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7 *Attorneys for Murder victim Fred Rose's family*

FILED
Superior Court of California
County of Los Angeles

FEB 17 2022

Sherri R. Carter, Executive Officer/Clerk of Court
By *Sheryl R. Humber* Deputy
Sheryl R. Humber

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 THE PEOPLE OF THE STATE OF CALIFORNIA,
12
13 Plaintiff,
14
15 vs.
16 SCOTT FORREST COLLINS,
17
18 Defendant.

Case No.: LA009810
NOTICE OF APPEARANCE AND
ASSERTION OF RIGHTS
VICTIM'S REQUEST FOR A
HEARING REGARDING
"RE"SENTENCING

17 **TO THE HONORABLE WILLIAM C. RYAN, JUDGE OF THE SUPERIOR**
18 **COURT, DEPUTY DISTRICT ATTORNEY SHELAN JOSEPH AND K.**
19 **ELIZABETH DAHLSTROM, COUNSEL FOR DEFENDANT:**

20 Steve Cooley and Kathleen Cady hereby notify the clerk of this court and all parties of their
21 appearance as counsel for the family of murder victim Fred Rose.

22 Victims have a Constitutional right to justice, due process and fairness. Victims request all

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28 **VICTIM'S NOTICE OF APPEARANCE AND ASSERTION OF RIGHTS**

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their Constitutional rights, including their right to be present and heard at sentencing.

DATE: February 17, 2022

STEVE COOLEY & ASSOCIATES

By:

Steve Cooley by KC

STEVE COOLEY



KATHLEEN CADY

Attorneys for Victims

1 **STATEMENT OF FACTS**

2 On January 23, 1992, the defendant murdered Fred Rose. The defendant was convicted and
3 sentenced to death.
4

5 The case has been had habeas claims pending for several years.

6 On his first day in office, after having just sworn to uphold the law, Los Angeles County
7 District Attorney George Gascon issued a politically motivated *policy*. Special Directive 20-11
8 "Death Penalty Policy," which states:
9

10 A sentence of death is never an appropriate resolution in any case. The office will strive to
11 ensure that all actions taken are consistent with this policy, including refraining from filing
12 letters stating an intention to seek the death penalty, filing briefs, seeking discovery, or
13 making arguments in court that indicate that the death penalty is an appropriate sentence. . .
14 . The District Attorney's Office will not defend existing death sentences and will engage in a
thorough review of every existing death penalty judgment from Los Angeles County with
the goal of removing the sentence of death.

15 The death penalty remains a legal sentence in California.¹ Politics has no place in a court of
16 law. Based on Gascon's policy, however, the Los Angeles County District Attorney's Office is
17 now seeking to resentence the defendant pursuant to newly enacted P.C. 1170.03.
18

19 The victims' constitutional rights to receive reasonable notice; their right to be present and
20 their right to be heard have been willfully violated by the assigned prosecutor, Shelan Joseph.
21 Decades after the conviction and sentence, on February 8, 2022, the murder victim's family was
22 contacted by the District Attorney's Office. On February 16, the family was informed that there
23 may not be a hearing on the resentencing and if they wanted to submit a statement they should
24 submit them by February 18 or February 21 at the latest. The family objects and requests to be
25 heard regarding sentencing. See Declarations of Bob Baker and Heather Scott, attached.
26

27 _____
28 ¹ In 2016, California voters passed Propositions 62 and 66, clearly voicing their approval of the Death Penalty.

1 **POINTS AND AUTHORITIES**

2 **I. VICTIMS OF CRIME HAVE CONSTITUTIONAL RIGHTS WHICH MUST BE**
3 **PRESERVED AND PROTECTED.**

4 The California Constitution Article I, Section 28(b) states:

5 "In order to **preserve and protect a victim's rights to justice and due process.**

6 a victim shall be entitled to the following rights":

- 7
- 8 • To be treated with **fairness and respect for his or her privacy and dignity**, and to be free
9 from intimidation, harassment, and abuse, throughout the criminal or juvenile justice
10 process;
 - 11 • To **reasonable notice of all and be present at all public proceedings** at which the
12 defendant and prosecutor are entitled to be present and of all post-conviction release
13 proceedings.
 - 14 • **To be heard at any proceeding involving a post-arrest release decision, plea, sentencing,**
15 **post-conviction release decision, or any proceeding in which a right of the victim is at**
16 **issue.**
 - 17 • To have the safety of the victim, the victim's family, and the general public considered
18 before any parole or other post-judgment release decision is made.
19
- 20

21 Some of the victims' Constitutional rights are automatic and some must be requested. **The**
22 **victims are requesting all of their rights.**

23 The homicide victim's family are victims in this case. "[A] 'victim' is a person who suffers
24 direct or threatened physical, psychological, or financial harm as a result of the commission or
25 attempted commission of a crime or delinquent act. The term 'victim' also includes the person's
26 spouse, parents, children, siblings, or guardian, and includes a lawful representative of a crime
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VICTIM'S NOTICE OF APPEARANCE AND ASSERTION OF RIGHTS

1 victim who is deceased, a minor, or physically or psychologically incapacitated.” California
2 Constitution Article I, Section 28(e).

3 Importantly, the California Constitution recognizes that these are personally held and
4 enforceable rights. Article I Section 28(c)(1) additionally states: “A victim, the retained attorney of
5 a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the
6 victim, may enforce the rights enumerated in subdivision (b) in any trial or appellate court with
7 jurisdiction over the case as a matter of right. The court shall act promptly on such a request.”
8

9 As stated in California Constitution Article I, Section 28(a),

10
11 Victims of crime are entitled to have the criminal justice system view criminal acts
12 as serious threats to the safety and welfare of the people of California . . .
13 California’s victims of crime are largely dependent upon the proper functioning of
14 government, upon the criminal justice system and upon the expeditious enforcement
15 of the rights of victims of crime described herein, in order to protect the public safety
16 and to secure justice when the public safety has been compromised by criminal
17 activity. The rights of victims pervade the criminal justice system. . . The rights of
18 victims . . . include broader shared collective rights . . . through good-faith efforts
19 and actions of California’s elected, appointed, and publicly employed officials.
20 These rights encompass the expectation shared with all of the people of California
21 that persons who commit felonious acts causing injury to innocent victims will be
22 appropriately and thoroughly investigated, appropriately detained in custody,
23 brought before the courts of California even if arrested outside the State, tried by the
24 courts in a timely manner, sentenced, and sufficiently punished so that the public
25 safety is protected and encouraged as a goal of highest importance . . . Victims of
26 crime have a collectively shared right to expect that persons convicted of committing
27 criminal acts are sufficiently punished in both the manner and the length of the
28 sentences imposed by the courts of the State of California. This right includes the
right to expect that the punitive and deterrent effect of custodial sentences imposed
by the courts will not be undercut or diminished by the granting of rights and
privileges to prisoners that are not required by any provision of the United States
Constitution or by the laws of this State

...
**Victims of crime are entitled to finality in their criminal cases. Lengthy appeals
and other post-judgment proceedings that challenge criminal convictions . . .
and the ongoing threat that the sentences of criminal wrongdoers will be
reduced, prolong the suffering of crime victims for many years after the crimes
themselves have been perpetrated. This prolonged suffering of crime victims
and their families must come to an end. [Emphasis added]**

VICTIM’S NOTICE OF APPEARANCE AND ASSERTION OF RIGHTS

1 Penal Code section 679 asserts that it is the responsibility of the prosecutor, law enforcement
2 and judges to ensure that victims' rights are vigorously protected.

3 In recognition of the civil and moral duty of victims and witnesses of crime to fully
4 and voluntarily cooperate with law enforcement and prosecutorial agencies, and in
5 further recognition of the continuing importance of this citizen cooperation to state
6 and local law enforcement efforts and the general effectiveness and well-being of the
7 criminal justice system of this state, the Legislature declares its intent, in the
8 enactment of this title, to ensure that all victims and witnesses of crime are treated
9 with dignity, respect, courtesy, and sensitivity. It is the further intent that **the rights**
10 **enumerated in Section 679.02 relating to victims and witnesses of crime are**
11 **honored and protected by law enforcement agencies, prosecutors, and judges in a**
12 **manner no less vigorous than the protections afforded criminal defendants.** It is
13 the intent of the Legislature to add to Section 679.02 references to new rights as or as
14 soon after they are created. The failure to enumerate in that section a right which is
15 enumerated elsewhere in the law shall not be deemed to diminish the importance or
16 enforceability of that right.

17 Emphasis added.

18 The victims respectfully request to be present and to be heard regarding the prosecutor's PC
19 1170.03 Resentencing Recommendation. Victims have a right to notice and to be heard at
20 resentencing and post-conviction release proceedings. *People v. Superior Court (Kaulick)* (2013)
21 215 C.A.4th 1279 at 1300.

22 The criminal justice system is designed to be an adversary system requiring a prosecutor and
23 a defense attorney. The system does not work if there are two defense attorneys and no prosecutor.
24 Victims are dependent on officials to properly and ethically perform their duties. Victims have a
25 right to expect elected officials act in good faith and follow the oath they took to support and defend
26 the constitution.²

27 ² California Constitution Article XX, §3 sets forth the oath taken by the District Attorney.

28 Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except
such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of
their respective offices, take and subscribe the following oath or affirmation:

VICTIM'S NOTICE OF APPEARANCE AND ASSERTION OF RIGHTS

1 Penal Code 1170.03(a)(4) states. "the court may consider postconviction factors, including,
2 but not limited to, the disciplinary record and record of rehabilitation of the defendant while
3 incarcerated . . ." The victims respectfully request that the court review the defendant's entire
4 prison record, including his "C" File before making any determination on whether to resentence the
5 defendant.
6

7 CONCLUSION

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9 Any objective review of the case and procedural history would lead one to come to the
10 conclusion that the People's Recommendation for Resentencing is a result of Gascon's policy that
11 "A sentence of death is never an appropriate resolution in any case" and working backwards to have
12 the ends justify the means. When the evidence suggests that the District Attorney's Office and the
13 defense are in collusion, the court is the final and only gate keeper to ensure that justice is done and
14 victims' rights are upheld.
15

16 The District Attorney's Office should not be allowed recommend resentencing and ask the
17 court accept a stipulation that the resentencing occur without a hearing and deprive the victims of
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26 "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United
27 States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear
28 true faith and allegiance to the Constitution of the United States and the Constitution of the State of California;
that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and
faithfully discharge the duties upon which I am about to enter."

VICTIM'S NOTICE OF APPEARANCE AND ASSERTION OF RIGHTS

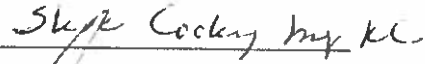
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their right to be heard at sentencing.

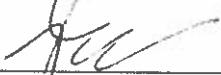
Respectfully submitted this 17th day of February 2022.

STEVE COOLEY & ASSOCIATES
KATHLEEN CADY

By:



STEVE COOLEY



KATHLEEN CADY

Attorneys for Victims

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DECLARATION OF HEATHER SCOTT

I, Heather Scott, declare:

My father was Fred Rose. My father was robbed and murdered by the defendant in 1992. I am adamantly opposed to my father's murderer being resentenced. I request my right to be present and be heard at any resentencing.

On February 8, 2022 at 4:20 p.m. Efty Sharony left a voice mail for my mother, Sharon Rose, which I have listened to and saved, in which Ms. Sharony stated, "I was calling in reference to Mr. Collins and your husband's case and I wanted to reach out to you and let you know that there was a consideration of Mr. Collins being resentenced to Life Without the Possibility of Parole which would mean he would never leave prison but no longer be on death row and I wanted to chat with you about that and hear your thoughts."

I returned Ms. Sharony's call on February 9, 2022. Ms. Sharony stated that the DA's office was considering commuting Collins' sentence. She stated that nothing will change in that he will stay in prison for the rest of his life, but would not receive the death penalty and will not stay on death row. I stated that we were not in-favor of this change. She said that the laws in California had changed and that this was likely the decision being made but we shouldn't worry because effectually nothing changes. I stated I had always known, since childhood, that he likely would not be put to death, but that the sentence should still stand, as it was legal and the result of a lengthy trial in which the jury and judges agreed on the verdict and sentence.

I asked who filed for this sentence commutation. Ms. Sharony stated she did not want to tell me, that I should schedule a call with the DA so that the DA could explain. I asked Ms. Sharony to send me the recent filings and gave her my email address. Ms. Sharony stated that she would send them.

1 I asked what factors were used in the consideration to commute the sentence. She stated they
2 considered his age at the time, his ADHD, traumatic childhood and good behavior in prison. I stated
3 that we were told he tried to kill another inmate and also hire a hit man to kill our family during the
4 trial. I told her that his age, ADHD, and traumatic childhood were all known at the time of the
5 original trial and taken into consideration originally, and that trying to kill other prisoners and my
6 family doesn't seem like good behavior to me.

8 I asked Ms. Sharony how long we had to review the information with my family to respond
9 with our statements. She stated she wasn't sure. I asked her for an estimate and asked if it would be
10 next week or next month, for example. She stated we would have a few months.

12 The next morning, Ms. Sharony called to let me know that she would not be emailing me the
13 filings. Ms. Sharony said that DDA Shelon Joseph, wanted to wait to show them to me until after
14 she had a scheduled zoom call. I told her this was very inappropriate and that she should send them
15 to me right away. I told her we did not want a zoom call. I let her know the voicemail left for my
16 mother had done a lot of damage, and with the DA's office inability and/ or unwillingness to answer
17 very basic questions about our case.

19 I told Ms. Sharony that we had strong advocacy with the DA's office in the original trial, but
20 this time I felt confused and wasn't able to trust the information I was receiving and couldn't
21 understand why the DA would fly in the face of the victim's family's wishes.

23 Ms. Joseph emailed me on February 11, 2022 at 12:26 EST.

24 Good morning, Ms. Scott,

25 I very much understand that our office's telephone call, through Ms. Sharony, to your
26 mother re-traumatized both yourself and your mother. For this, I am very sorry. Ms.
27 Sharony indicated that you have some questions that she could not answer about the legal
28 procedural posture of the case.

Although the trial in this case happened many, many years ago, the appellate process,
unfortunately, is not final. There are two defense initiated petitions currently pending in

1 court. The pending petitions raise claims as to both the guilt and penalty phases of the trial.
2 Those petitions were stayed for a number of years awaiting a California Supreme Court
3 decision in a case called In Re Friend. That case was decided last year and became final in
4 September, thus, reactivating the stayed petitions.
5 Again, my deepest condolences to you and your family and apologies again for any
6 confusion our call to you may have caused.
7 I am happy to set up a zoom call to answer any questions you may have.
8 Best,
9 Shelan
10 On February 15, I received a call from Ms. Sharony stating that the DA had come to the
11 conclusion they would definitely recommend the sentence be commuted to Life Without the
12 Possibility of Parole. She said we can send in a statement for the judge. I asked her if there was a
13 trial. She said there may not be a hearing. She again offered to schedule a zoom call. I declined and
14 asked her to ask Ms. Joseph to call my cell phone. She said that the zoom call was their offer and I
15 could take it or leave it. I told Ms. Sharony that if she could call me on the phone, Ms. Joseph could
16 also call me on the phone. I emailed Ms. Joseph at 1:16 EST asking her to call my cell phone. Ms.
17 Joseph and Ms. Sharony called me at 3:08 EST. Ms. Joseph stated that she had decided to agree
18 with the defense's motion to commute the death sentence. I told her that my family was very much
19 opposed to this decision. She stated that the laws in California had changed and that he had appeals
20 remaining allowing him to challenge the sentence. I asked her what laws and she referenced again
21 the re Friend law. I asked her to communicate what in that law allows her to commute the sentence.
22 She stated she could email it to me, but it was very long. I asked her what is to stop the DA's office
23 from commuting his sentence again in the future and allowing him parole. She was quiet for some
24 time, and then responded that she couldn't promise that wouldn't happen. I told her we didn't feel
25 we had representation in the DA's office and felt misrepresented and alone. She said we could send
26 in a statement for the judge to read, but that she had already made her decision. I asked if we could
27 hire our own attorney. She said we can hire a victim's representative, but that this may not even
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1 have an actual court date. It would depend on what the judge decided after she files. She stated at
2 this point that she could have reduced the sentence even further, but decided not to. I asked if this
3 was his last appeal for the sentencing phase. She said she though so, but would verify and get back
4 to me. I asked her to tell me what factors she had considered in finalizing her decision. She said it
5 was due to his age at the time, his ADHD diagnosis, traumatic childhood and his good behavior in
6 prison. I stated that the ADHD, age at the time and traumatic childhood were not new information
7 and had been heavily considered during the original jury trial and sentencing.
8

9 I stated we had been told he tried to hire a hit man to kill our family. She asked if I had a
10 proof of this. I told her no, that we wouldn't have wanted documents like that and expected the DA's
11 office would keep them safe. I asked if she could reach out to detective Castillo or Coffee and ask
12 for their testimonies. She said no, that they had retired. I asked her if he had taken accountability for
13 what he has done to our family after taking his accountability class. Had he admitted to murdering
14 my dad. She stated she wasn't privy to this as he doesn't have the opportunity to express remorse
15 because he doesn't have parole hearings. I asked if she could find out and she said she would try. I
16 said that I was disappointed she had made this decision against the wishes of our family and that we
17 do not feel safe. She stated again that he would never get out of prison.
18

19 I asked her if my father's step-father, Bob Baker, was aware there are no promises not to
20 commute the sentence again. She didn't respond. I asked her to respond to me and verify if he has
21 confessed, if this is his last sentencing appeal, and what date they will be filing this decision.
22

23 I told Ms. Joseph that she was really tearing down our feelings of safety and security and
24 that, again, we disagree with her decision and would like other forms of representation. She
25 suggested we send in our statement by Friday or Monday at the latest.
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DECLARATION OF BOB BAKER

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I, Bob Baker, declare:

My step-son was Fred Rose. Mr. Rose was robbed and murdered by the defendant in 1992.

I am opposed to my step-son's murderer being re-sentenced. I request my right to be present and be heard at any re-sentencing.

On February 8, 2022 I spoke with Efty Sharony. While I understood Ms. Sharony to say that the defendant would spend the rest of his life in prison, I did not understand that the District Attorney's Office was going to re-sentence the defendant. I was not asked whether I wanted to have my voice heard. I absolutely want to be heard on this important issue.

I declare under penalty of perjury that above is true and correct to the best of my knowledge.

Dated this 17th day of February, 2022.



Bob Baker

ROOF OF SERVICE

Cal. Rules of Court, rules 8.25 & 8.71(f)(1)(A)-(D)

Case Name: People v. Collins

Court Case Number: LA009810

I, Kathleen Cady, represent the victim. I am over the age of 18 years and not a party to the action.

My business address is Dordulian Law Group, 550 N Brand Blvd., Ste. 1990, Glendale, CA 91203.

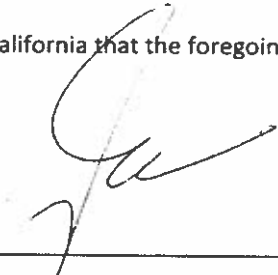
On February 17, 2022, I electronically served a copy of "Notice of Appearance and Assertion of Rights" from my electronic service address of kcady@dlawgroup.com to the following individuals at the electronic mail addresses provided, with no error message received:

Prosecutor: Shelan Joseph at sjoseph@da.lacounty.gov

Attorney for defendant: K. Elizabeth Dahlstrom elizabeth_dahlstrom@fd.org

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: February 17, 2022



Kathleen Cady