

I, VICKIE PETERSON (BRAUNSTEIN), declare as follows:

1. I am the Aunt of the victim, the decedent, Phillip A. Buell. Phillip died on April 28, 1983. In November 1983, the petitioner, Ken Marsh, was convicted of the second degree murder of Phillip who was then 2 1/2 years old. The petitioner was sentenced to a 15-year to life prison term and is still in prison.

2. I am submitting this declaration in support of the instant petition for writ of habeas corpus. I can competently testify to the following:

3. I have always believed in the petitioner's innocence. And I support reviewing the petitioner's case. 6 years prior to Phillip's death I became friends with the defendant Ken Marsh. At the time of Phillips death I was living down the street from them. I had an open door invitation to visit my niece and nephew at anytime. And did so on a daily basis. I was always welcomed with open arms by Ken. We had a very good relationship. I observed Ken with Phillip, Jessika and his own children I never saw any mistreatment by him toward them. I never witness Ken loosing his temper or becoming angry or violent in all the the years I knew him. I trusted him with my siter and her family. I believe he is very honest and trustworthy.

4. During Phillips short life I was in attendance at many doctor visits with him to Kaiser. My Mom, Ken, and myself often occompanied my sister to the doctors as we were all very concerned. Phillio the last year of his life seemed very ill. I babysat for Brenda on many occasions and at times felt scared and nervous because of his illness. He frequently complained of having headaches and tummy aches, he vomited, his hair fell out and was constipated a lot. .Sometimes I would observe him being unstable. He walked funny and was unsteady. Sometimes he would just fall like he was dizzy and off balance. After Jan when he went to the hospital for internal bleeding we were even more scarred cause we had no answers.

5. December 30, 1982 I went with my sister to the doctors because Phiilip was vomiting and constipated on a regular basis. As I remember the doctor told us he was constipated and his stomach was upset. He prescribed an enema which we gave him. His stomache seemed softer after that but he still seemed ill and still had problems.

6. In Feburary 1983 I was sitting for Phiilip and Jessika my Mom visited too. When Phillip woke from his nap he had a bloody nose and some blood on his mouth. He vomited black that day and was taken in for this, again with no answer from the doctors. They mentioned that he may have fell out of bed and went back to sleep and swallowed blood that is why it was black.

7. Jan 5, 1983 I was sitting for the kid's all day. Which was the day that Phillip was bleeding internally. I had the kid's all day and the only thing I could say that may have injured his stomache was that he bent over the shopping cart with stomache on bar, or that he was running down the hall with his see and say toy and fell on it. I put Phiilip in bed with a bottle I don't remember if he was complaining his stomache hurt or not. When Ken came home we visited and then I left. Phillip was taken to the hospital shortly after I left the house.

8. After Jan incident and his hospital stay we all becamed extremely concerned for his health. We were still taking him to the doctors for bruising headaches and stomache problems. Still getting

no answers as to why he lost so much blood or where it had gone. Or why he was still sick. This all was very upsetting to my entire family. At no time did we ever think that Phillip was being hurt. He was a happy baby with lots of love. I believe that he and Ken had a loving relationship. He never seemed fearful of Ken.

9. I have always been convinced that the petitioner is innocent because during the entire time I knew him, which was for several years. I never saw the petitioner mistreat, verbally abuse or hit any child. I only saw a side of Ken that was wonderful. He was kind, caring, compassionate and very concerned individual. I believe in my heart that Ken truly loved all of us. We were very close and I would have trusted him with my own children if I had any.

10. I am very disturbed over the injustice I feel that occurred in this case, not only for the petitioner, but for my entire family. I am personally asking this court to re-open the case. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Escondido, California on May \_\_\_\_\_, 2002.

---

By: BRENDA BUELL WARTER