COMMONWEALTH OF VIRGINIA
Office of the Governor

Timothy M. Kaine
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FOR IMMEDIATE RELEASE
August 6, 2009

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STATEMENT OF GOVERNOR Kaine
~ On pending clemency requests of Danial Williams, Derek Tice, Joseph Dick and Eric Wilson ~

RICHMOND – Governor Timothy M. Kaine today released the following statement in response to the clemency petitions of Danial Williams, Derek Tice, Joseph Dick and Eric Wilson:

"Four ex-sailors who served together in Norfolk during the late 1990’s have petitioned for Absolute Pardons, exonerating them from culpability in the rape and murder of Michelle Bosko; three of the four confessed and were convicted of both crimes and one confessed and was convicted of raping Mrs. Bosko. The individuals (collectively "the Petitioners") claim that their confessions were false and that the true perpetrator, Omar Ballard, has been convicted of the crime and sentenced to life imprisonment. For the reasons stated below, I conclude that the Petitioners have not conclusively established their innocence and therefore that an Absolute Pardon is not appropriate. However, I conclude that the Petitioners have raised substantial doubts about their convictions and the propriety of their continued detention. I therefore grant Conditional Pardons to Danial Williams, Derek Tice and Joseph Dick, the three Petitioners who remain incarcerated.

"The effect of these Conditional Pardons is to reduce the sentences of the Petitioners to time served. The Petitioners must meet specific behavioral conditions and remain subject to supervision by the Parole Board for a specific period of time after their
release. These Conditional Pardons are not a conclusive finding of innocence but rather a reduction of sentences based on the analysis set forth below.

**FACTS**

"Michelle Bosko was raped and murdered in her apartment in Norfolk, Virginia on July 7, 1997. Her husband, a sailor returning from duty at sea, found her body the next day. The police investigation focused immediately on Danial Williams, a neighbor with no criminal record who lived in the same apartment complex with his wife and another sailor, Joseph Dick. Williams, who the police heard had an unhealthy fixation on Michelle Bosko, was interrogated at length and initially protested his innocence. But, after being told that he had flunked a lie detector test, he confessed to Investigator Robert Ford that he had committed the crime. Many of the details of Williams’ confession were at odds with the crime scene (e.g., Bosko was stabbed, but Williams initially stated that he had killed her by striking her with a shoe). Williams was arrested and charged with the crime. At that time, the police believed that Williams was the sole perpetrator, i.e., they did not see anything at the crime scene that made them believe that more than one person had been involved.

"Five months after the confession, the Virginia forensic laboratory revealed that sperm, blood and other genetic material from the crime scene did not match Williams’ DNA. Norfolk investigators then interrogated Joseph Dick, who initially protested his innocence. But, after being told that he had flunked a lie detector test, he confessed to Investigator Ford that he had committed the crime with Williams. Dick had no criminal record and many of the details of his confession varied from the crime scene and from the details of Williams’ previous statements. Dick was arrested and charged with the crime.

"The state laboratory concluded that Dick’s DNA did not match the crime scene evidence. The police placed an informant in Dick’s jail cell and the informant obtained information about another sailor, Eric Wilson. Wilson had no criminal record. He was interrogated and protested his innocence. But, after being told that he had flunked a lie detector test, Wilson confessed to Investigator Ford that he had acted with Williams and
Dick. Many of the details of Wilson’s confession varied from the crime scene and the confessions of the other suspects.

“The state forensics laboratory concluded that Wilson’s DNA did not match the crime scene evidence and so the police re-interviewed Joseph Dick. Dick provided descriptions of three other individuals he claimed were involved. One of the descriptions led police to Derek Tice, a former sailor who had left the service and moved to Florida. Tice had no criminal record. In June of 1998, Tice was brought back to Virginia and interrogated. He protested his innocence, was told that he had flunked a lie detector test and eventually confessed to Investigator Ford that he had committed the crime. In his confession, he named the three suspects who had already been arrested and also indicated that Geoffrey Farris and Richard Pauley had also been involved. (Farris and Pauley were both arrested and jailed for many months, but they maintained their innocence and were eventually released.) Tice’s confession was at odds with many of the details about the crime scene and was in conflict with the confessions of the other suspects.

“The state forensics lab confirmed in August 1998, more than one year after the crime was committed, that the DNA evidence did not match Tice, Farris or Pauley. The police re-interviewed Tice and Dick on numerous occasions and the two confessed that other individuals had been involved—Wagner, Mattingly, Clarke, and John Danser. Tice additionally stated that a black male was involved; describing him as muscular, 5’9” to 5’10” in height, and explained that he had never mentioned this man previously because they were all scared of him. Joe Dick also informed the police and defense counsel that a black male was involved in the attack. John Danser was arrested, but he had a conclusive alibi and his DNA did not match the crime scene evidence. The investigation stalled with seven people in jail for the crime. Four of these individuals had confessed, but the physical evidence did not match the DNA of any of the jailed suspects.

“In February 1999, 19 months after the crime, a woman walked into the Norfolk Police Department with a letter written to her daughter by a prisoner named Omar Ballard. At the time of the letter, Ballard was in prison for two crimes. He and another
man had attacked a young woman with a baseball bat at the same apartment complex where Michelle Bosko was killed about two weeks before her murder. Ballard had sought refuge in the Bosko's apartment right after that attack as a group of residents sought to apprehend him. Within a few weeks after the Bosko murder, Ballard raped and strangled a 14 year-old girl at knifepoint about one mile from the apartment. In the letter he had written from prison, sent to threaten a former girlfriend, Ballard bragged that he had been the person who had killed Michelle Bosko.

"The Norfolk police visited Ballard in prison in March 1999 and he declined their request to discuss the crime. He did allow physical evidence to be taken to compare with the crime scene evidence, however, and that analysis concluded that his DNA was consistent with that derived from the blood and semen found at the scene. Investigator Ford re-visited Ballard and he quickly confessed to the crime without any protestation of innocence. He indicated that he acted alone and his description of the crime scene was consistent with the details of the crime, even though it had happened nearly 2 years earlier.

"In March of 2000, Ballard pled guilty to the crime and was sentenced to life imprisonment. As part of his plea agreement, he was interrogated again and, for the first time, claimed that he had met Williams, Dick, Wilson and Tice in the apartment parking lot and committed the crime with them. Ballard has since asserted that he indeed committed the crime alone but that Investigator Ford told him that he would not receive favorable sentencing unless he implicated the four Petitioners in his statement. Ford has denied this claim.

TRIALS AND CONVICTIONS

"The Petitioners were each convicted in separate proceedings. Danial Williams pled guilty to the crime on January 22, 1999 after learning that his DNA was not consistent with that recovered from the crime scene. He signed a stipulation indicating that he had committed the crime with Dick, Wilson, Tice, Pauley, Farris and Danser. After he and his counsel became aware of the Ballard confession, they sought to
withdraw the guilty plea. In April 1999, the court refused his motion to withdraw the plea and he was sentenced to life in prison without parole.

"Joseph Dick pled guilty to the crime on April 21, 1999. He and his counsel were aware by the time of the plea that Ballard had confessed to committing the crime by himself. At a hearing held in June, Dick was asked by the prosecutor why he had confessed. He replied "Because I have a conscience. My conscience was bothering me and it was the right thing to do." At his final sentencing hearing in September, Dick personally apologized to Michelle Bosko's family, repeatedly expressing remorse for what he had done. (Dick had earlier written a letter to Nicole Williams, Danial William's wife, where he admitted to the crime but stated that others were more culpable—it was never sent.)

"Eric Wilson pled not guilty and was tried by a jury in June 1999. Joseph Dick testified for the prosecution that he, Williams, Wilson, Tice, Pauley, Farris and Danser had all gathered at Williams' apartment and then tried to enter Michelle Bosko's apartment. When they were rebuffed, they went to the parking lot, ran into Ballard and then he led them back to the apartment where they committed the crime. Wilson's recorded confession was played to the jury and he took the stand and told them that he had not committed any crime. The jury was informed that Ballard's DNA had been found in the victim and that there was no DNA or other physical evidence connecting Wilson to the scene. Wilson was acquitted of the murder charge but was convicted of rape and sentenced to 8 ½ years in prison. He appealed the conviction and his appeal was denied.

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1 One of Dick's former Navy supervisors has offered a alibi that Dick was on duty aboard his ship on the night of the crime. This alibi contention is based on the supervisor's "counting back" of the ship's scheduled rotations. However, there are no confirming Navy records of this schedule; the former supervisor has no actual recollection of Dick on the ship on the night in question; there are no Navy witnesses corroborating that Dick was on the ship; and, despite this supervisor's full knowledge of Dick's situation, this alibi was not presented to Dick's defense counsel for many years after Dick was arrested, convicted for rape and murder, and sentenced to life in prison. For these and other reasons, the asserted alibi is, at best, a murky issue.
“Derek Tice pled not guilty and was tried in February 2000. The trial was moved from Norfolk to Arlington because there had been too much publicity about the case in the Norfolk area by that time. Once again, Joseph Dick was the principal witness for the prosecution, testifying about Tice’s involvement in the crime committed by multiple persons. Tice’s confession to police was played and one section of it, where Tice stated “I looked at Danial [Williams] and told him ‘just stab the bitch’” made a particular impression. The prosecution put on evidence regarding Danial William’s alleged obsession with Michelle Bosko. The defense put on evidence about Ballard’s confession and DNA at the scene. Ballard was called to the stand, denied any involvement but could not explain how his DNA ended up at the crime scene. Finally, the defense put on evidence from a former Norfolk homicide detective to show that the crime scene was not consistent with a multi-perpetrator attack. Tice did not take the stand in his own defense. The jury deliberated six hours before finding Tice guilty of capital murder and rape.

“Tice’s conviction was overturned by the Virginia Court of Appeals in May 2002. The Court found that a jury instruction improperly would have allowed the jury to find Tice guilty of capital murder without a finding that he was active in the killing of the victim. The Court also ruled that the trial judge should have allowed Ballard to be questioned about his jailhouse letter confessing that he had killed Michelle Bosko.

“Tice was retried in Alexandria in January 2003. Once again, the prosecution’s case rested heavily on Dick’s tearful testimony and the playing of Tice’s confession. The defense called Omar Ballard again and, once again, he refused to answer any questions about the crime. But, the fact of his conviction for the murder, the presence of his DNA at the scene and his confession to the crime were placed before the jury. The jury also knew that there was no physical evidence connecting Tice to the crime scene. Finally, the jury heard from both Danser and Pauley. Each man—though named in the Dick and Tice confessions—had denied their involvement and all charges against them had been dropped. Their testimony was intended to show the unreliable nature of the confessions given by the defendants. Tice did not testify in his own behalf. The jury found Tice guilty of capital murder and rape. His conviction was upheld on appeal and subsequent
efforts to overturn the verdict and sentence in state and federal courts have been unsuccessful.

"Wilson was released from prison in 2008, but Williams, Dick and Tice remain in prison today.

**ANALYSIS**

"Executive clemency is meant as a last resort to be used only if normal court remedies have been exhausted. The court proceedings in this case were essentially complete in January 2008. Since that time, I have carefully considered all the evidence. I have also reviewed notes from interviews that have been conducted, at my direction, with investigators, prosecutors, defense counsel, the victim’s family, clemency counsel and judicial officers. The sheer number of confessions and separate legal proceedings has made this review complicated. The Petitioners do not just attack the validity of one confession. Instead, they claim that each and every confession they made must be set aside. The more than one dozen confessions and admissions made by these four individuals were made at different times, in different places, and to different people. Some were made in statements to police and prosecutors, some were made under oath in court proceedings and some were made in statements to third parties.

"I conclude that the Petitioners have raised serious doubts about their complicity in the rape and murder of Michelle Bosko. The circumstances of the crime and the physical appearance of the scene initially convinced the police that there had just been one perpetrator. None of the Petitioners had any criminal background prior to this event and each was serving honorably in the United States Navy at the time the crime was committed. There is a complete lack of any DNA or other physical evidence tying these individuals to the crime scene. The Petitioners’ confessions vary in important ways from the actual facts and are inconsistent with one another’s statements in numerous particulars, including who was involved in the crime. None of the confessions originally given mention Ballard, the one person who has been conclusively proven to have been a participant, and a number of the confessions implicate people who have conclusively
proven they were not present. The confessions of the Petitioners were each obtained after they were told that they had flunked lie detector tests—the actual record of those tests suggest that this assertion was an interrogation tactic and that the tests were not conducted in a manner that would assure accuracy. Finally, clear DNA evidence establishing that Omar Ballard - an individual with a record of violent assaults against women - was a perpetrator of this crime, coupled with his accurate confession obtained nearly two years after the crime was committed, demonstrate that the judicial system has caught and convicted the person most responsible for the offense. That Ballard confessed to committing the crime alone, and that he only changed his story to implicate the Petitioners one year later on the verge of a plea bargain that allowed him to avoid possible capital murder charges, raises additional questions.

"Still, the fact that the Petitioners have raised serious doubts about their complicity is not enough to justify an Absolute Pardon, which requires conclusive proof of innocence. To a large degree, the arguments presented in the clemency petition were heard by the juries, judges and appellate courts that have previously heard the four cases. In each instance, the decision-makers heard much evidence suggesting that Ballard had acted alone but chose to reject the Petitioners' claims that they were innocent.

"It is likely the case that the power of Joseph Dick's repeated testimony, which included tearful and emotional apologies to the victim's family, and the audiotaped confessions played at the Wilson and Tice trials, made it difficult for the trial court judge and juries to find them blameless. This was particularly the case in Tice's two trials. His able counsel produced much evidence that pointed out Ballard's clear guilt, the lack of any physical evidence tying Tice to the crime, the unreliability of the Tice and Dick confessions and the incompatibility of the crime scene with the prosecution's multi-perpetrator scenario. But, the jury also heard a chilling 18-minute recorded confession from Tice, a 28 year-old former sailor who, by all accounts, possessed significant intelligence. While Tice was under no obligation to testify in his own defense, for purposes of considering this Pardon request it is notable that he failed to personally make the case to his two juries that he was innocent and that his multiple confessions were
false. In sum, while many aspects of the Petitioners' confessions are problematic, the cumulative power of all these statements taken together—especially when coupled with other evidence such as Williams' asserted obsession with the victim and Tice and Dick's references to committing the crime with a black male—is difficult to completely ignore.

"I find that that the combined weight of all the evidence in this case does not conclusively exonerate the Petitioners from any possibility of involvement in the rape and murder of Michele Bosko. Instead, the Petitioners have demonstrated, through the accumulation of all the evidence now known, that any involvement in the crime was of a significantly lesser magnitude than that of the primary perpetrator, Omar Ballard. The trial jury that sentenced Eric Wilson to 8 1/2 years in prison essentially reached this same conclusion. For this reason, I exercise the clemency power to grant a Conditional Pardon whereby the three defendants still serving time—Danial Williams, Joseph Dick and Derek Tice—will have their sentences commuted to time served, subject to the specific conditions outlined in the conditional pardon document. This Conditional Pardon is not a conclusive ruling of innocence, but instead adjusts the sentences of these three individuals to a more appropriate term given the doubts that surround their involvement. The fourth Petitioner, Eric Wilson, has already served his full sentence and been released from confinement, so this Conditional Pardon does not apply to him; his petition for clemency is therefore denied."

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