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Senate President Karen E. Spilka
Massachusetts State House
24 Beacon Street
Room 332
Boston, MA 02133

Re: Jason Davis Case

Dear Senate President Spilka:

I hope you are well and again thank you for your continuing support of the Jason Davis case.

I am not a politician and never have been. I have been fighting for Jason Davis and his family though for twenty-six years both in the Courts and within the Legislature. I must speak frankly at this juncture though because, if I do not, I fear a sixth legislative defeat might well be visited upon the Davis family when it should not be. You know Jason Davis' story quite well, as evidenced by your longstanding support of his cause, and I will not reiterate it here. Each of my two prior letters to you (1.29.19 and 5.13.19) and Jason's website (jasonstrongma.com) also set forth Jason Davis' story with exacting detail especially the sixty page (11.3.17) letter sent to Governor Baker together with its sixty exhibits (collectively "Governor Baker Letter").¹

The empirical and uncontroverted record in the Davis case teaches us that it is one of the most vile, despicable and reprehensible events ever to occur within the four walls of the Massachusetts Department of Mental Health. Nobody could ever contest that. The Massachusetts Legislature has also already acknowledged, within its legislative record, the

¹ Jason Davis, as you know, was a committed mentally ill inpatient beaten half to death by convicted violent felons hired by the Commonwealth to be his "caretakers" at the Westborough State Hospital. He received acute psychiatric injuries and was beaten to the point where puddles of his own blood littered the hallway where he was beaten. These circumstances and injuries are a matter of public record and have been set forth, with great exactitude, in the First Circuit Court of Appeal's hallmark civil rights opinion in the Davis case. As you also know, the Davis case went all the way to the U.S. Supreme Court after a one month Federal Civil Rights trial. The Commonwealth took two appeals; not Jason Davis. See Davis v. Rennie, 264 F. 3d 86 (1st Cir. 2001); Davis v. Rennie, 997 F. Supp. 137 (D. Mass. 1998); Davis v. Rennie, 553 U.S. 1053 (2002); Davis v. Rennie, 178 F. Supp. 2d 28 (D. Mass. 2001).

historic constitutional contribution which Jason Davis made to both the National and State legal landscape.²

Justice dictates that the Davis judgment should have been paid decades ago. It never was though because of pure, raw politics. Many very powerful people, including a number of Attorneys General, “did wrong” to Jason Davis and his family. The “grain by grain” corruption analysis is set forth within the Governor Baker Letter itself. The people who “did wrong” include Attorney General Scott Harshbarger, Attorney General Thomas Reilly, Attorney General Martha Coakley, Governor Deval Patrick and Attorney General Maura Healey. I invite you to read the entirety of the Governor Baker Letter and its sixty exhibits for you too will come to this same conclusion. The conduct of these five powerful Democratic power brokers was corrupt.³

The contention that these five Democratic powerbrokers “did wrong” is not wishful thinking on the part of the Davis family. The “proof,” in this regard, is based entirely on documents written by their own pens as is proven in the Governor Baker Letter itself. I know that this is part of the “problem” in trying to fashion a remedy to provide justice to the Davis family. If it were not the Davis case would have been paid long ago given that: (i) the Davis case is one of the most vile, despicable and reprehensible events ever to occur in the history of the Massachusetts Department of Mental Health; (ii) there has always been a pungent and acutely obvious need for justice to have been served in this case; and (iii) there was a payment of what amounts to a legally indistinguishable case (Messier) in 2014. In short, very powerful people “did wrong” to Jason Davis which has, to date, prevented the sunshine from ever shining upon his case. The power of those who did wrong should no longer prevent justice from being dispensed to the victim who was himself wronged some twenty-six years ago. The wrongs of these five Democratic powerbrokers are a matter of public record at this point. Worse yet, their wrongs are proved by documents written with their own pens.

Your office suggested to a fellow constituent, Nancy Farrell, only recently that she and others should embark upon the process of lining up State Representatives and Senators, yet again, to support a Legislative Bill aimed at paying the Davis judgment. This approach will not work insofar as it has failed five times. This approach would not be unlike President Obama asking a constituent to start to drum up support for the Affordable Care Act before President Obama even endorsed or proposed it himself. The problem with this approach is simple: it is devoid of initial support from the best person who could support it. The “brick and mortar” approach – with the proverbial shovel and wheel barrel – will not only fail but it will take the best player right out of the game. Who is that player? **It is you.** This constituent based “bottom up” approach also takes the power, prestige and weight of the Senate President’s office right out of the calculus and sends the Davis family adrift yet again with no prospects for victory. It is respectfully submitted that this approach is nothing more than the payment of lip service to Jason Davis and his family as they are again being asked to go on a “fool’s errand.” We

² See Exhibit 25, p. 5 at jasonstronma.com.

³This corruption is proved through the Governor Baker Letter itself (p. 4-52) and its associated exhibits including Exhibits 8, 14-16, 22-23, 26-28, 30-31, 36-37, 41-42, 44, 47-48, 51-60 all as appearing at jasonstronma.com.

must stop turning our heads away from Jason Davis in order to protect the powerful people who wronged him.

We need the sunshine to finally shine upon the Jason Davis case. It never has. The support for the Davis case should not come from the bottom up but rather from the top down. You, as the Senate President, should stand up in a public forum and announce that it is the intention of the State to pay the entirety of Jason Davis' Third Amended Judgment forthwith because what the State did to Jason Davis was wrong and because justice now needs to be served. You should also announce, at that same time, that it is your intention to propose a State statute which will cure the shortcomings which caused both the savage beating of Jason Davis and the death of Joshua Messier.⁴

When you make this announcement it should be with the blessing and support of three key people: the Governor, the Speaker of the House and Representative John Rogers. The Governor has already basically said, in his 1.19.16 letter to the Davis family which you have, that he will not object to payment of the Davis case if the Legislature is desirous of paying it.⁵ I personally conferred with the Speaker of the House in 2014 and he very much embraced and was sympathetic to the Davis case. Representative Rogers has, as well, embraced the Davis case for more than 20 years as evidenced by his 2014 legislative filing aimed at paying the entirety of the Davis Third Amended Judgment. The vast majority of the Senate and House support the payment of the Davis case.⁶ What then is the holdup? It is the power of the five people who did wrong. That is the truth; plain and simple all as recounted in the Governor Baker Letter. It is now twenty-six years since that savage beating of Jason Davis. If justice is not to be dispensed now; then when? Thirty years out, forty years out, fifty years out or, perhaps, never? The "bottom up" approach really places the Davis family in the position where it will literally be begging for scraps at the proverbial back door which will only lead, once again, to another legislative defeat. Everybody involved will then say "Oh the time is not right; we will try again in another couple of years." Kicking the can down the road, to avoid confronting and seeking to appease those who did wrong, is never the answer.

That "bottom up" approach will be a surefire loser as it has been five times before. This approach is devoid of a powerful person standing behind a powerful injustice. As Governor

⁴ This proposed statute is set forth at pages 52-54 of the Governor Baker Letter. Said letter and its sixty exhibits can be found at jasonstrongma.com. The Governor Baker Letter is on the homepage.

⁵ See Exhibit 37 (p. 1-2) as appearing at jasonstrongma.com.

⁶ Governor Patrick vetoed what would have been only a fractional payment of the Davis judgment in 2014 on the heels of having authorized a \$2,000,000 payment to the Messier family in a legally indistinguishable case. The veto was employed relative to 2014 legislative amendment which called for the payment of only \$500,000 of the Davis judgment. It is acutely significant to note though, relative to the Governor Patrick veto, that: (i) the Senate unanimously overrode this veto by the margin of 39-0 as per documents previously remitted to you; and (ii) the House unanimously overrode this veto by the margin of 152-0 as per documents previously remitted to you. The Patrick administration then chose not to fund this amendment. **One thing is true: there is overwhelming support for the Davis case in the Senate, House and Executive Branch.** See also footnote 5.

Baker said in his 1.19.16 letter to the Davis family, Governor Patrick twice vetoed legislation aimed at paying only a fraction of the Davis judgment. Why? Pure, raw politics is why. Jason Davis humiliated the Commonwealth's Attorneys General in three Federal Courts, including the U.S. Supreme Court, after turning down a vexatious settlement offer in mediation which would have insured that he would not have received even one red cent of any settlement monies. *See* Governor Baker Letter (p. 32). Neither Jason Davis nor his lawyers could consent to such a vexatious and morally corrupt contractual arrangement. These, and others, are precisely the reasons Jason Davis has been subjected to corrupt, unjust and unequal treatment for decades.⁷

We all like to quote Robert F. Kennedy at ceremonies of myriad types and kinds. We all try to impress each other about how Civil Rights minded each of us is by quoting him but this conduct falls well short of the mark. We must *act* like Robert F. Kennedy *acted* when we are called upon to do right in the face of the powerful who have done wrong. It was Robert F. Kennedy who said that:

Every time we turn our heads the other way when we see the law flouted, when we tolerate what we know to be wrong, when we close our eyes and ears to the corrupt because we are too busy or too frightened, when we fail to speak up and speak out, we strike a blow against freedom and decency and justice.

Someone needs to stand up to the corrupt conduct long inflicted upon Jason Davis by those in power within the Commonwealth. **Senate President Spilka, we would ask you for one simple favor: Could you put the full power, weight and prestige of your office behind a planned and very public strategy aimed at bringing justice to the Davis family by paying the entire Third Amended Judgment in the Davis case?** Please stand up behind a podium and do what justice dictates ought to be done. Anything short of this will, in Robert F. Kennedy's words, "strike a blow against freedom and decency and justice." We cannot lurk in the shadows any longer since justice will not be obtained there. We are supposed to be a deep "blue" State with a time-honored Civil Rights legacy. Why, in the context of the Davis case, do we appear to be a bright "red" State with a concomitant absence of any Civil Rights legacy? We know what accounts for this dichotomy: the extremely powerful people who perpetuated the wrongs against Jason Davis.

Jason Davis and his family deserve justice in the fullest sense of that word after all their pain, heartache and anguish over the last twenty-six years. President Clinton's words, when apologizing for the Tuskegee Experiment in the East Room of the White House in May, 1997, bear reiterating: **"What was done cannot be undone. But we can end the silence. We can stop turning our heads away. We can look at you in the eye and finally say on behalf of the American people, what the United States government did was shameful, and I am sorry."** The Commonwealth of Massachusetts cannot turn its head away any longer. It has for twenty-six years. It is time to look the Davis family in the eye and do the right thing by paying the entire Third Amended Judgment entered in the Davis case. Such sum is **2,354,861** with a per diem of **139.40** as of today.

⁷ *See* Governor Baker Letter and its sixty exhibits all as appearing at jasonstromma.com.

Representative Rogers said it best in two public statements he made relative to the Davis case: (i) “The facts are uncontested. They [Department of Mental Health] hired, failed to train and failed to supervise these workers and to allow the State to walk away is just wrong.”⁸; and (ii) “In my mind the liability of the Commonwealth has always been crystal clear.”⁹ No truer words were ever spoken.

The payment of the entire Third Amended Judgment will finally impose accountability upon the Commonwealth. Mr. Davis made the following observations in a 2014 letter to the Massachusetts Senate:

I know that money will never bring back my son nor will it fully compensate our family for the torment visited upon him on August 12, 1993. However, what I do know is that the payment of the judgment in my son’s Federal Civil Rights case will finally mark a place in time where the Commonwealth admits that it was both wrong and not above the law. It will also cement the proposition that the historic laws Jason made will be neither in vain nor unappreciated by the very government which subjected him to the torment which he suffered on August 12, 1993 and thereafter. Improvement, after all, only comes through full accountability. I respectfully submit that Governments should be characterized by integrity and honor which, to date, have been absent here.

In 2008 I offered my pro bono services to Governor Patrick to perpetuate Department of Mental Health policy changes which would have assisted in keeping our committed mentally ill safe all these years.¹⁰ This offer was rebuffed by both Governor Patrick and the Department of Mental Health as per the exhibits cited in footnote ten. The State statute, which I propose here, engulfs these policies and will help keep our mentally ill safe from this point forward.¹¹ I hope this statute is enacted. The violence against our committed mentally ill is still ongoing in nature as I have seen from my very recent and personal review of Department of Mental Health generated records.

It is time that the Commonwealth do what justice demands ought to be done. The Davis case must be resolved on an equal footing with both the Messier and Romney cases¹² in accord with the Fourteenth Amendment of the United States Constitution and rather crude concepts of morality.

The Commonwealth can no longer turn its head away from Jason Davis or the corruption which has foreclosed him from obtaining justice. The issues raised in this letter, and in those forwarded

⁸ <http://www.wcvb.com/article/family-waits-years-for-millions-after-son-beaten-at-hospital/8034736>

⁹ <https://www.bostonglobe.com/metro/2014/03/09/jason-davis-beating-foreshadowed-joshua-messier-tragedy/JUTn1QniHkN8SCnrwqk9IK/story.html>

¹⁰ See Exhibits 15 (p. 4) and 16 (p.1) as appearing at jasonstrongma.com.

¹¹ The proposed statute is set forth at pages 52-54 of the Governor Baker Letter. Said letter and its sixty exhibits can be found on the homepage of jasonstrongma.com.

¹² See my letter dated 1.30.19 (page 3) and associated exhibits regarding the Messier and Romney cases.

previously, should not be met with more delay or legislative strategies which will only perpetuate failure. Failure is simply not an option at this point.

I must respectfully submit that it is time to act as men and women should act when confronted with issues of this gravity. I must say, with all due respect, that enough is enough.

I hope we can finally get justice for Jason. It has been too long in coming. We need your help in a very public way.

It is time to right this wrong.

Thank you.

Sincerely,
BRENDAN J. PERRY & ASSOCIATES, P.C.

By: /s/ Christopher M. Perry
Christopher M. Perry

CMP/mcp
Via Email & U.S. Mail

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