SUMMARY OF EVENTS RELATED TO THE PETITION FOR CLEMENCY

FOR

JOSEPH JESSE DICK, JR.
DEREK ELLIOT TICE
DANIAL J. WILLIAMS

HOGAN & HARTSON L.L.P.
SKADDEN, ARPS, SLATE, MEAGHER & FLOM L.L.P.
HOLLAND & KNIGHT L.L.P.

Dated: November 7, 2005
Three young men, Joseph Jesse Dick, Jr., Derek Elliot Tice, and Danial J. Williams, are inmates in Virginia prisons serving life sentences without the possibility of parole for a rape and murder they did not commit. We are seeking clemency for these innocent young men. 1/

In the early morning hours of July 8, 1997, Omar Ballard – whom the victim, Michelle Bosko knew and trusted – committed this horrific crime alone. DNA tests proved to a degree of certainty in the billions that Ballard, and only Ballard, was the source of the semen recovered from Ms. Bosko. Ballard’s DNA also matched other evidence including blood found under Ms. Bosko’s fingernails. There is no physical evidence whatsoever linking anyone other than Ballard to this crime because this crime was committed by him alone.

Notwithstanding the absence of physical evidence linking Dick, Tice, Williams to the crime, these innocent men are serving life sentences for the rape and murder of Ms. Bosko based on false confessions coerced by Detective Robert Glen Ford, the lead detective in this case, who has a well-documented history of eliciting false confessions in murder investigations. Dick and Williams – faced with the risk of the death penalty if they went to trial – were convinced by their attorneys that the only way to spare their lives was to plead guilty to rape and murder. Wilson and Tice went to trial. Wilson was convicted of rape, and Tice was convicted of rape and murder.

Recent expert evaluations on behalf of these three men have established in ways never shown before in this case that Ms. Bosko was raped and murdered by a single person, Omar Ballard.

- Larry McCann, a twenty-six year veteran of the Virginia State Police, former Fellow at the FBI National Center for the Analysis of Violent Crime, and one of the nation’s leading experts on crime scene reconstruction and profiling, has analyzed the facts surrounding this case and has concluded that Williams, Dick, and Tice “had nothing to do with this crime.” In Mr. McCann's expert opinion, one person committed this crime, not multiple perpetrators as Ford and the two trial prosecutors, D.J. Hansen and Valerie Bowen, claimed. Mr. McCann found that Ballard is the only suspect who matches the profile of the perpetrator, and Ballard's confession is the only one that mirrors the objective physical evidence from the crime.

- Dr. Werner Spitz, one of our country’s preeminent forensic pathologists and the author of the seminal text in the field of forensic pathology, has found, after exhaustive review of the record, that the wounds suffered by Ms. Bosko were inflicted by a single perpetrator. Specifically, he concludes that “from a forensic pathology perspective, the entire record in this matter is wholly

1/ A fourth young man, Eric Cameron Wilson, was sentenced to eight-and-a-half years for rape, and he, too, is innocent. Wilson has already filed for relief from the Governor.
inconsistent with a conclusion that multiple offenders raped and murdered Ms. Bosko.”

- Dr. Richard Ofshe, a sociology professor at Berkley, Pulitzer Prize winner, consultant to nineteen law enforcement agencies, and the nation’s most recognized expert on coercive interrogation techniques and false confessions, has closely reviewed the facts, examined the petitioners and found that: “it is clear that Williams, Dick and Tice are three innocent men, inappropriately imprisoned for this crime.” Dr. Ofshe concluded that Ford’s interrogations of Williams, Dick, and Tice were riddled with dangerous, coercive tactics that led innocent men to falsely confess to crimes they did not commit. Dr. Ofshe noted that “[i]n my long experience, the situation confronted by the Norfolk Four may well be the most egregious miscarriage of justice I have examined.”

In Virginia and around the nation, innocent people are being freed in cases where the exonerating physical evidence is much less compelling than here. Justice for these men is long overdue.

♦ How Do Four Innocent Men Confess to a Horrible Crime They Did Not Commit?

How did these young men become trapped in this nightmare? This tragedy occurred because Ford and other investigators ignored several clues that would have led them straight to the real killer, Ballard. Instead, they extracted demonstrably false confessions from a succession of four young sailors in an effort to sustain a hastily-conceived theory that the first sailor-suspect, Williams, had alone killed Ms. Bosko because he was attracted to her. This theory was reduced to ruin when Williams’s DNA failed to match the evidence found at the crime scene. With no concrete evidence linking Williams to the crime, rather than attempt to identify another assailant, Ford sought to establish that Williams must have been assisted in this rape and murder by friends.

By the time Ballard finally surfaced as the real killer – more than a year-and-a-half after the crime – Ford had arrested seven innocent men, none of whom knew Ballard and all of whom were current or former members of the United States Armed Forces: the four who falsely confessed and three others implicated in those confessions but who did not confess and against whom all charges ultimately were dismissed. All of the “confessions” are sharply inconsistent with the actual evidence at the crime scene, and with each other. No physical evidence of any kind – including DNA found at the crime scene – connects any of these seven young men to the crime. But by the time Ballard surfaced as the true, lone killer, Ford and the prosecutors had gone too far down the wrong road to turn back and admit that they had been wrong all along.

♦ Omar Ballard

Ballard’s guilt is beyond dispute. In early 1999, Ballard, already in prison for the rape of another Norfolk teenager, sent a chilling letter to a friend. In it, he threatened to kill her just as he had killed “Michelle.” In March 1999, after Ford received a copy of Ballard’s incriminating letter and after DNA tests conclusively proved Ballard raped Ms. Bosko, Ford questioned
Ballard in prison about his involvement in the crime. Unlike the lengthy and coercive interrogations suffered by Williams, Dick, Wilson and Tice, Ballard readily admitted to Ford, within twenty minutes of waiving his Miranda rights, that he killed Ms. Bosko by himself. Ballard told Ford, in exacting and disturbing detail, how he murdered Ms. Bosko alone.

Ballard continues to maintain that he committed this crime alone – a truth that all of the physical evidence confirms. DNA analysis confirmed that Ballard was the *sole* source of the genetic material left by Ms. Bosko’s killer. The semen recovered from Ms. Bosko’s vaginal swabs and the blanket that covered her body matched *only* Ballard’s DNA; blood found under Ms. Bosko’s fingernails matched *only* Ballard’s DNA; and there was *no DNA foreign to Ballard or Ms. Bosko* recovered from the scene. No DNA from the four young men sentenced to prison for this heinous crime (or the three other men against whom charges were dropped) was found anywhere at the scene because they had absolutely nothing to do with Michelle Bosko’s death.

It is surprising that investigators ignored Ballard for so long. Ballard knew Ms. Bosko and sometimes stopped by her apartment in the early morning hours. He had assaulted a woman in Ms. Bosko’s apartment complex with a baseball bat two weeks before committing this crime. And just ten days after raping and murdering Ms. Bosko, Ballard committed a significantly similar rape of a teenage girl just over a mile from Ms. Bosko’s apartment. On July 25, 1997, less than three weeks after the murder of Ms. Bosko, police arrested Ballard for raping the teenager, but the police did not question Ballard about Ms. Bosko. It has now come to light that Tamika Taylor, a friend of the victim, who had introduced Ms. Bosko to Ballard, told police early in the investigation to consider Ballard as a suspect. Yet police ignored Taylor’s suggestion and other links between Ballard and the crime, never told defense counsel about Taylor’s lead, and did not even question Ballard until more than 20 months after Ms. Bosko was murdered and only after they received a copy of Ballard’s chilling letter in which he admitted to killing her.

Danial J. Williams

The facts are clear that from the outset of the investigation, Ford and other investigators ignored links to Ballard and hastily targeted a young sailor, Williams, as the culprit. Within an hour of arriving at the crime scene, police “invited” Williams to the police station after Tamika Taylor told them that Williams was attracted to Michelle Bosko. Without any evidence suggesting he was at all involved in the crime, two detectives subjected Williams to a high-pressure interrogation over a nine-hour period that was peppered with lies. The detectives falsely claimed they had a witness who saw Williams leaving Ms. Bosko’s apartment after she was last seen alive. Although he volunteered to take a lie detector test and then passed the test, truthfully stating that he did not kill Ms. Bosko, detectives lied to Williams and told him he failed the polygraph. Yet Williams resisted their efforts and maintained his innocence. Only when the two detectives’ persistent efforts failed to yield a confession did police supervisors summon Ford, a master at extracting confessions. Ford used the threat of capital punishment and the promise of leniency to extract a false confession from Williams.
Although Ford succeeded in coercing Williams into confessing, Williams’s confession was entirely inconsistent with the crime scene. Williams claimed, for example, that he hit Ms. Bosko with a shoe and, that no other weapon was used, and that she was not strangled. Yet the autopsy showed no signs that Ms. Bosko had been hit with a shoe and instead showed that she had been stabbed and strangled. Nonetheless, Ford and his team accepted the confession, confident that Williams had acted alone, and considered the case closed.

For good reason, the investigators believed that only one person committed this crime. The physical evidence was consistent with one, and only one, perpetrator. The apartment was in relatively pristine condition when the victim’s husband discovered her body, and there was no evidence that Ms. Bosko had struggled with multiple assailants. Papers balanced precariously on a shelf between the kitchen and a short hallway to the bedroom were undisturbed. The walls were unmarked. No furniture was disarranged. Moreover, the penetrating stab wounds suffered by Ms. Bosko were at precisely the same angle, within two inches of each other, and had the same 5” depth, strongly suggesting that one attacker inflicted each stab wound.

Because investigators strongly believed that this crime was committed by one person, after having secured Williams’s confession, Ford and his team did not search for any additional suspects until six months later, after Ford learned that Williams’s DNA did not match the blood and semen left by the killer. Rather than concluding that the physical evidence and DNA results exonerated Williams, and surmising that another lone assailant had committed the crime, Ford sought to prove Williams’s involvement – even if it meant coercing additional false confessions.

♦ Williams’s Friends: Joseph Dick, Eric Wilson, and Derek Elliot Tice

One by one, simply because they happened to have known Williams, three other innocent young sailors became murder suspects in Ford’s search for a DNA match. First, Ford hauled in Williams’s former part-time roommate, Dick. During hours of intense interrogation by Ford and his partner, Dick insisted that he was innocent. This interrogation should have ended quickly, with the confirmation of Dick’s alibi. Dick told the detectives that he was on duty on the ship at the time the murder occurred. The detectives told him that his alibi did not check out, but in fact, they made no effort to confirm it. Dick’s former direct supervisor, Petty Officer Ziegler, recently confirmed that Dick was assigned to work in the Calibration Lab during the relevant time and had been instructed to sleep on the ship. Petty Officer Ziegler would have been notified if Joe had missed his duty assignment, but he was not. Petty Officer Ziegler would have provided this information to the detectives, but nobody contacted him.

After eight hours of intense interrogation, Dick did what Williams had done: admitted to a crime he did not commit. He broke down only after Ford repeatedly threatened him with the death penalty and bodily harm. As with the other “confessions” Ford obtained, Dick concocted several versions that were wildly inconsistent with the known crime scene facts. He could not even correctly identify the room in which the crime occurred. He stated that the crime had taken place in the living room when in fact, Ms. Bosko was raped and murdered in her bedroom. Only after he was fed details of the crime by the detectives did Dick later produce a version that loosely fit the facts of the rape and murder of Ms. Bosko.
Approximately three months later, when Dick’s DNA failed to match that found at the crime scene, Ford concluded that there must have been yet another participant that Dick and Williams were protecting. Ford eventually came up with a third suspect, Eric Wilson. A familiar scenario ensued. Wilson was apprehended, and for several hours, denied any involvement in the crime. But after a lengthy and abusive interrogation, Wilson broke down. As with Williams and Dick, Wilson was coached by the detectives to get his “confession” to fit the facts of the crime. Finally, he confessed to rape, saying that he had acted with Dick and Williams, and no one else.

But since Wilson too was innocent, his DNA was not a match either. Again, instead of considering the possibility that all these men were innocent, Ford pressed the pliable Dick for still more leads to other suspects. Dick obliged with yet another version of events. After changing important details of his initial confession several times to support Ford’s ever-expanding theory which was necessitated by the string of failed DNA matches, Dick now claimed that a total of six men were involved. Dick eventually identified another friend of Williams, Derek Tice, as one of the six perpetrators.

Tice was arrested at his home in Florida in June 1998 and repeatedly denied any involvement in the crime. But Ford refused to accept his denials. Ford taunted Tice repeatedly that he would “get the needle” and die unless he confessed to the crime. Tice insisted on his innocence and requested an attorney, but the request was denied. Eventually frightened, intimidated, broken and in total despair, Tice succumbed and confessed to participating in the crime. Because Tice was not present at the crime scene, Ford had to coach Tice, just has he had Williams, Dick, and Wilson on the details through at least three versions of a “confession” before the detective finally felt secure enough to tape record Tice’s statement. Tice’s statement was demonstrably false. For example, he said that the gang of young men had broken into Ms. Bosko’s apartment by using a claw hammer on the door. No such signs of forced entry existed. He said that he ejaculated, but the sperm left by the perpetrator did not match Tice; it matched only Ballard. He said that Ms. Bosko had struggled to protect herself. Yet there were no bruises on her body, the DNA beneath her fingernails matched only Ballard, and there was no disordered furniture or objects in the nearly spotless apartment.

Tice’s “confession” demonstrated yet again that the threat of death from a relentless interrogator provides a powerful incentive to lie. Yet again, the DNA results were a problem: Tice’s DNA did not match that found at the scene of the crime.

♦ Three More Suspects: Geoffrey Farris, Richard Pauley, and John (C.J.) Danser

Ford continued his quest for a DNA match by having Tice implicate three more men: Geoffrey Farris, Richard Pauley, and John Danser. All three were interrogated, but Farris, Pauley, and Danser refused to confess. Pauley and Danser had airtight alibis. As with Ford’s earlier suspects, DNA results eliminated Farris, Pauley, and Danser as the source of any of the genetic material recovered from the crime scene.
Despite the alibis, the exonerating DNA results, the absence of any physical evidence tying Farris, Pauley, or Danser to the crime, and the lack of confessions from those three men, the prosecutors forged ahead aggressively to prosecute them for capital murder, based on expected testimony from Dick and Tice, which had been required by the plea offers to each man.

Finally, Ballard surfaced through his letter and admitted that he was the lone killer. When Tice learned of Ballard’s confession, he rejected his plea deal, reasserted his innocence, and refused to testify against anyone. Thus, left with nothing other than Dick’s wobbly testimony against Farris, Pauley, and Danser, the prosecutors abandoned the prosecutions against those men, who were then set free.

Nevertheless, the trial prosecutors continued their case against Tice on a theory that he participated with Farris, Pauley, Danser, as well as Williams, Dick, Wilson, and now Ballard. Despite the lack of any physical evidence that this was a multi-perpetrator crime, the airtight alibis of Pauley and Danser upon whose participation Tice’s confession depended, and the DNA analysis linking only Ballard to the crime, the prosecutors took the position in Tice’s trial that all eight men had raped and murdered Ms. Bosko.

♦ The Pleas and the Trials: Forcing Ballard to Change His Story

Williams and Dick pled guilty to rape and murder in January and April 1999, respectively, and both are serving dual-life sentences. Williams’s subsequent motion to withdraw his guilty plea was rejected.

The prosecutor next acted to ensure that Ballard – who had insisted that he had acted alone – supported their theory that the sailors were with him when he killed Ms. Bosko. Ballard, who was about to be prosecuted for the crime, learned that the prosecutors would drop the death penalty if he changed his story and stopped insisting that he had acted alone. In other words, the prosecutors would spare Ballard’s life and forgo a near certain death sentence, if Ballard adopted the unsubstantiated multiple-assailant theory. Ballard took the deal. Apart from his plea agreement, Ballard has never implicated any of these young men in this crime. Notably, the plea agreements of Williams, Dick, and Ballard relied on inconsistent and irreconcilable accounts of the crime and who participated, and differed in important ways from the prosecution’s assertions at the trials of Wilson and Tice.

Wilson quickly recanted his confession and went to trial in June 1999. Based on his false confession and despite the absence of any DNA evidence to support the charges against him, Wilson was convicted of rape and was sentenced to eight-and-a-half years in prison.

Tice, like Wilson, also recanted his confession and went to trial in January 2000. Tice was convicted of rape and capital murder, but his conviction was overturned on appeal. At his retrial in January/February 2003, Tice was convicted of rape and murder once again. Both convictions rested primarily on his false confession. Moreover, the jurors were precluded from hearing critical information about Ford’s history of eliciting false confessions, and jurors did not
have the benefit of Ballard’s testimony, in which he would have confirmed that he had acted alone.

Ballard is now serving two life sentences for the rape and murder of Ms. Bosko. He continues to maintain that he acted alone. He also says that he would have testified that he acted alone at Tice’s retrial but, shortly before the retrial, Ballard was persuaded not to testify by the Commonwealth’s Attorney, Ford and Tice’s trial counsel. Ford and the Commonwealth’s Attorney apparently feared that if Ballard testified at Tice’s retrial, he would tell the jury that Tice was innocent and that he, Ballard, had murdered Ms. Bosko alone.

For all these reasons described more fully in the attached documents, clemency should be granted so that Dick, Tice, and Williams can be released from incarceration immediately and be exonerated from any connection with this crime.
### Comparison of the Commonwealth’s Theory to the Physical Evidence

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<thead>
<tr>
<th>Evidence</th>
<th>Commonwealth’s Theory</th>
<th>Supporting Physical Evidence</th>
<th>Inconsistent Physical Evidence</th>
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<tbody>
<tr>
<td>Apartment Entry Door</td>
<td>Eight men “rushed” the entry door.</td>
<td>None</td>
<td>There were no signs of forced entry; no damage to the entry door; and no evidence whatsoever that even one man, let alone eight men, had stormed the door.</td>
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<td>Living/Dining Room</td>
<td>Eight men struggled with Ms. Bosko in the living and dining room areas on the way to the back bedroom.</td>
<td>None</td>
<td>There was nothing disturbed in the living/dining room and no evidence whatsoever of a struggle in those areas.</td>
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<td>Hallway</td>
<td>Eight men struggled with Ms. Bosko down the hallway into the bedroom.</td>
<td>None</td>
<td>It was physically impossible for eight men to carry a struggling woman down the narrow hallway. There were no items disturbed on the hallway display shelf; no marks on the hallway wall; no marks on the bedroom entryway from the hall; and no evidence whatsoever of a struggle in the hallway.</td>
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<tr>
<td>Bedroom</td>
<td>Eight men took turns raping and stabbing Ms. Bosko.</td>
<td>None</td>
<td>No furniture or other items in the bedroom were disturbed, and there was no evidence whatsoever of a multi-perpetrator struggle in the bedroom. The stab wounds are consistent with a single stabber and inconsistent with multiple stabbers.</td>
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<tr>
<td>Evidence</td>
<td>Commonwealth’s Theory</td>
<td>Supporting Physical Evidence</td>
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<tr>
<td>Autopsy Results</td>
<td>Eight men raped and stabbed Ms. Bosko.</td>
<td>None</td>
<td>The three penetrating stab wounds were at the very same angle and 5-inch depth.</td>
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<td>There were no defensive or scrimmage injuries on Ms. Bosko’s body.</td>
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<td>The vaginal injuries were consistent with a single rapist.</td>
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<td>Ms. Bosko was strangled in the same way that Ballard, by himself, had raped and strangled a teenager ten days after the murder about a mile from the Boskos’ apartment.</td>
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<tr>
<td>Latent Print Analysis</td>
<td>Eight men were in Ms. Bosko’s apartment.</td>
<td>None</td>
<td>None of the latent prints matched any of the defendants.</td>
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<tr>
<td>DNA Analysis</td>
<td>Eight men raped Ms. Bosko and several ejaculated.</td>
<td>None</td>
<td>The sperm and other genetic material found on the white blanket covering Ms. Bosko’s body matched Ballard by a factor of billions to one.</td>
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<td>The sperm found in Ms. Bosko’s vaginal swabs matched Ballard by a factor of millions to one.</td>
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<td>The blood found under Ms. Bosko’s fingernails matched Ballard.</td>
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<td><em>No DNA foreign to Ms. Bosko or Ballard was recovered from the scene.</em></td>
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<td>All suspects other than Ballard, were “eliminated” as the source of any of the genetic material.</td>
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