


OPED TRUTH AND JUSTICE

Anti Wrongful Conviction Advocate Eric Schneiderman Wins New York Attorney General Democratic Primary

By Jeff Deskovic

On September 15, 2010, longtime anti-wrongful conviction advocate Eric Schneiderman, a Senator from Manhattan, won the Democratic Primary for Attorney General, narrowly beating Nassau County District Attorney Kathleen Rice 34 % to 31%. There were three other candidates: former naval aviator and assistant U.S. attorney Sean Coffey, Assemblyman Richard Brodsky, and former insurance superintendant Eric Dinallo.

I had met with Senator Schneiderman during the successful struggle against a major effort to reinstate the death penalty back in 2007, shortly after emerging from prison. The death penalty, of course, poses a risk of executing innocent people. I worked at length in tandem with Schneiderman. He introduced me to numerous senators that I lobbied, we appeared at a press conference together, and during senate debate he debated pro-death penalty senators, citing potential wrongful executions, and my case, as one reason to oppose the death penalty.

As a Senator, Schneiderman not only has held legislative hearings on the causes of wrongful convictions, but introduced anti-wrongful conviction legislation; allowing DNA testing even for prisoners who had pled guilty (across the country 21 prisoners who have previously pled guilty have been proven innocent by DNA); expansion of the DNA Databank (in 40% of the 258 DNA proven wrongful conviction cases, DNA testing has not only proven innocence, but also identified the real perpetrator); DNA testing fund, whose purpose is to assist police and crime laboratories in collecting, testing, and analyzing crime scene evidence; modification of the compensation statute so that those who have been exonerated would merely have to show their innocence in the Court of Claims in order to receive compensation; Innocence Commissions whose purpose would be to study what went wrong in

wrongful conviction cases with a view to avoiding having the same mistakes made; and an Actual Innocence Bill which would have established a free standing claim of actual innocence as ground for overturning a conviction. Additionally, he was a prime co-sponsor along with Senator Bill Perkins on video-taping interrogations.

On September 8, 2010, I had the honor of endorsing Schneiderman at a press conference, saying "I am particularly honored to endorse Senator Schneiderman for New York Attorney General, a man whose body of work I have been familiar with for several years; and who I have worked with on the issue of wrongful convictions. As both a victim of wrongful conviction and a highly motivated advocate heavily engaged in the struggle against the same, I have met on numerous occasions with Eric discussing badly needed anti-wrongful conviction legislation, endorsed bills introduced by him, and testified at State Senate Hearings he has held. He doesn't just give lip service to wrongful convictions, but has a substantial body of work as well. We need an Attorney General who won't just talk tough on crime, but will be accurate and fair about it as well. Eric worked to evict drug dealers and to clean up crack dens, ridding our neighborhoods of illegal guns. He was well aware of the need not only to prosecute the guilty but to protect the innocent.

To me, the most important aspect of his advocacy has been his tireless efforts to bring fairness and true justice to our criminal justice system. We all want a justice system that punishes the guilty, while exonerating the innocent. Having gone to state prison at age seventeen for 16 years for a rape and murder that police and prosecutors knew from a negative DNA Test result obtained many months before trial that I didn't commit.

In the course of my wrongful incarceration, I personally made the acquaintance

of 9 individuals who have since been exonerated. Across the country 258 people have been proven innocent via DNA, and many times that number through non-DNA methods. And, those numbers are only the tip of the iceberg; there are many more innocent people who remain wrongfully convicted. Eric's announced plan to establish an Actual Innocence Unit in the Attorney General's office will go a long way toward correcting them. It is important to realize that each time an innocent person is wrongfully convicted and incarcerated, the actual perpetrator remains free to strike again. That, in fact, happened in my case, when three and a half years after I was sent to prison, he claimed still another young woman's life. Eric's election is therefore critical in both combating wrongful convictions and preserving public safety.

Schneiderman then said, "I'm honored to receive the support of Jeffrey Deskovic. Having lived the nightmare of being punished for a crime he did not commit, Jeffrey has emerged as a national champion for the wrongfully convicted." He then said that while Deskovic was wrongly imprisoned, the real culprit murdered again. "The job of a prosecutor is twofold, to convict the guilty and protect the innocent. It is not about tough talk. It is about seeking justice, following the facts wherever they lead. It is about getting it right."

A follow up press release that was posted on his website, further articulated Schneiderman's position and how he intends to use the office of Attorney General in the battle against wrongful convictions: "In recent years, DNA evidence and other crime solving tools have unveiled the grave mistakes too often made by our criminal justice system. When there is an error in a civil case, money is at stake. When there is error in a criminal case, an innocent person goes to jail and the perpetrator remains free to re offend and jeopardize the lives and safety of others. The Attorney General's office is

charged by law to defend the state when it is sued by someone wrongfully convicted of a crime, and when it is sued under the writ of habeas corpus. The Attorney General's mandated defensive posture creates both a moral and legal imperative. It is a prosecutor's duty not simply to obtain and defend convictions, but to do justice. Eric, therefore, has pledged to establish an Actual Innocence Unit in the Criminal Division of the Attorney General's office. It will be multi-disciplinary, staffed by career prosecutors, defense lawyers, and experienced detectives and investigators. Its charge will be simple: discover the facts about wrongful convictions, and be guided by the truth. Under Eric, the Unit will follow the facts wherever they lead, and will let the chips fall where they may."

Schneiderman now faces State Island District Attorney Dan Donovan in the general election. As part of the District Attorney's Association, which has proven resistant to measures to make the criminal justice system more accurate, such as recording interrogations, on grounds which include, amongst other arguments, concern about cost, Donovan's position leaves a lot to be desired when it comes to wrongful convictions. In future Guardian articles, I will write more about this important race.

It was exciting for me to be asked to endorse in an important, state wide election, for an office as high as New York State Attorney General, and strikes me as a further reason to continue to build supporters in order to back my advocacy work with grassroots support. We need more elected officials who see wrongful convictions as an important issue, and I want to be in as strong a position as possible to assist them.

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