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June 28, 2019

The Honorable Charles D. Baker, Jr., Governor
Commonwealth of Massachusetts
Massachusetts State House
24 Beacon Street
Office of the Governor
Room 105
Boston, MA 02133

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

Robert A. DeLeo, Speaker of the House
Massachusetts State House
24 Beacon Street
Room 356
Boston, MA 02133

John H. Rogers, Representative
Massachusetts State House
24 Beacon Street
Room 162
Boston, MA 02133

Re: Jason Davis Case

Dear Governor Baker, Senate President Spilka, Speaker DeLeo and Representative Rogers:

I would call upon each of you to provide my client, Jason Davis, and his family with the justice which they have been seeking for the last 26 years.

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.¹

This request for justice for Jason Davis and his family is based upon the following:

- A. **Governor Baker**: In a 1.19.16 letter to the Davis family you informed it that you would defer to the Legislature as to whether it was desirous of paying the Davis judgment and whether it was desirous of suspending the statutory prohibition, contained in M.G.L. c. 258, in this context. See Exhibit 37 at jasonstrongma.com.
- B. **Senate President Spilka**: In 2014 you sent the Davis family an email which read, in part, as follows: “Clearly these are issues - both mental health and the Davis matter - that are very, very important to me. I have been working on improving mental health for years and as soon as you brought the Davis issue to my attention this Spring I said I would file an amendment in the budget...I will continue to work on this for this budget process - which is ongoing - and in the future.”
- C. **Representative Rogers**: Representative Rogers you said, in the best two public statements ever uttered relative to the Davis case, that: (i) “The facts are uncontested. They [Department of Mental Health] hired, failed to train and failed to supervise these

¹ On August 12, 1993 Jason Davis was a committed mentally ill inpatient beaten half to death by convicted violent felons hired by the Department of Mental Health (“DMH”) to be his “caretakers” at the Westborough State Hospital. The Commonwealth knew, at hire, that these convicted violent felons were “fresh out of prison” yet they were permitted to engage in direct patient care capacities nonetheless. The employment of these individuals constituted an extreme risk of harm to all mentally ill inpatients subject to their “care”, including Jason Davis, given their prior employment related histories of violence (against patients) and the national recidivism rate of 34.6 % amongst convicted violent felons. (See Recidivism of Prisoners released in 1983 (Bureau of Justice Statistics Special Report – Department of Justice)). In short, placing these convicted violent felon employees in direct patient care capacities was statistically not unlike placing a fox in a henhouse. On August 12, 1993 Jason Davis received acute psychiatric injuries and was beaten to the point where puddles of his own blood littered the hallway where the beating took place. An employee coverup subsequently ensued which included the “doctoring” of medical records and false allegations of misconduct by the DMH employees, who perpetuated the attack, against the hero State Police Officer who actually stopped the bloody beating of Jason Davis. It is incredible to note that this hero State Police Officer was actually an “adverse” and “hostile” witness to the Commonwealth’s case since the Attorney General (Scott Harshbarger) represented a number of Jason Davis’ attackers at trial including convicted violent felon Paul Rennie and the nurse (Joyce Weigers) who “doctored up” the medical records. How can a hero State Police Officer ever be “adverse” and “hostile” to a cause the Commonwealth takes up? Answer: this only occurs when the Commonwealth takes up unjust causes against the public good. It did so in Davis against its central creed. See Clerk of Superior Court v. Treasurer & Receiver General, 386 Mass. 517, 526, 437 N. E. 2d 157 (1982). The recited circumstances and the resulting injuries are a matter of public record at this point and have been set forth, with great exactitude, in the First Circuit Court of Appeal’s hallmark Federal Civil Rights opinion in the Davis case. The Davis case went all the way to the U.S. Supreme Court after a one month Federal Civil Rights trial which Jason Davis won. 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). The Davis website contains “evidence” of these Civil Rights atrocities, including jury instructions and jury verdicts, together with the reported judicial opinions by the Courts. See jasonstrongma.com.

workers and to allow the State to walk away is just wrong.”²; and (ii) “In my mind the liability of the Commonwealth has always been crystal clear.”³

- D. **Speaker Deleo**: In February 2014 I personally consulted with you about the Davis case in the Post Office Square offices of Anne Lynch. You then embraced the Davis case and agreed that it was a tragic situation.
- E. **Massachusetts Attorney General Maura Healey**: When she was a candidate for Attorney General in 2014, and while still Head of the Civil Rights Division at the Attorney General’s Office, she responded as follows to a lengthy email setting forth the gruesome facts of the Davis case: “Thanks for sending the materials along. I’m reviewing now. It’s a very sad situation. It was nice meeting you in Holliston. Did anything happen with the legislation?” See Exhibit 26 at jasonstrongma.com.
- F. **Massachusetts Senate and House of Representatives**: When Governor Patrick vetoed what would have only been a partial payment of the Davis case judgment, in 2014, the following occurred: (i) the Massachusetts Senate unanimously overrode this veto by a margin of 39-0; and (ii) the Massachusetts House of Representatives unanimously overrode this veto by the margin of 152-0.⁴ The Patrick administration subsequently chose though not to fund this legislation.
- G. **No legal obstacles**: Governor Patrick and Attorney General Coakley orchestrated payment of intent based civil rights claims in the Joshua Messier case. Governor Romney orchestrated payment of intent based civil rights claims, after a jury verdict entered, in the Dennis R. Smith case.⁵ These cases are legally indistinguishable from Davis. Moreover, Governor Baker indicated in his 1.19.16 letter to the Davis family that he would defer to the Legislature as to whether it is inclined to suspend the “statutory prohibition” contained in M.G.L. c. 258.

There are no legal obstacles and the political support is substantial especially amongst leadership. I attach a Boston Globe article on the Davis case the link to which is also set forth in Footnote 3.

² <http://www.wcvb.com/article/family-waits-years-for-millions-after-son-beaten-at-hospital/8034736>

³ <https://www.bostonglobe.com/metro/2014/03/09/jason-davis-beating-foreshadowed-joshua-messier-tragedy/JUTn1QniHkN8SCnrwqk9IK/story.html>

⁴ See Exhibit 25, p. 24, 29 at jasonstrongma.com

⁵ See Exhibit 15, p. 1, 2-3, 6 at jasonstrongma.com

The Davis family and I would respectfully request that Governor Baker, Senate President Spilka, Speaker DeLeo and Representative Rogers put the full power, weight and integrity of their respective offices behind a planned and very public strategy aimed at bringing justice to the Davis family. We would specifically ask each of you stand up behind a podium - in the public eye - 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?

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 on May 16, 1997, bear reiterating here: **"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 done so for twenty-six years. It is time to look the Davis family in the eye and do the right thing by: (i) paying the entire Third Amended Judgment entered in the Davis case;⁶ and (ii) acknowledging that the Commonwealth of Massachusetts wronged Jason Davis and his family. During the course of his Tuskegee Experiment apology President Clinton also observed that it **"is not only in remembering that shameful past that we can make amends and repair our nation, but it is in remembering that past that we can build a better present and a better future. And without remembering it, we cannot make amends and we cannot go forward."** Five failed trips through the Massachusetts Legislature are already too much for the Davis family to have endured. "[W]e cannot go forward..." in the Mental Health arena, here in the Commonwealth, if justice is not afoot for the Davis family. Attempts to do so have already proved disastrous. Joshua Messier would be alive today if the Commonwealth had taken a hard look at itself in the aftermath of Davis. Why? Restraints which went horribly awry, as undertaken by egregiously untrained and unqualified individuals, were the root causes of Joshua Messier's death and Jason Davis' bloody beating. Accountability to the Davis family would have perpetuated intensive self-reflection. We never got the benefit of this reflection or this accountability. As a result, Joshua Messier lost his life. See 60 page Governor Baker Letter (11.3.17) and associated 60 Exhibits at jasonstrongma.com. The "proof is in the pudding." I hope somebody reads this 60 page letter because the cure for the system is contained in it.

The most critical piece of justice to be dispensed here though lies in the fix to the system. The Davis family literally begged the Commonwealth for implementation of remedial measures in the aftermath of the Davis incident. It did so long before Joshua Messier was killed on May 4, 2009. In 2008 I offered my pro bono services to Governor Patrick, in writing, to perpetuate Department of Mental Health policy changes which would have assisted in keeping our committed mentally ill safe all these years.⁷ This offer was rebuffed by both Governor Patrick

⁶ Such sum is \$2,356,116 as of today (6.28.19) with a per diem of 139.40.

⁷ See Exhibits 15, p. 4 and 16, p.1 as appearing at jasonstrongma.com.

and the Department of Mental Health as per the exhibits cited in footnote seven. On pages 52-54 of the 11.3.17 Governor Baker Letter I have proposed a State statute which engulfs these policies and which will help keep our mentally ill safe from this point forward. See 11.3.17 Governor Baker letter (homepage) at jasonstrongma.com. I hope this statute and associated regulations are enacted forthwith. 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.

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.

Jason Davis deserves justice. It is long overdue. If justice is not to be dispensed now; then when? Thirty years out, forty years out, fifty years out or, perhaps, never? **Never?** Will that be the example of our Government?

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 cases in accord with the Fourteenth Amendment of the United States Constitution and rather crude concepts of morality.

I must respectfully submit that it is time to act as men and women should act when confronted with issues of this gravity. I would very much appreciate a meeting with all four of you and Mr. Davis. It *is* time to right this wrong.

I must say, with all due respect, that enough is enough.

Thank you.

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

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

CMP/mcp
Enclosure
Via Federal Express

GB – No. 8088 9230 4904
SP – No. 8088 9230 4926
SD – No. 8088 9230 4937
RR – No. 8088 9230 4948

Cc: William H. Davis
1200 Pine Street
Scranton, PA 18510