

Schwarzenegger's first blood

IN WHAT is fast becoming one of the most unsavory aspects of American culture, elected leaders today have a need to order the spilling of blood, thus exercising a sort of remote control machismo. For George Bush Senior, it was the Iraq War that helped him shed what the media dubbed, his "wimp factor." Conservative UN estimates claim that war and the ensuing sanctions cost at least a half million lives. Bush's life, and the lives of those close to him, however, were never on the line. But to read the press reports, it was high noon at the OK Corral. Bush Senior, having celebrated the first major bloodletting of his presidency, was now a man.

Bill Clinton followed suit, ditching his cumbersome "draft dodger" cognomen somewhere between Kosovo and Serbia. Clinton gave the command, Wes Clark mobilized the troops, and missiles went a-flying into bridges, trains, TV studios and damn near anything that moved, including columns of fleeing Kosovar refugees. When it was all over, the former Yugoslavia, like Bush Senior's Iraq, was littered with "depleted" uranium. But Clinton, like Bush Senior before him, had his bloodletting, and was dubbed a "man."

Killing by proxy was nothing new for George W Bush. As governor of Texas, he presided over the nation's busiest death row. Control of the White House, however, allowed the younger Bush to unleash a bloodbath befitting an emperor. His Gulf War has so far cost the lives of over 500 US service personnel (while seriously wounding over 3,000), 300 Iraqi collaborators and over 10,000 Iraqi civilians, while dousing downtown Baghdad

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with the DU radiation of countless "dirty bombs." The media quickly applauded Bush, who never put himself or his kin in harm's way (despite a half hour at the Baghdad airport), as making tough decisions. For a moment in time, he too achieved the veneer of machismo that seems to come from ordering the death of innocents.

This brings us to the "action hero" turned governor of California, Arnold Schwarzenegger. First off, Schwarzenegger ain't a real action hero. He's actually nothing more than a brand. First he was the "Terminator," now he's the "Governor." As an actor, his every move and line was scripted by Hollywood writers. As governor, his lines seem scripted by the energy industry, to whom the burly Austrian seems to have handed California's fiscal future.

Schwarzenegger's handlers, however, seem to have a hard time corralling the aging party animal. As long as the energy industry is satiated, Arnold seems to be allowed to play at will in the governor's mansion. This is where Kevin Cooper comes into this story.

Cooper was convicted of murder 19 years ago, sentenced to death for the brutal killing of three members of a family and their houseguest. The problem is, however, that by all indications, Cooper had nothing to do with the crime. An eight year old witness and survivor of the attack reported that his family was attacked by three intruders, all of whom were either light skinned Latinos, or white. Cooper is black – a point the child made at the time when police asked him to identify Cooper.

One of the victims was still clutching strands of long blond hair when police found the bodies – a fact that would support the young witness' account of the crime. Cooper, of course, did not have long blond hair. This evidence, however, was never shown to the jury. And it was never shared with a frenzied public that called for Cooper's execution – with one racist mob going as far as to hold a mock lynching of a toy gorilla outside of the courthouse during the trial.

Coroners identified three separate weapons used in the murders, which they claim all took place within two minutes. This feat, according to one pathologist, would be "virtually impossible" for one man to commit alone, as the prosecution alleged.

At the time of the trial, a woman contacted the police and told them that she suspected that her boyfriend was involved in committing the murders. To back up her story, she supplied them with a pair of bloody coveralls that he came home wearing on the night of the murders. The police, however, deliberately disposed of this evidence. The defense never called her in to testify. The same woman identified a bloody shirt found at the scene of the crime as belonging to her boyfriend. The boyfriend, years later while locked up in jail on another charge, confessed to the murders, providing details that only the assailant could know. Prosecutors, however, refused to follow up on the confession. A lone drop of

blood near the crime scene linked Cooper to the murders, but that blood was “recovered” by a police officer who, it turned out, was dealing heroin at the time, which he stole from the evidence lockers.

No credible evidence tied Cooper to the crime scene. He did not know the victims. And he had no motive to kill them. He was, however, a black man who lived nearby, and who had recently escaped from jail, where he was serving a sentence for a nonviolent crime.

When news of all the suppressed and missing evidence came to light, five of the jurors stepped forward to call for a new investigation, regretting the misinformed decision that they were a party to. But it gets funkier. Fourteen years after Cooper was convicted, police used DNA testing to finally link Cooper to the crime scene. The problem here, however, is that the evidence that supposedly contained Coopers blood, along with a vial of his blood, were improperly signed out and taken home by a police department criminologist prior to the testing. When the evidence was returned, Cooper’s blood was on the evidence. This same criminologist was the one who testified that the blood found by the heroin-dealing cop, was from Cooper’s body.

Now here’s where Schwarzenegger fits in. Cooper’s execution was set for February 10th, just about one month after California’s terminal inauguration put Schwarzenegger into the governor’s mansion. Cooper’s lawyers assembled the evidence, plus statements from the original child-witness, now 27 years old, who still argues virulently that three light-skinned men, and not Kevin Cooper, killed his family. He and his grandmother joined Cooper’s lawyers in petitioning Schwarzenegger to grant a stay of execution while lawyers argued both for an examination of new evidence, and for conducting tests to see if evidence was tampered with – specifically if Cooper’s blood was transferred from the vial onto crime scene evidence 14 years after the crime was committed.

Schwarzenegger refused to grant what should have been an automatic stay of execution. He went one step further, and refused to grant a hearing for public review of the evidence against Cooper. This action marks Cooper as California’s first death row inmate to be denied a stay of execution without such a hearing in modern times.

Cooper seems to be a poster-boy for abolishing the death penalty, providing a fairly clear case of a racist judiciary sending a black man to his death based on tainted and missing evidence. All his lawyers were asking for was a chance to use new technology to examine the evidence against Cooper to determine if it had been tampered with.

For Schwarzenegger, this was his defining moment – his opportunity to perform a routine function and sign a rather banal stay of execution, or to try to send an innocent man to his death. Schwarzenegger, after years of tasting only the sour chlorinated flavor of fake stunt blood, now had the opportunity to imagine savoring the salty warmth of real

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death, if only at a distance. Schwarzenegger finally was to have his own bloodletting – barely one month after taking the helm of a sunken California.

With less than a day to go before Schwarzenegger's state killing, however, a pre-Ashcroft-era federal judge granted Cooper the very stay of execution that Schwarzenegger attempted to withhold, writing, "When the stakes are so high, when the evidence against Cooper is so weak, and when the newly discovered evidence of the state's malfeasance and misfeasance is so compelling, there is no reason to hurry and every reason to find out the truth."

In Cooper's case, the search for the truth seems like a novel idea. Pursuing it has put a damper on what could have been Schwarzenegger's first celebrated execution of an innocent man. I have no doubt, however, that another opportunity will come along soon.