

Merrick Garland
US Attorney General
950 Pennsylvania Ave, NW
Washington, DC 20530

Re: US v. Mark Jordan, 04-cr-229 (D.Colo.)

Dear Attorney General Garland:

I write urging your office to re-open and dismiss the case of the wrongful homicide conviction of federal prisoner Mark Jordan.

In 2005, a jury found Mark Jordan guilty of killing David Stone, while both were inmates at the US Penitentiary in Florence, Colorado. At trial, Mr. Jordan sought to introduce evidence that another inmate, Sean Riker, committed the crime, but the district court judge, Lewis T. Babcock, refused to admit the evidence or permit the defense to call Riker to testify. The US Court of Appeals for the Tenth Circuit, while noting that it may have decided the issue differently, nonetheless affirmed. *United States v. Jordan*, 485 F.3d 1214, 1219-22 (10th Cir. 2007).

Five years later Riker publicly confessed to committing the crime, and technological advances would match DNA recovered from the murder weapon to Riker's DNA profile, leading to an admission by Mr. Jordan's trial attorney that he rendered ineffective assistance. Advocates for Mr. Jordan's innocence have included Raymond P. Moore, now a US District Court judge; Sean Connelly, former appellate court judge and Special Assistant to the Attorney General as lead prosecutor on appeal in the case against Oklahoma City Bomber Timothy McVeigh; Laura Rovner, Director of Clinical Programs at the University of Denver Sturm College of Law; and Michael Kotlarczyk, now an assistant district attorney in Colorado. Despite this advocacy and the new evidence of innocence, the government opposed a new trial and Judge Babcock denied the request, the Tenth Circuit finding no abuse of discretion. See *United States v. Jordan*, 806 F.3d 1244 (10th Cir. 2015).

By prohibiting Mr. Jordan from presenting evidence against Riker at trial, the court violated fundamental constitutional rights to present a defense and to compulsory process, once considered protected by the Sixth Amendment, and it compounded that injustice when it denied Mr. Jordan a new trial after Riker confessed to the crime and his trial counsel admitted rendering constitutionally defective advocacy. Consequently, Mr. Jordan's case should be re-opened and his wrongful conviction dismissed, and I urge your office to take this matter back into court and agree to do so. See *United States v. Holloway*, 68

F.Supp.3d 310 (E.D.N.Y. 2014) (US Attorney "can do justice by the simple act of going back into court and agreeing justice should be done.").

Thank you for your consideration and I look forward to hearing your view on this matter.

Sincerely,