straightforwardness is intimidating to some, (especially to those who don't know him), but in the thirteen (13) years that I have known him I know him to be a caring and giving person who is goodhearted, unselfish and compassionate. Everyone I have known who gets to "know" Mr Paradis is not intimidated by him and does not feel threatened by him;

11. That in the thirteen (13) years that I have known and been associated with Mr. Paradis I have seen him in periods of ups and downs. I have never known Mr. Paradis to be a physical threat to anyone during this period of time;

12. That in the thirteen (13) years that I have known Mr. Paradis I have never seen or been given any reason to believe that his character possesses any degree of utter disregard for human life. If anything, I have known and seen Mr. Paradis to be a compassionate man who not only appreciates life but also cares about the lives of others;

13. That I believe there exists one undeniable fact that many people have failed to recognize or notice that goes directly to Mr. Paradis' character. I believe this one fact demonstrates Mr. Paradis' compassion as

well as his lack of propensity for being a threat to anyone;

a. Mr. Paradis has been on death row since the first day of his incarceration, (with exception to a period of approximately one year). In all of that time he has had to face, live with, recreate with and perform other functions with the very same person who falsely testified against him and contributed to having him placed on death row. Although that person has attempted to recant his testimony and relate the truth about his false testimony, that fact doesn't change the reality of the situation;

b. In prison any inmate who testified against another, and especially falsely testified, who's testimony contributed to placing another inmate on death row, is considered to be the lowest of people, (hated with the same passion as child molesters). These sort of people normally have a hard time in prison and usually suffer bodily harm and even death from inmate attacks. Although I personally know many inmates who despise the inmate who falsely testified against Mr. Paradis, I also know that Mr. Paradis has intervened in anything bad happening to this inmate. Mr. Paradis has expressed and shown forgiveness towards that inmate and refused to support any reason for others to hate that inmate;

c. In my personal opinion and belief Mr. Paradise has demonstrated one of the greatest degrees of compassion man can have for his fellow man. He has shown great regard for human life by not only forgiving but striving to protect the person who lied and contributed to having him placed on death row. I believe Mr. Paradis has shown that he is no threat to anyone by his actions of forgiving and not being a threat to the very person who falsely testified against him and contributed to placing him on death row;

.....

14. That in the thirteen (13) years that I have known Mr. Paradis he is not only respected but he is liked by his peers and staff who have known and worked with him;

15. That I do not believe Mr. Paradis is the type of person who belongs on death row;

16. That it has been my fortunate pleasure to know and associate with Mr. Paradis. He has been an inspiration to me in my times of need and I know he has been a good influence on those he has touched in the last thirteen (13) years;

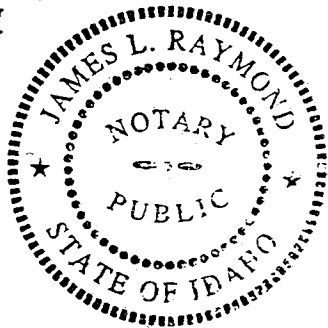
17. That I make the statements herein on my own free will without having any personal gain therefor;

18. FURTHER SAYETH YOUR AFFIANT NAUGHT.

DATED This 20th day of October, 1993.

Anthony G. Cootz
Anthony G. Cootz
Affiant

SUBSCRIBED AND SWORN TO before me on this 20th day of October, 1993.



James L. Raymond
Notary Public for Idaho
Residing at: Boise, Idaho
Commission Expires: 25/dec/1999

To Whom It May Concern:

I am writing to express my concern for Idaho State Correctional Institution Inmate Don Paradis.

I have worked for the last twenty five years at a community type church. In that capacity, I was responsible for the Pastor's Office, operation of a soup kitchen and for eight years a volunteer at the prison chaplain's office.

I was state correctional volunteer of the year (1985) and one of five Idaho Jefferson Award recipient in 1991. While at the prison, I was active in inmate family/personal crisis situations.

I had several opportunities to work with Don. Most were not his own crisis, but rather as a liaison between the "outside" and other inmates. Don was seeking direction for his academic and spiritual life. I ask the Pastor that I was working for to assist Don and their friendship is still firm and includes weekly visits.

Over those eight years of service and the ones that have followed, Don and I have shared personal problems, family problems, legal problems and frustrations. Don is a good friend, competent advisor for others and always ends his conversations with a humorous story.

Don has improved his own life with study, schooling and establishment of an outside network of responsible people to aid in his return to the outside as a responsible citizen. Though his childhood was troubled and his young adulthood reached dysfunctional, the last many years he has changed into a loving son, father, and now grandfather. He is preparing for a future in the professions and I feel that the time is right for his chance for a real life service.

I have read Don's court transcripts and even talked to another inmate, Tom Gibson, who told me that he was there at the crimes and that Don wasn't. It was of no profit to himself to confide this to me, as I had no bargain power. Because a mistake may have been made in the judgement of Mr. Paradis please consider a second look at the situation. Accomplice after the fact, though certainly criminal of itself, may not warrant permanent imprisonment.

If I can assist in any way, please feel free to contact me.

Phyllis J. Waller

Phyllis J. Waller
10120 Canterbury
Boise, Idaho 83704
208 376 6725



Memo

Ed

Thanks, it was your Belittling
me and telling me how uneducated
I am that made me feel so bad
about myself that, I vowed to myself
"I'll Show that up tie up that I
am not a Dumb Bell even though I
was Born with a learning Disorder!

SO, Here it is I did it!
Yale Here I Come 😊

Your Not
So Dumb
Gient
d/Paradi

P.S.

Thanks For The Shove.

P.S.S.

Could You Frame it For me

and Hang it
in Your office

Certificate of Completion

This certifies that

DONALD PARADIS

has successfully satisfied the requirements of

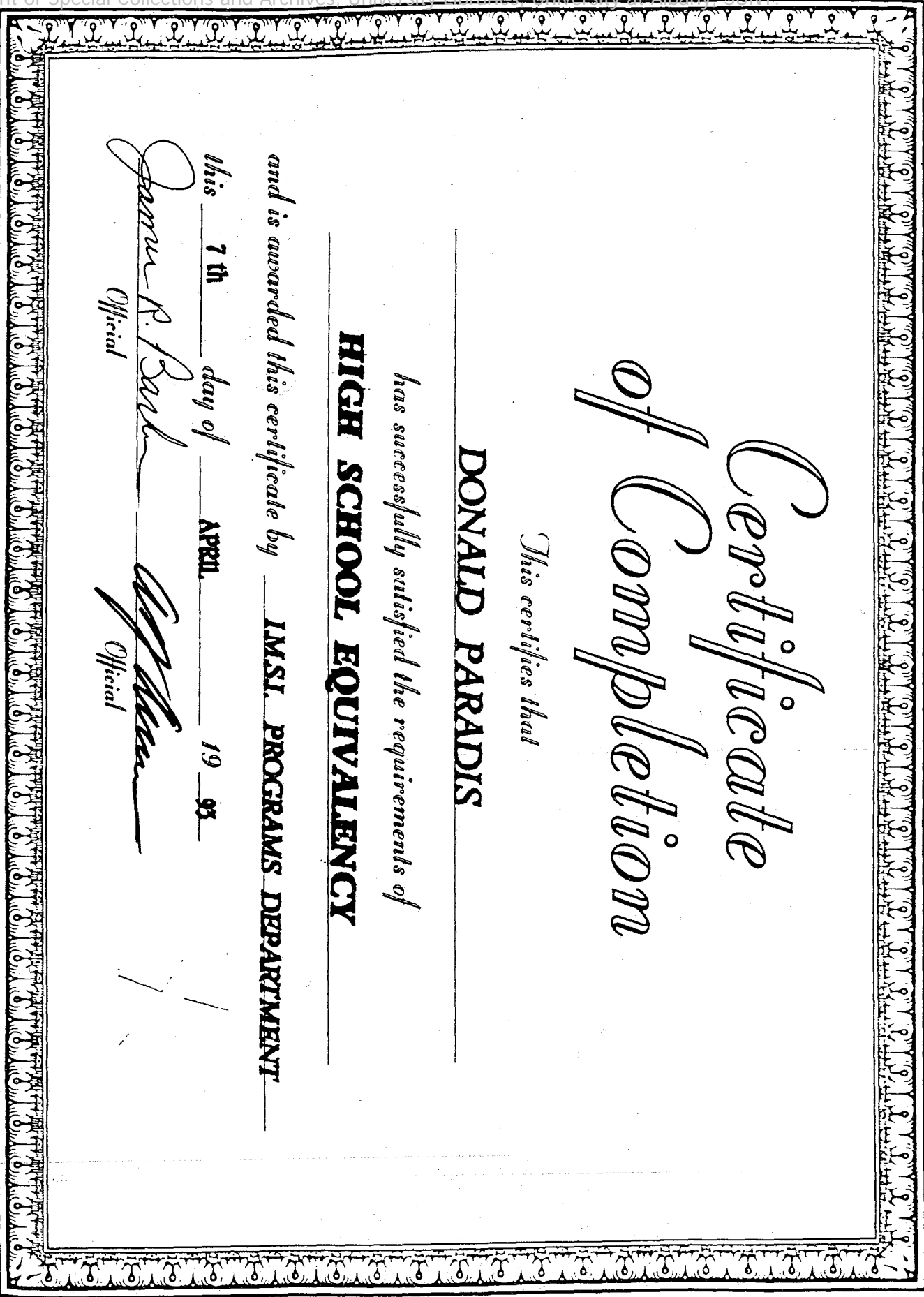
HIGH SCHOOL EQUIVALENCY

and is awarded this certificate by **IMSI. PROGRAMS DEPARTMENT**

this **7th** day of **April** 19 **93**

James R. Paul
Official

[Signature]
Official



*Certificate
of Completion*

This certifies that

Donald Paradis

has successfully satisfied the requirements of

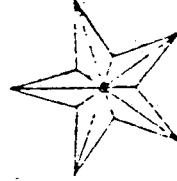
Self Improvement in Writing

and is awarded this certificate by **IMSI Programs Department**

this **8th** *day of* **September** **19 95**

A. J. Glavin
Official

Carroll J. [unclear]
Official



Certificate of Completion

This certifies that

Donald Paradis

has successfully satisfied the requirements of

Anger Management Problem Solving (18 hrs. of class)

and is awarded this certificate by Ken Yahraes Programs Staff

this 7TH day of July 19 83

Robert L. Monahan 15W York St. Shel. Pub.

Official

Official

XII. RELIEF SHOULD BE GRANTED BY THIS COMMISSION AND THE GOVERNOR

The clemency process must be able to recognize and remedy fundamental miscarriages of justice. The U.S. Supreme Court has recognized that "[i]t is an unalterable fact that our judicial system, like the human beings who administer it, is fallible."⁷⁷ In such instances, the courts may not have the flexibility to remedy an injustice even though it is recognized. Clemency proceedings must provide the safety net. "Clemency is deeply rooted in our Anglo-American tradition of law, and is the historic remedy for preventing miscarriages of justice where judicial process has been exhausted Executive clemency has provided the "fail safe" in our criminal justice system" ⁷⁸

Whatever involvement Don Paradis had in the disposal of the bodies of Currier and Palmer and in covering up these crimes, over fifteen years in prison under a death sentence has punished Don Paradis many times over. After being duly tried, he was acquitted of any responsibility for Currier's death and we now know that Amacher killed Scott Currier. We also know that Thomas Gibson murdered Kimberly Palmer. It would be wrong to allow Don Paradis to be executed simply because he helped hide the victims' bodies.

In the name of justice, pursuant to the Constitution of the State of Idaho and Idaho law, we respectfully request that this Commission recommend to the Governor of the State of Idaho that Donald Paradis be granted:

(1) A reprieve from his sentence of death so that this Commission may consider Paradis' request for clemency; and

⁷⁷ Herrera v. Collins, 113 S.Ct. 853, 868 (1993).

⁷⁸ Herrera v. Collins, 113 S. Ct. 866, 868.

(2) A conditional pardon subject to the following: (a) the right of the State of Idaho to retry Paradis for the murder of Kimberly Palmer within a reasonable period of time; and (b) Paradis' voluntary waiver of any claims of double jeopardy in connection with such a retrial. Don Paradis deserves a new trial at which all the evidence of his innocence can be presented and weighed by a jury and at which he would be represented by an experienced, non-conflicted attorney. Don Paradis is willing to stand trial again. He asks only for one fair trial where all the evidence will be considered; or

(3) If this Commission determines that it cannot recommend that Paradis be granted a conditional pardon, then we respectfully request that it recommend to the Governor that Don Paradis' death sentence be commuted to an indeterminate sentence of life. A commutation would at least prevent the irrevocable, gross injustice of the wrongful execution in Idaho of an innocent man. Don Paradis has demonstrated, when he was in general population at the prison and was not under a death sentence, that, with some hope for his future, he could lead a meaningful life in the prison community.

We ask this Commission to spare Don Paradis' life.