

## CAPITAL PUNISHMENT CASE STATUS REPORT

October 5, 2012

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## INTRODUCTION

The Capital Punishment Case Status Report is published monthly by the Office of the Attorney General, Corrections Division. It details the legal status of each case where an individual is currently under sentence of death. For easy reference, the names of current counsel for each case are italicized and bolded, and the latest developments on each case are also in bold print. Further information about any of these cases may be obtained by contacting Tim Lang, Corrections Division, or the members of the Capital Litigation Team as listed on the cover page of this report.

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## KEY TO COURT ABBREVIATIONS

|      |                                                                     |
|------|---------------------------------------------------------------------|
| WSSC | Washington State Supreme Court                                      |
| EDC  | United States District Court for the Eastern District of Washington |
| WDC  | United States District Court for the Western District of Washington |
| 9CIR | United States Court of Appeals for the Ninth Circuit                |
| USSC | United States Supreme Court                                         |

| <u>DATE</u>                   | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------------------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>NAME:</u>                  |              | CROSS, Dayva Michael<br>D.O.B.: September 19, 1959<br>Race: Caucasian                                                                                                                                                                                                                                                                                                                                                                |
| <u>DATE OF CRIME:</u>         |              | March 6, 1999                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <u>PLACE OF CRIME:</u>        |              | King County                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>BRIEF FACTS:</u>           |              | Dayva Michael Cross pleaded guilty to three counts of aggravated first degree murder for the stabbing deaths of his wife, Anouchka Baldwin, and two stepdaughters, Amanda Baldwin and Salome Holly. The aggravating circumstances were that there was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person. <i>State v. Cross</i> , King County Cause 99-1-02212-9. |
| <u>DATE OF GUILTY PLEA:</u>   |              | October 23, 2000                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>SPECIAL SENTENCING:</u>    |              | May 7, 2001                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>JUDGMENT AND SENTENCE:</u> |              | King County Superior Court<br>Cause No. 99-1-02212-9<br>June 22, 2001                                                                                                                                                                                                                                                                                                                                                                |
| <u>TRIAL JUDGE:</u>           |              | Honorable Joan DuBuque                                                                                                                                                                                                                                                                                                                                                                                                               |
| <u>DEFENSE ATTYS:</u>         |              | Mark Larranaga<br>Richard Warner<br>Seattle, WA                                                                                                                                                                                                                                                                                                                                                                                      |
| <u>PROSECUTING ATTYS:</u>     |              | Norm Maleng, Prosecuting Attorney<br>Don Raz, Senior Deputy Prosecutor<br>Tim Bradshaw, Deputy Prosecutor<br>King County Courthouse<br>516 Third Avenue, Suite W554<br>Seattle, WA 98104-2362<br>(206) 296-9000                                                                                                                                                                                                                      |
| <u>APPELLANT'S ATTYS:</u>     |              | (Direct Appeal, WSSC Cause #71267-1)<br>Todd Maybrown<br>Allen Hansen & Maybrown P.S.<br>600 University Street, Suite 3020<br>Seattle, WA 98101-4105<br>(206) 447-9681<br><br>Kathryn Ross<br>Jones, Ross, Besman & Connolly<br>828 Second Street, Suite D<br>Mukilteo, WA 98275-1601<br>(425) 348-7937                                                                                                                              |
| <u>PETITIONER'S ATTYS:</u>    |              | (Personal Restraint Petition, Washington Supreme Court #79761-7)<br><b>TODD MAYBROWN</b><br><b>ALLEN HANSEN &amp; MAYBROWN</b><br><b>600 UNIVERSITY ST., SUITE 3020</b><br><b>SEATTLE, WA 98101-4105</b><br><b>(206) 447-9681</b><br><br><b>JAMES LOBSENZ</b><br><b>CARNEY BADLEY SPELLMAN</b><br><b>701 5<sup>TH</sup> AVENUE, SUITE 3600</b><br><b>SEATTLE, WA 98104-7010</b><br><b>(206) 622-8020</b>                             |
| <u>RESPONDENT'S ATTYS:</u>    |              | <b>DANIEL T. SATTERBERG, PROSECUTING ATTORNEY</b><br>Timothy Bradshaw, Deputy (withdrew 01/24/03)<br><b>DONALD RAZ, DEPUTY</b><br><b>JAMES WHISMAN, DEPUTY</b><br><b>RANDI J. AUSTELL, DEPUTY</b>                                                                                                                                                                                                                                    |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/29/01    | 71267-1 WSSC | Notice of Judgment and Sentence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 06/22/04    | 71267-1 WSSC | Oral argument held                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 03/30/06    | 71267-1 WSSC | Opinion (affirming conviction and sentence of death). Majority opinion authored by Justice Chambers. Chief Justice Alexander filed a concurring opinion. Justice Madsen, joined by Justices Charles Johnson, Sanders, and Owens, dissented. <i>State v. Cross</i> , 156 Wn.2d 580, 132 P.3d 80 (2006).                                                                                                                                                                                                                                                                                                                                                                              |
| 04/06/06    | 71267-1 WSSC | Cost Bill [\$128,781 to be paid to OPD, \$706.18 to King County]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 11/06/06    | 06-6333 USSC | Petition for Writ of Certiorari denied. <i>Cross v. Washington</i> , 549 U.S. 1022, 127 S. Ct. 559, 166 L. Ed. 2d 415 (2006).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 11/30/06    | 71267-1 WSSC | Mandate                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 12/19/06    | 71267-1 WSSC | Amended Mandate                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 01/30/07    | 99-1-02212-9 | Death Warrant (setting execution for February 27, 2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 01/31/07    | 79761-7 WSSC | Application for Stay of Execution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 02/02/07    | 79761-7 WSSC | Order Granting Stay of Execution and Appointing Counsel                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 08/01/07    | 79761-7 WSSC | Petitioner's Motion for Leave to Conduct Discovery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 09/05/07    | 79761-7 WSSC | Department of Corrections' Response to Motion for Leave to Conduct Discovery; Declaration of Richard Morgan.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 09/06/07    | 79761-7 WSSC | Order (Petitioner's motion for appointment of Professors Boerner and Denno is denied. Motion for appointment of investigator Sanderson and Dr. Souter is granted. Motion to file under seal denied.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 09/07/07    | 79761-7 WSSC | Reply in Support of Petitioner's Motion for Leave to Conduct Discovery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 09/18/07    | 99-1-02212-9 | Defendant's Motion to Allow Contact with Jurors                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 09/26/07    | 79761-7 WSSC | Respondent's Objection to Ex Parte Order Granting Investigator on Jury Misconduct Issue and Request for Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 10/01/07    | 79761-7 WSSC | Petitioner's Response to Respondent's Motion for Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10/24/07    | 79761-7 WSSC | Placeholder Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 11/16/07    | 79761-7 WSSC | Order (Respondent's motion to reconsider is denied. The motion to contact jurors is granted as to both parties, subject to the requirements of RPC 3.5(c). The parties are also directed to specifically inform jurors that they may, but are not required, to speak with representatives of either or both the petitioner and the respondents, and may end the interviews at any time. The remaining motions are denied. All further proceedings related to discovery relative to alleged juror misconduct shall be heard by King County Superior Court Judge Joan E. DuBuque, except for any Petitioner requests for additional funding, which shall be considered by this Court) |
| 01/29/08    | 79761-7 WSSC | Personal Restraint Petition; Brief in Support of Personal Restraint Petition; Declarations of Maria Ferndanda Torres, Jonathan L. Grindlinger, MD, Mark Larranaga, Todd Maybrown,                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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|             |              | Jeffrey Ellis, David Boerner, Dr. Robert Thompson, James E. Lobsenz, Jeffrey Robinson, Richard Warner.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 07/10/08    | 79761-7 WSSC | Order (denying Respondent's Motion for Judicial Determination of Petitioner's Competency, Respondent's RAP 16.26 Motion for Discovery, and Petitioner's Motion for Oral Argument)                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 10/13/08    | 79761-7 WSSC | Response to Personal Restraint Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 11/10/08    | 79761-7 WSSC | Order (Respondent's Second Motion for Discovery is granted; Petitioner's Motion for Oral Argument is denied; Respondent's Motions to Strike Declarations of Boerner, Robinson, and Torres are denied)                                                                                                                                                                                                                                                                                                                                                                                               |
| 03/06/09    | 79761-7 WSSC | Order on Petitioner's Renewed Motion for Discovery re: Lethal Injection Claims                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 03/16/09    | 79761-7 WSSC | Department of Corrections' Motion for Protective Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 03/17/09    | 79761-7 WSSC | Order (Motion for a protective order is granted on a temporary basis only. This temporary protective order will remain in effect pending further order of the Court)                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 04/03/09    | 79761-7 WSSC | Order (Petitioner's motion for oral argument is granted only on the <i>Alford</i> plea issues. Oral argument will be heard on June 25, 2009. All other issues in this case are stayed pending resolution of the <i>Alford</i> plea issues)                                                                                                                                                                                                                                                                                                                                                          |
| 05/11/09    | 79761-7 WSSC | Supplemental Brief of Petitioner                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 06/03/09    | 79761-7 WSSC | Brief of Amicus Curiae Washington Association of Criminal Defense Lawyers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/08/09    | 79761-7 WSSC | Supplemental Brief of Respondent Re: <i>Alford</i> Plea of Guilty                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 06/15/09    | 79761-7 WSSC | Response to Brief of Amicus Curiae Washington Association of Criminal Defense Lawyers                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 06/19/09    | 79761-7 WSSC | Petitioner's Supplemental Reply Brief Re: <i>Alford</i> Plea of Guilty                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 06/25/09    | 79761-7 WSSC | Oral argument held                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 07/08/09    | 79761-7 WSSC | Order (the Court denies relief based on the <i>Alford</i> plea issues presented. The Court's reasoning will be set forth in its opinion on the merits of the Petitioner's Personal Restraint Petition to be released in due course.)                                                                                                                                                                                                                                                                                                                                                                |
| 11/06/09    | 79761-7 WSSC | Order (Respondent's motion to lift the stay is granted in part and denied in part. The motion is denied with respect to consideration of the legality of Washington's lethal injection protocol. The motion to lift the stay is granted with respect to all other claims. The Respondent's motion for immediate dissemination of discovery is granted in part.)                                                                                                                                                                                                                                     |
| 12/08/09    | 79761-7 WSSC | Reply Brief in Support of Personal Restraint Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 02/12/10    | 79761-7 WSSC | Order (Petitioner's motion for the appointment of Maria Fernanda Torres is denied but Ms. Torres may provide representation under the supervision of death penalty qualified counsel at public expense. The Respondent's motion for a deadline is granted. Petitioner has 30 days from entry of this order to comply with this Court's November 6, 2009, discovery order. The Respondent's motion for 60 days from receipt of discovery to file any additional relevant briefing on the ineffective assistance of counsel claims, and the Petitioner's motion for 60 days to respond, are granted.) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| 06/25/10    | 79761-7 WSSC | Order (The Respondent's motion to compel production is deferred pending further consideration of this court. Within 30 days of this order, the Petitioner shall provide this court with: (1) copies of any disputed documents, which shall be filed under seal, for this court's in camera review; and (2) a brief explaining why said documents should not be disclosed. The Respondent's request to clarify this court's November 10, 2008 order is denied without prejudice to a more specific future motion. The Respondent's motion for an extension of time is granted.) |
| 08/26/10    | 79761-7 WSSC | Motion for Compliance with Court's June 25th Order, Article I, § 10, GR 15, and RAP 18.5                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 09/01/10    | 79761-7 WSSC | Petitioner's Response to Respondent's Motion for Compliance                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 09/27/10    | 79761-7 WSSC | Order (Both the Respondent's motion to compel production of the 12 documents submitted for the Court's in camera review and its motion for compliance are denied.)                                                                                                                                                                                                                                                                                                                                                                                                             |
| 11/19/10    | 79761-7 WSSC | Respondent's Motion for Permission to File Documents by Protective Order and for Directions as to Format for the Filing; State's Supplemental Response to PRP (filed under seal)                                                                                                                                                                                                                                                                                                                                                                                               |
| 12/21/10    | 79761-7 WSSC | Petitioner's Response to Respondent's Motion Regarding Filing of Discovery                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 05/02/11    | 79761-7 WSSC | Petitioner's Reply Brief to State's Supplemental Response to PRP (filed under seal); Second Declaration of Richard Warner; Second Declaration of Mark Larranaga; Declaration of Teresa A. McMahill                                                                                                                                                                                                                                                                                                                                                                             |
| 11/08/11    | 79761-7 WSSC | Order (granting Respondent's motion for permission to file discovery documents and temporarily sealing said documents subject to further order of the Court)                                                                                                                                                                                                                                                                                                                                                                                                                   |

| <u>DATE</u>                   | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>NAME:</u>                  |              | DAVIS, Cecil Emile<br>D.O.B.: September 1, 1959<br>Race: Black                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>DATE OF CRIME:</u>         |              | January 25, 1997                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <u>PLACE OF CRIME:</u>        |              | Pierce County                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <u>BRIEF FACTS:</u>           |              | Cecil Emile Davis was convicted of one count of aggravated first degree murder for the suffocation/asphyxiation murder of 65-year-old Yoshiko Couch using a poisonous chemical ("Goof-Off"/Xylene), after burglarizing her home, robbing her, and raping her. The aggravating circumstance was that the murder was committed in the course of and or furtherance of the crimes of Burglary in the First Degree or Burglary in the Second Degree, Robbery in the First Degree or Robbery in the Second Degree, Rape in the First Degree and/or Rape in the Second Degree. <i>State v. Davis</i> , Pierce County Cause 97-1-00432-4. |
| <u>DATE OF CONVICTION:</u>    |              | February 6, 1998                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <u>SPECIAL SENTENCING:</u>    |              | February 10-12, 1998<br>May 15, 2007                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <u>JUDGMENT AND SENTENCE:</u> |              | Pierce County Superior Court<br>Cause No. 97-1-00432-4<br>February 23, 1998, May 18, 2007                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>TRIAL JUDGE:</u>           |              | Honorable Frederick W. Fleming                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>DEFENSE ATTYS:</u>         |              | Ronald Ness<br>John L. Cross<br>Port Orchard, WA<br><br>Julia Lindstrom<br>Lloyd Alton, Jr.<br>Tacoma, WA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>PROSECUTING ATTYS:</u>     |              | Gerald Horne, Prosecuting Attorney<br>John W. Ladenburg (Former Prosecuting Attorney)<br>John M. Neeb, Deputy Prosecutor (Withdraw 01/26/00)<br>John Hillman, Deputy Prosecutor (Former Prosecuting Attorney)<br>Gerald T. Costello, Deputy Prosecutor<br>Pierce County Prosecutor's Office<br>930 Tacoma Avenue South, Room 946<br>Tacoma, WA 98402-2171                                                                                                                                                                                                                                                                          |
| <u>APPELLANT'S ATTYS:</u>     |              | (Direct Appeal, WSSC Cause #66537-1)<br>Judith Mandel<br>Port Orchard, WA<br><br>(Direct Appeal, WSSC Cause #80209-2)<br>Eric Broman (Withdraw 1/15/09)<br><b>ERIC NIELSEN</b><br><b>NIELSEN BROMAN &amp; KOCH LLC</b><br><b>1908 E. MADISON STREET</b><br><b>SEATTLE, WA 98122-2842</b><br><b>(206) 623-2488</b>                                                                                                                                                                                                                                                                                                                  |
|                               |              | Ronald D. Ness<br>Port Orchard, WA<br><br><b>DAVID KOCH</b><br><b>NIELSEN BROMAN &amp; KOCH LLC</b><br><b>1908 E. MADISON STREET</b><br><b>SEATTLE, WA 98122-2842</b><br><b>(206) 623-2488</b>                                                                                                                                                                                                                                                                                                                                                                                                                                     |



| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                         |
|-------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02/10/11    | 80209-2 WSSC | Order (Motion to Strike Improper Arguments and Appendices in Amici Briefs is passed to the merits)                                                                                                                                                                                    |
| 02/10/11    | 80209-2 WSSC | Oral argument held                                                                                                                                                                                                                                                                    |
| 07/17/12    | 80209-2 WSSC | Appellant's Statement of Additional Authority                                                                                                                                                                                                                                         |
| 09/20/12    | 80209-2 WSSC | <b>Opinion (affirming conviction and sentence of death). Majority opinion authored by Justice Alexander. Justice Fairhurst, joined by Justices Wiggins and Stephens dissented. Justice Gonzales did not participate. <i>State v. Davis</i>, ___ P.3d ___, 2012 WL 4122905 (2012).</b> |
| 09/20/12    | 80209-2 WSSC | <b>Cost Bill</b>                                                                                                                                                                                                                                                                      |

| <u>DATE</u>                                                      | <u>CAUSE</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <u>ACTION</u> |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
|------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|------------------------------------------------------------------|--|------------------|--------------------------|--------------------------|---------------------------|------------------|----------------------------------------|-------------|-----------------------|------------------------|----------------|----------------|--|
| <u>NAME:</u>                                                     | ELMORE, Clark Richard (aka James Elmore aka James Lee Dickey)<br>D.O.B.: November 17, 1951<br>Race: White                                                                                                                                                                                                                                                                                                                                                                                                              |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>DATE OF CRIME:</u>                                            | April 17, 1995                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>PLACE OF CRIME:</u>                                           | Whatcom County                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>BRIEF FACTS:</u>                                              | Clark Richard Elmore pleaded guilty to one count of aggravated first degree murder of Christy Onstad, the 14-year-old daughter of Elmore's live-in girlfriend. The two aggravating circumstances were (1) the murder was in the course of and in flight from Rape in the Second Degree, and (2) the murder was committed to conceal the commission and perpetrator of the crime. <i>State v. Elmore</i> , Whatcom County Cause 95-1-00310-1.                                                                           |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>DATE OF GUILTY PLEA:</u>                                      | July 6, 1995                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>SPECIAL SENTENCING:</u>                                       | March 12, 1996                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>JUDGMENT AND SENTENCE:</u>                                    | Whatcom County Superior Court<br>Cause No. 95-1-00310-1<br>May 3, 1996                                                                                                                                                                                                                                                                                                                                                                                                                                                 |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>TRIAL JUDGE:</u>                                              | Honorable David Nichols                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>DEFENSE ATTYS:</u>                                            | John Komorowski<br>Douglas Hyldahl<br>Bellingham, WA                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>PROSECUTING ATTYS:</u>                                        | David S. McEachran, Prosecuting Attorney<br>Whatcom County Prosecutor's Office<br>Whatcom County Courthouse<br>311 Grand Avenue<br>Bellingham, WA 98225<br>(360) 676-6784                                                                                                                                                                                                                                                                                                                                              |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>APPELLANT'S ATTYS:</u>                                        | <table border="0"> <tr> <td>(Direct Appeal, Washington Supreme Court #64085-8)</td> <td></td> </tr> <tr> <td>Michael P. Iaria</td> <td>Meredith Martin Rountree</td> </tr> <tr> <td>Seattle, WA</td> <td>Austin, TX</td> </tr> <tr> <td>Rita Griffith</td> <td>Charlotte Cassady (Withdrawn 03/06/98)</td> </tr> <tr> <td>Seattle, WA</td> <td>Mobile, AL</td> </tr> <tr> <td>Jon Ostlund (06/17/96)</td> <td></td> </tr> <tr> <td>Bellingham, WA</td> <td></td> </tr> </table>                                        |               | (Direct Appeal, Washington Supreme Court #64085-8)               |  | Michael P. Iaria | Meredith Martin Rountree | Seattle, WA              | Austin, TX                | Rita Griffith    | Charlotte Cassady (Withdrawn 03/06/98) | Seattle, WA | Mobile, AL            | Jon Ostlund (06/17/96) |                | Bellingham, WA |  |
| (Direct Appeal, Washington Supreme Court #64085-8)               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Michael P. Iaria                                                 | Meredith Martin Rountree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Seattle, WA                                                      | Austin, TX                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Rita Griffith                                                    | Charlotte Cassady (Withdrawn 03/06/98)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Seattle, WA                                                      | Mobile, AL                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Jon Ostlund (06/17/96)                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Bellingham, WA                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| <u>PETITIONER'S ATTYS:</u>                                       | <table border="0"> <tr> <td>(Personal Restraint Petition, Washington Supreme Court #70233-1)</td> <td></td> </tr> <tr> <td>Jeffrey E. Ellis</td> <td>Meredith Martin Rountree</td> </tr> <tr> <td>The Defender Association</td> <td>510 South Congress Avenue</td> </tr> <tr> <td>810 Third Avenue</td> <td>Suite 308</td> </tr> <tr> <td>Suite 800</td> <td>Austin, TX 78704-1739</td> </tr> <tr> <td>Seattle, WA 98104-1655</td> <td>(512) 320-0334</td> </tr> <tr> <td>(206) 447-3900</td> <td></td> </tr> </table> |               | (Personal Restraint Petition, Washington Supreme Court #70233-1) |  | Jeffrey E. Ellis | Meredith Martin Rountree | The Defender Association | 510 South Congress Avenue | 810 Third Avenue | Suite 308                              | Suite 800   | Austin, TX 78704-1739 | Seattle, WA 98104-1655 | (512) 320-0334 | (206) 447-3900 |  |
| (Personal Restraint Petition, Washington Supreme Court #70233-1) |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Jeffrey E. Ellis                                                 | Meredith Martin Rountree                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| The Defender Association                                         | 510 South Congress Avenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| 810 Third Avenue                                                 | Suite 308                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Suite 800                                                        | Austin, TX 78704-1739                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| Seattle, WA 98104-1655                                           | (512) 320-0334                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |
| (206) 447-3900                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |               |                                                                  |  |                  |                          |                          |                           |                  |                                        |             |                       |                        |                |                |  |

DATE            CAUSE            ACTION

(Federal Habeas Corpus, USDC WDC #C08-0053)  
**JEFFREY E. ELLIS**  
**LAW OFFICE OF ALSEPT & ELLIS**  
**621 SW MORRISON ST, SUITE 1025**  
**PORTLAND, OR 97205-3813**  
**(206) 218-7076**

**ROBERT GOMBINER**  
**LAW OFFICES OF GOMBINER**  
**119 1<sup>ST</sup> AVENUE, SUITE 500**  
**SEATTLE, WA 98104**  
**(206) 621-8777**

Steven Witchley (withdrew 8/29/12)  
Seattle, WA

RESPONDENT'S ATTYS:

(Personal Restraint Petition, Washington Supreme Court #70233-1)  
David S. McEachran, Prosecuting Attorney

(Federal Habeas Corpus, USDC WDC #C08-0053)  
**ROBERT M. MCKENNA, ATTORNEY GENERAL**  
**GREGORY J. ROSEN, ASSISTANT ATTORNEY GENERAL**  
**RONDA D. LARSON, ASSISTANT ATTORNEY GENERAL**  
**CORRECTIONS DIVISION**  
**PO BOX 40116**  
**OLYMPIA, WA 98504-0116**  
**(360) 586-1445**

DATE            CAUSE            ACTION

|          |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------|--------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 05/13/96 | 64085-8 WSSC | Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11/19/98 | 64085-8 WSSC | Oral argument held                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10/07/99 | 64085-8 WSSC | Opinion affirming conviction and death sentence and granting State's motion to strike Appellant's "Social History". Justice Talmadge authored the opinion for the Court. Justice Sanders dissented. <i>State v. Elmore</i> , 139 Wn.2d 250, 985 P.2d 289 (1999)                                                                                                                                                                                                       |
| 10/02/00 | 99-9587 USSC | Petition for Writ of Certiorari denied, <i>Elmore v. Washington</i> , 531 U.S. 837, 121 S. Ct. 98, 148 L. Ed. 2d 57 (2000)                                                                                                                                                                                                                                                                                                                                            |
| 10/09/00 | 64095-8 WSSC | Mandate issued                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 10/10/00 | 70233-1 WSSC | Motion for Appointment of Counsel and for Stay of Execution Pursuant to Rules 16.24 and 16.25 of the Rules of Appellate Procedure                                                                                                                                                                                                                                                                                                                                     |
| 10/31/00 | 95-1-00310-1 | Death Warrant (setting execution for November 28, 2000)                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11/07/00 | 70233-1 WSSC | Notation Order (motion for stay of execution is granted)                                                                                                                                                                                                                                                                                                                                                                                                              |
| 06/04/01 | 70233-1 WSSC | Notation Order on Motions (granting Petitioner's ex parte motions for appointment of mental health experts, investigator, and attorney expert)                                                                                                                                                                                                                                                                                                                        |
| 06/29/01 | 70233-1 WSSC | Petitioner's Personal Restraint Petition and Brief in Support                                                                                                                                                                                                                                                                                                                                                                                                         |
| 09/27/02 | 70233-1 WSSC | Order (trial court is directed to hold a reference hearing on the issue of whether counsel's failure to consult and call mental health experts in the penalty phase was deficient performance. The court is directed to take evidence on whether counsel's representation in this regard fell below an objective standard of reasonableness based on consideration of all circumstances, including whether any legitimate strategic or tactical reasons supported the |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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|             |              | decision not to consult and call such experts. The trial court at the conclusion is to enter findings of fact on the issue referred and expedite the process)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 06/05/03    | 70233-1 WSSC | Order (Petitioner has not established facts that give rise to a substantial reason to believe that the renewed motion for appointment of attorney expert and renewed motion for funds to hire an investigator will produce information that would support relief under RAP 16.4(c). The order for the reference hearing does not require the trial court to make a legal conclusion regarding the adequacy of trial counsel's performance. The trial court is directed to find the facts regarding the performance of trial counsel, leaving for this court the determination whether trial counsel's performance was legally adequate. Therefore, no funds are authorized for attorney experts or an investigator. The request to file this order under seal is denied) |
| 01/27/05    | 70233-1 WSSC | Trial Court Findings of Fact                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 11/21/07    | 70233-1 WSSC | Opinion denying personal restraint petition. Justice Madsen authored the opinion for the Court. Justice Sanders dissented. <i>In re Elmore</i> , 162 Wn.2d 236, 172 P.3d 335 (2007)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 12/03/07    | 70233-1 WSSC | Cost Bill (\$238,315.31 to be paid to OPD, \$7,643.22 to Whatcom County)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 01/14/08    | C08-0053 WDC | Application for Writ of Habeas Corpus; Application for Appointment of Counsel; Request for Stay of Execution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 01/18/08    | C08-0053 WDC | Order Permitting Elmore to File Amended Petition; Order Granting Motion for Stay of Execution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 02/22/08    | 70233-1 WSSC | Order Denying Motion for Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 03/05/08    | 70233-1 WSSC | Ruling on Cost Bill (\$245,662.53 to be paid to OPD, \$496.00 to Whatcom County); Certificate of Finality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 04/22/08    | C08-0053 WDC | First Amended Petition for Writ of Habeas Corpus                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 12/19/08    | C08-0053 WDC | Respondent's Answer and Memorandum of Authorities                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 03/13/09    | C08-0053 WDC | Petitioner's Traverse and Reply                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 09/30/09    | C08-0053 WDC | Motion for Evidentiary Hearing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 01/29/10    | C08-0053 WDC | Oral argument held on Petitioner's Motion for Evidentiary Hearing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 11/02/11    | C08-0053 WDC | Order (denying Petitioner's motion for evidentiary hearing)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 06/21/12    | C08-0053 WDC | Order Denying Petition for Habeas Corpus; Judgment in a Civil Case                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 06/28/12    | C08-0053 WDC | Order Granting Respondent's Motion to Amend the Court's January 18, 2008, Order Staying Elmore's Execution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 08/03/12    | C08-0053 WDC | Order Denying Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 08/09/12    | C08-0053 WDC | Motion to Clarify                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 08/10/12    | C08-0053 WDC | Response to Motion to Clarify                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 08/10/12    | C08-0053 WDC | Petitioner's Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

| <u>DATE</u> | <u>CAUSE</u>   | <u>ACTION</u>                                                                                                            |
|-------------|----------------|--------------------------------------------------------------------------------------------------------------------------|
| 08/21/12    | C08-0053 WDC   | Order Denying Motion to Clarify                                                                                          |
| 08/29/12    | 12-99003 9 CIR | Order (Attorney Steven Witchley withdrawn as counsel and Attorney Robert Gombiner assigned as co-counsel for Petitioner) |
| 08/30/12    | 12-99003 9 CIR | Motion to Extend Time to File Request for Certificate of Appealability                                                   |
| 08/30/12    | 12-99003 9 CIR | Order (motion to extend time to file request for COA granted, request for COA due 10/19/12)                              |

| <u>DATE</u>                   | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------|--------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>NAME:</u>                  |              | GENTRY, Jonathan Lee<br>D.O.B.: August 7, 1956<br>Race: Black                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <u>DATE OF CRIME:</u>         |              | June 13, 1988                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <u>PLACE OF CRIME:</u>        |              | Kitsap County                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <u>BRIEF FACTS:</u>           |              | Jonathan Gentry was convicted of the aggravated first degree murder of Cassie Holden. The aggravating circumstance was that the murder was committed to protect or conceal the identity of the person committing the crime. <i>State v. Gentry</i> , Kitsap County Superior Court Cause No. 88-1-00395-3.                                                                                                                                                                                                                                                                                                                                                                     |
| <u>DATE OF CONVICTION:</u>    |              | June 26, 1991                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <u>SPECIAL SENTENCING:</u>    |              | July 2, 1991                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <u>JUDGMENT AND SENTENCE:</u> |              | Kitsap County Superior Court<br>Cause No. 88-1-00395-3<br>July 22, 1991                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <u>TRIAL JUDGE:</u>           |              | Honorable Terence Hanley                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <u>DEFENSE ATTYS:</u>         |              | Frederick D. Leatherman, Jr.<br>Jeffery P. Robinson (trial)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <u>PROSECUTING ATTYS:</u>     |              | Russell Hauge, Prosecuting Attorney<br>C. Danny Clem (former Prosecuting Attorney)<br>Irene K. Asai, Deputy Prosecuting Attorney<br>Brian T. Moran, Deputy Prosecuting Attorney                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <u>APPELLANT'S ATTYS:</u>     |              | (Direct Appeal, Washington Supreme Court #58415-0)<br>Michael P. Iaria<br>Seattle, WA<br>Frederick D. Leatherman, Jr.<br>Seattle, WA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <u>PETITIONER'S ATTYS:</u>    |              | (Personal Restraint Petition, Washington Supreme Court #62677-4)<br>(Federal Habeas Corpus, USDC WDC #C99-0289L, 9 <sup>th</sup> Cir # 09-99021)<br><b>RITA J. GRIFFITH</b><br><b>GRIFFITH &amp; COLE</b><br><b>1305 NE 45<sup>TH</sup> STREET, SUITE 205</b><br><b>SEATTLE, WA 98105</b><br><b>(206) 547-1742</b><br><br>Brian Tsuchida (withdrew on 5/13/08)<br>Seattle, WA<br><br>Scott Engelhard (withdrew on 5/1/09)<br>Seattle, WA 98104<br><br><b>TIMOTHY FORD</b><br><b>MACDONALD HOAGUE &amp; BAYLESS</b><br><b>705 SECOND AVE, SUITE 1500</b><br><b>SEATTLE, WA 98104-1745</b><br><b>(206) 622-1604</b><br><br>Meredith Rountree (withdrew on 5/1/09)<br>Austin, TX |
| <u>RESPONDENT'S ATTYS:</u>    |              | (Personal Restraint Petition, Washington Supreme Court #62677-4)<br>Russell Hauge, Prosecuting Attorney<br>Randy Sutton, Deputy<br>Pamela B. Loginsky, Special Deputy<br>Washington Association Of Prosecuting Attorneys                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

DATE      CAUSE      ACTION

RESPONDENT'S ATTYS:

(Federal Habeas Corpus, USDC WDC #C99-0289L, 9<sup>th</sup> Cir # 09-99021)  
**ROBERT M. MCKENNA, ATTORNEY GENERAL**  
**PAUL D. WEISSER, SENIOR COUNSEL**  
**GREGORY J. ROSEN, ASSISTANT ATTORNEY GENERAL**  
**CORRECTIONS DIVISION**  
**P.O. BOX 40116**  
**OLYMPIA, WA 98504-0116**  
**(360) 586-1445**

DATE      CAUSE      ACTION

|          |              |                                                                                                                                                                                                                            |
|----------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/08/91 | 58415-0 WSSC | <i>State v. Gentry</i> ; Notice of Appeal                                                                                                                                                                                  |
| 11/09/93 | 58415-0 WSSC | Oral argument held                                                                                                                                                                                                         |
| 01/06/95 | 58415-0 WSSC | Opinion (affirming conviction and sentence of death). Majority opinion authored by Justice Andersen. Justices Utter, Johnson and Madsen dissented. <i>State v. Gentry</i> , 125 Wn.2d 570, 888 P.2d 1105 (1995)            |
| 10/02/95 | 94-9582 USSC | Petition for Writ of Certiorari denied. <i>Gentry v. Washington</i> , 516 U.S. 843, 116 S. Ct. 131, 133 L. Ed. 2d 79 (1995)                                                                                                |
| 10/05/95 | 58415-0 WSSC | Mandate issued                                                                                                                                                                                                             |
| 11/02/95 | 88-1-00395-3 | Death Warrant (setting execution for December 5, 1995)                                                                                                                                                                     |
| 11/14/95 | 58415-0 WSSC | Order staying execution date of December 5, 1995 pending certificate of finality or further order of the court                                                                                                             |
| 12/15/95 | 62677-4 WSSC | Order appointing counsel                                                                                                                                                                                                   |
| 02/18/99 | 62677-4 WSSC | Opinion denying personal restraint petition. Justice Talmadge authored the opinion for the Court. Justice Sanders, joined by Justice Johnson, dissented in part. <i>In re Gentry</i> , 137 Wn.2d 378, 972 P.2d 1250 (1999) |
| 06/30/99 | 62677-4 WSSC | Order (Petitioner's motion for reconsideration is denied); Order Changing Opinion; Order (Respondent's motion, to dissolve the stay of execution upon issuance of the certificate of finality, is granted)                 |
| 07/19/99 | C99-0289 WDC | Order (staying execution of Jonathan Lee Gentry)                                                                                                                                                                           |
| 07/21/99 | 62677-4 WSSC | Certificate of Finality                                                                                                                                                                                                    |
| 07/26/99 | 62677-4 WSSC | Order (the State of Washington is awarded costs in the total amount of \$178,869.57 to be paid by the Petitioner, Jonathan Lee Gentry)                                                                                     |
| 10/22/99 | C99-0289 WDC | Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254                                                                                                                                                            |
| 01/24/00 | C99-0289 WDC | Respondent's Answer and Memorandum of Authorities                                                                                                                                                                          |
| 01/24/00 | C99-0289 WDC | First Amended Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. §2254                                                                                                                                               |
| 02/11/00 | C99-0289 WDC | Respondent's Amended Answer and Memorandum of Authorities                                                                                                                                                                  |
| 07/12/01 | C99-0289 WDC | Order Regarding Exhaustion of Claims (the following claims presented were in fact exhausted in the Washington courts and may be considered here: (1) the <i>Brady/Napue</i> claim                                          |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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|             |              | regarding Brian Dyste; (2) the victim impact statement claims; (3) the claim regarding the admission of petitioner's previous conviction; and (4) the juror exclusion claim. The following claims were unexhausted and cannot be considered here: (1) the <i>Brady/Napue</i> claims regarding Leonard Smith, Timothy Hicks, and detective misconduct; and (2) the ineffective assistance of counsel claims.)                                                                                                                                                   |
| 08/30/01    | C99-0289 WDC | Order for Clarification of Exhaustion Order; Order Deferring Motion to Conduct Discovery                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 07/02/03    | C99-0289 WDC | Order Regarding Procedural Default (the claims identified as unexhausted in the Court's Order of Clarification [08/30/01] are now procedurally barred; directing the parties to file memoranda regarding cause and prejudice)                                                                                                                                                                                                                                                                                                                                  |
| 03/26/04    | C99-0289 WDC | Order Regarding Cause and Prejudice (reconsidering <i>sua sponte</i> , and reversing, the Court's prior decision that the <i>Brady/Napue</i> claims concerning Timothy Hicks and Detectives Wright and Wagner are unexhausted and procedurally defaulted; reserving ruling as to whether Gentry has shown cause for his default regarding the Leonard Smith claims pending an evidentiary hearing; concluding that Gentry has failed to show cause to excuse his default of the penalty phase ineffective assistance claim; denying Gentry's motion to strike) |
| 08/03/05    | C99-0289 WDC | Order Regarding Discovery and Evidentiary Hearing (granting Petitioner's request to conduct depositions of Brian Moran, Timothy Hicks, Brian Dyste, Detective Wright, Detective Wagner, and CCO Karen Adams; denying Respondent's request for depositions; scheduling evidentiary hearing on Petitioner's <i>Brady/Napue</i> claims)                                                                                                                                                                                                                           |
| 03/6-9/06   | C99-0289 WDC | Evidentiary hearing held                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 03/15/06    | C99-0289 WDC | Minute Order (the Court has conducted an in camera review of witness Jan Mahan's taped interview and written notes from her subsequent telephone conversation with Brian Dyste. The Court concludes that the <i>Gentry</i> case is never mentioned or referenced in these materials and that they have no bearing on this proceeding).                                                                                                                                                                                                                         |
| 08/28/06    | C99-0289 WDC | Order on Motion for Summary Judgment (denying Petitioner's motion for summary judgment re: claim A [dismissal of juror for cause])                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 09/04/08    | C99-0289 WDC | Order on Petition for Habeas Relief Based on <i>Brady</i> and <i>Napue</i> Violations (denying habeas relief).                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 09/05/08    | C99-0289 WDC | Order on <i>Brady/Napue</i> Claims Regarding Leonard Smith (denying habeas relief); Order Denying Petitioner's Motion for Evidentiary Hearing on Denial of Effective Assistance of Counsel Due to Failure to Investigate                                                                                                                                                                                                                                                                                                                                       |
| 09/15/08    | C99-0289 WDC | Order Granting Respondent's Motion for Summary Judgment, Denying Petitioner's Cross-Motion for Summary Judgment, and Order Denying Amended Habeas Petition. <i>Gentry v. Sinclair</i> , 576 F. Supp. 2d 1130 (2008).                                                                                                                                                                                                                                                                                                                                           |
| 03/23/09    | C99-0289 WDC | Order Denying Motion for Reconsideration. <i>Gentry v. Sinclair</i> , 609 F. Supp. 2d 1179 (2009).                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 04/23/09    | C99-0289 WDC | Judgment in a Civil Case                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 04/24/09    | C99-0289 WDC | Order Denying Motion to Supplement Motions for Reconsideration; Amended Judgment in a Civil Case                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 05/22/09    | C99-0289 WDC | Order Denying Motion for New Trial or to Amend Judgment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 05/26/09    | C99-0289 WDC | Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

| <u>DATE</u> | <u>CAUSE</u>   | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|-------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/02/09    | C99-0289 WDC   | Order Granting Certificate of Appealability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 12/30/09    | 84039-3 WSSC   | Personal Restraint Petition [Second]; Declarations of Jennifer Davis and Timothy Ford                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 03/02/10    | 84039-3 WSSC   | Response of the Department of Corrections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 04/05/10    | 84039-3 WSSC   | Petitioner's Reply to Response of the Department of Corrections                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 06/08/10    | 09-99021 9CIR  | Opening Brief of Appellant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 06/29/10    | 84039-3 WSSC   | Supplement to Personal Restraint Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/18/10    | 09-99021 9 CIR | Brief of Respondent-Appellee                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 12/30/10    | 84039-3 WSSC   | Opinion denying personal restraint petition. Chief Justice Madsen authored the opinion for the Court. Justice Stephens, joined by Justice Sanders, dissented. <i>In re Gentry</i> , 170 Wn.2d 711, 245 P.3d 766 (2010).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 01/04/11    | 09-99021 9 CIR | Reply Brief of Appellant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 02/01/11    | 88-1-00395-3   | Motion for Post-Conviction DNA Testing; Motion for Appointment of Counsel                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 03/03/11    | 84039-3 WSSC   | Order (Motion for Reconsideration is denied)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 03/04/11    | 84039-3 WSSC   | Certificate of Finality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 04/06/11    | 88-1-00395-3   | Response to Motion for Post-Conviction DNA Testing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 05/31/11    | 10-10814 USSC  | Petition for Writ of Certiorari; Motion for Leave to Proceed <i>In Forma Pauperis</i> ; Affidavit in Support of Motion to Proceed on Appeal <i>In Forma Pauperis</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 07/25/11    | 88-1-00395-3   | Order Granting Post-Conviction DNA Testing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 09/01/11    | 09-99021 9 CIR | Order (By September 30, 2011, Respondent shall file a supplemental answering brief, not to exceed 7,000 words, addressing the following issues: (1) Did Gentry in the district court and in this Court properly raise a claim that he was prosecuted, convicted, and sentenced to death based upon his race and, if properly raised, does the claim have merit?; and (2) What impact, if any, does <i>Cullen v. Pinholster</i> , 131 S. Ct. 1388 (2011), have on this appeal? Gentry's supplemental reply brief, not to exceed 7,000 words, is due October 21, 2011. The Court will decide whether to issue a certificate of appealability after considering the additional briefing. Any motion to extend the time to file a supplemental brief is strongly disfavored.) |
| 09/15/11    | 10-10814 USSC  | Respondent's Brief in Opposition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 09/23/11    | 10-10814 USSC  | Reply to Brief in Opposition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 09/30/11    | 09-99021 9 CIR | Supplemental Brief of Respondent-Appellee                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 10/10/11    | 86585-0 WSSC   | Personal Restraint Petition [Third]; Declaration of Timothy K. Ford; Motion for Appointment of Counsel; Statement of Finances Regarding Personal Restraint Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 10/17/11    | 10-10814 USSC  | Order denying petition for writ of certiorari. <i>Gentry v. Sinclair</i> , 132 S. Ct. 453 (2011).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 10/21/11    | 09-99021 9 CIR | Supplemental Brief of Appellant                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| <u>DATE</u>     | <u>CAUSE</u>                 | <u>ACTION</u>                                                                                                                                                                                                                                  |
|-----------------|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/17/11        | 09-99021 9 CIR               | Oral argument held                                                                                                                                                                                                                             |
| 01/06/12        | 86585-0 WSSC                 | Order (Petitioner's Motion to Consider Record from Direct Appeal is Granted)                                                                                                                                                                   |
| 01/17/12        | 58415-0 WSSC                 | Motion for Order Extending Release of Exhibits to the Washington State Crime Laboratory                                                                                                                                                        |
| 01/25/12        | 58415-0 WSSC                 | Notice of Appearance (Ford & Griffith); Motion to Reconsider Pursuant to RAP 2.5(c)(2)                                                                                                                                                         |
| 02/09/12        | 58415-0 WSSC                 | Order (Motion for order extending release of exhibits is granted; exhibits due back to WSSC on June 30, 2012)                                                                                                                                  |
| 04/05/12        | 86585-0 WSSC<br>58415-0 WSSC | Response to Personal Restraint Petition and Motion to Reconsider Appeal                                                                                                                                                                        |
| 05/18/12        | 88-1-00395-3                 | Motion to Permit Preliminary Inspection of Shoelace by Defendant's Expert                                                                                                                                                                      |
| 05/18/12        | 88-1-00395-3                 | Order Permitting Release of Trial Exhibit 69 for Preliminary Inspection by Microscopists                                                                                                                                                       |
| 05/30/12        | 58415-0 WSSC                 | Order (The motion for order modifying order approving release of evidence is granted upon the conditions as specifically specified in the Grounds For Relief portion of the "Motion For Order Modifying Order Approving Release Of Evidence".) |
| 06/07/12        | 86585-0 WSSC                 | Order (The Motion for Appointment of Counsel is granted and Tim Ford and Rita Griffith are appointed as counsel for the Petitioner in this matter.)                                                                                            |
| 08/09/12        | 86585-0 WSSC                 | Petitioner/Appellant's Reply Brief                                                                                                                                                                                                             |
| 08/17/12        | 58415-0 WSSC                 | Stipulated Motion for Order Extending Release of Exhibits to the Washington State Crime Laboratory                                                                                                                                             |
| 08/28/12        | 09-99021 9 CIR               | Opinion affirming the judgment of the district court. Judge Clifton authored the opinion, with Judges Fisher and Paez concurring. <i>Gentry v. Sinclair</i> , ___ F.3d ___, 2012 WL 3667319 (9 Cir. 2012).                                     |
| 08/29/12        | 09-99021 9 CIR               | Petitioner's Motion to Continue Time for Filing Petition for Rehearing or Rehearing En Banc Pursuant to General Order 6.3(A)                                                                                                                   |
| 09/04/12        | 09-99021 9 CIR               | Order (motion granted, petition for rehearing due 9/28/12)                                                                                                                                                                                     |
| <b>09/28/12</b> | <b>09-99021 9 CIR</b>        | <b>Petition for Rehearing and Rehearing En Banc; Appellant's Motion for Leave to File Overlength Petition for Rehearing and Petition for Rehearing En Banc</b>                                                                                 |
| <b>10/02/12</b> | <b>09-99021 9 CIR</b>        | <b>Order (Motion to file overlength petition is granted)</b>                                                                                                                                                                                   |
| <b>10/05/12</b> | <b>58415-0 WSSC</b>          | <b>Order (stipulated motion for order extending release of exhibits is granted)</b>                                                                                                                                                            |

| <u>DATE</u>                   | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>NAME:</u>                  |              | SCHIERMAN, Conner Michael<br>D.O.B.: September 14, 1981<br>Race: Caucasian                                                                                                                                                                                                                                                                                                                                                                               |
| <u>DATE OF CRIME:</u>         |              | July 16, 2006, or early morning July 17, 2006                                                                                                                                                                                                                                                                                                                                                                                                            |
| <u>PLACE OF CRIME:</u>        |              | King County                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <u>BRIEF FACTS:</u>           |              | Conner Schierman was convicted of four counts of aggravated first degree murder in the deaths of Olga Milkin, 28; her sons Justin, 5, and Andrew, 3; and Milkin's sister, Lyubov Botvina, 24. The aggravating circumstances were (1) there was more than one victim, and (2) the murders were committed to protect or conceal the identity of the perpetrator of a crime. <i>State v. Schierman</i> , King County Superior Court Cause No. 06-1-06563-4. |
| <u>DATE OF CONVICTION:</u>    |              | April 12, 2010                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <u>SPECIAL SENTENCING:</u>    |              | May 5, 2010                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <u>JUDGMENT AND SENTENCE:</u> |              | King County Superior Court<br>Cause No. 06-1-06563-4<br>May 27, 2010                                                                                                                                                                                                                                                                                                                                                                                     |
| <u>TRIAL JUDGE:</u>           |              | Honorable Greg Canova                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <u>DEFENSE ATTYS:</u>         |              | James Conroy<br>Peter Connick<br>Seattle, WA                                                                                                                                                                                                                                                                                                                                                                                                             |
| <u>PROSECUTING ATTYS:</u>     |              | Dan Satterberg, Prosecuting Attorney<br>Scott O'Toole, Senior Deputy Prosecutor<br>King County Courthouse<br>516 Third Avenue<br>Seattle, WA 98104<br>(206) 296-0100                                                                                                                                                                                                                                                                                     |
| <u>APPELLANT'S ATTYS:</u>     |              | (Direct Appeal, WSSC No. 84614-6)<br><b>SUZANNE ELLIOTT</b><br><b>DAVID ZUCKERMAN</b><br><b>ATTORNEYS AT LAW</b><br><b>705 2<sup>ND</sup> AVENUE, SUITE 1300</b><br><b>SEATTLE, WA 98104-1797</b><br><b>(206) 623-0291</b>                                                                                                                                                                                                                               |
| <u>RESPONDENT'S ATTYS:</u>    |              | (Direct Appeal, WSSC No. 84614-6)<br><b>DAN SATTERBERG, PROSECUTING ATTORNEY</b><br><b>SCOTT O'TOOLE, SENIOR DEPUTY PROSECUTOR</b><br><b>KING COUNTY COURTHOUSE</b><br><b>516 THIRD AVENUE</b><br><b>SEATTLE, WA 98104</b><br><b>(206) 296-0100</b>                                                                                                                                                                                                      |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------|--------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 06/01/10    | 84614-6 WSSC | Judgment and Sentence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 06/01/10    | 84614-6 WSSC | Notice of Appeal; Motion for Order of Indigency and Affidavit in Support of Motion                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 06/02/10    | 84614-6 WSSC | Order Authorizing Appeal <i>In Forma Pauperis</i> , Appointment of Counsel and Preparation of Records                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 06/23/10    | 84614-6 WSSC | Order (Suzanne Elliott is appointed as lead counsel and David Zuckerman is appointed as co-counsel.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 06/24/10    | 84614-6 WSSC | Clerk's Notice of Final List of Proceedings in Capital Case                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 07/29/10    | 84614-6 WSSC | Objection to County Clerk's List of Proceedings                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 09/23/10    | 84614-6 WSSC | AMENDED Clerk's Notice of Final List of Proceedings in Capital Case                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10/04/10    | 84614-6 WSSC | AMENDED Clerk's Notice of Final List of Proceedings in Capital Case                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10/18/10    | 84614-6 WSSC | Renewed Objection to County Clerk's List of Proceedings and Motion to Accept the Attached List as the "Final List"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11/02/10    | 84614-6 WSSC | Response to and Concurrence with Petitioner's Renewed Objection to County Clerk's List of Proceedings and Motion to Accept Petitioner's Attached List as the "Final List"                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 12/09/10    | 84614-6 WSSC | Motion to Stay the DOC's Collection of Costs Specifically Waived by Trial Court Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 12/15/10    | 84614-6 WSSC | Order (The Court received the e-mail response of James M. Whisman regarding the Appellant's "Motion To Stay The DOC's Collection Of Costs Specifically Waived By The Trial Court Order." Further review of the motion, as well as a review of the status as to the actual parties in this matter, raises the issue as to whether or not the motion is properly filed in Supreme Court cause number 84614-6. First, it appears that the DOC is not a party to this action, nor would the challenge to its administrative interpretation and/or application of the terms of the trial court order regarding its apparent collections appear to be within the scope of the pending appeal. Accordingly, in that regard, the parties in this matter are directed to serve and file written comments (which may be in letter form) addressing whether or not the motion should be considered by this Court in this matter. Said comments should include citations to any authority in support of the position taken in the comments.) |
| 12/27/10    | 84614-6 WSSC | Appellant's comments (via letter)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 01/07/11    | 84614-6 WSSC | Respondent's comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 02/18/11    | 84614-6 WSSC | Motion to Correct or Supplement the Record Pursuant to RAP 9.9 and 9.10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 03/02/11    | 84614-6 WSSC | Order (Appellant's Motion to Stay the DOC's Collection of Costs Specifically Waived by Trial Court Order is denied)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 03/10/11    | 84614-6 WSSC | Response to Petitioner's Motion to Correct or Supplement the Record Pursuant to RAP 9.9 and 9.10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 03/29/11    | 84614-6 WSSC | Reply on Motion to Correct or Supplement the Record Pursuant to RAP 9.9 and 9.10                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| <u>DATE</u> | <u>CAUSE</u>                 | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------|------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 04/29/11    | 84614-6 WSSC                 | Order (The "Renewed Objection To County Clerk's List Of Proceedings And Motion To Accept The Attached List As The 'Final List'" and "Motion To Correct Or Supplement The Record..." are remanded to the trial court for determination and for the trial court to settle the record on review in the matter.)                                                                                                                                                                       |
| 09/29/11    | 06-1-06563-4                 | Motion for Access to Juror Information GR 31(j)                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10/13/11    | 84614-6 WSSC                 | Order (By order dated April 29, 2011, the "Renewed Objection To County Clerk's List Of Proceedings And Motion To Accept The Attached List As The 'Final List'" and "Motion To Correct Or Supplement The Record" were remanded to the trial court for determination and for the trial court to settle the record on review. Counsel are directed, by not later than October 24, 2011, to advise this Court of the status in the trial court as to the resolution of these matters.) |
| 10/26/11    | 84614-6 WSSC                 | Joint letter response regarding Court's April 29, 2011, remand order. "Motion for Access to Juror Information GR 31(j)" is set for a hearing in the trial court on November 9, 2011. The appellant will send the results to the Supreme Court following the hearing.                                                                                                                                                                                                               |
| 11/08/11    | 06-1-06563-4                 | Response to Motion for Access to Juror Information GR 31(j)                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 11/09/11    | 06-1-06563-4                 | Order re Access to Juror Information GR 31(j)                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 12/13/11    | 06-1-06563-4                 | Order Denying Motion to Seal                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 12/13/11    | 06-1-06563-4                 | Motion for Court Appointment of Defense Expert                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 12/13/11    | 06-1-06563-4                 | Order for Expert Services                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 01/05/12    | 06-1-06563-4                 | Stipulation re Jury Policy and Jury Summons                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 01/09/12    | 84614-6 WSSC                 | Supplemental Designation of Clerk's Papers                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 01/25/12    | 06-1-06563-4                 | Stipulation re Jury Policy and Jury Summons                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 03/07/12    | 06-1-06563-4<br>84614-6 WSSC | Second Supplemental Designation of Clerk's Papers                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 03/13/12    | 06-1-06563-4                 | Declaration of Gregory Wheeler                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 06/27/12    | 06-1-06563-4<br>84614-6 WSSC | Third Supplemental Designation of Clerk's Papers                                                                                                                                                                                                                                                                                                                                                                                                                                   |

| <u>DATE</u>                       | <u>CAUSE</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <u>ACTION</u>                    |
|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| <u>NAME:</u>                      | STENSON, Darold Ray aka Darold R. J. Stenson<br>D.O.B. November 24, 1952<br>Race: White                                                                                                                                                                                                                                                                                                                                                                              |                                  |
| <u>DATE OF CRIME:</u>             | March 25, 1993                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                  |
| <u>PLACE OF CRIME:</u>            | Clallam County                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                  |
| <u>BRIEF FACTS:</u>               | Darold Stenson was convicted of two counts of aggravated first degree murder for the shooting deaths of his wife, Denise Ann Stenson, and his business partner, Frank Clement Hoerner. The aggravating circumstances were (1) the murders were part of a common scheme or plan, and (2) the murders were committed to protect or conceal the identity of the perpetrator of a crime. <i>State v. Stenson</i> , Clallam County Superior Court Cause No. 93-1-00039-1. |                                  |
| <u>DATE OF CONVICTION:</u>        | August 11, 1994                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                  |
| <u>SPECIAL SENTENCING:</u>        | August 18, 1994                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                  |
| <u>JUDGMENT AND:<br/>SENTENCE</u> | Clallam County Superior Court<br>Cause No. 93-1-00039-1<br>August 19, 1994                                                                                                                                                                                                                                                                                                                                                                                           |                                  |
| <u>TRIAL JUDGE:</u>               | Honorable Kenneth D. Williams                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                  |
| <u>DEFENSE ATTYS:</u>             | Frederick D. Leatherman, Jr.<br>Seattle, WA                                                                                                                                                                                                                                                                                                                                                                                                                          | Dave Neupert<br>Port Angeles, WA |
| <u>PROSECUTING ATTYS:</u>         | Deborah Snyder Kelly, Prosecuting Attorney<br>David H. Bruneau, trial counsel and former Prosecuting Attorney<br>Stephen Traylor, Deputy Prosecuting Attorney<br>Clallam County Prosecutor's Office<br>Clallam County Courthouse<br>223 East Fourth Street<br>Port Angeles, WA 98362-3098<br>(360) 417-2301                                                                                                                                                          |                                  |
| <u>APPELLANT'S ATTYS:</u>         | (Direct Appeal, Washington Supreme Court #61965-4)<br>James E. Lobsenz<br>Seattle, WA                                                                                                                                                                                                                                                                                                                                                                                |                                  |
| <u>PETITIONER'S ATTYS:</u>        | (Personal Restraint Petition, Washington Supreme Court #66565-6)<br>Judith Mandel (1/29/01)                      Ronald D. Ness (1/29/01)<br>Port Orchard, WA                              Port Orchard, WA                                                                                                                                                                                                                                                          |                                  |
|                                   | (Habeas Corpus Petition, USDC WDC Cause #C01-252P)<br>Sheryl Gordon McCloud                      Robert H. Gombiner<br>Attorney At Law                              Federal Public Defenders Office<br>710 Cherry Street                              1601 Fifth Avenue, Suite 700<br>Seattle, WA 98104                              Seattle, WA 98101-1605<br>(206) 224-8777                                  (206) 553-1100                                        |                                  |



| <u>DATE</u> | <u>CAUSE</u>   | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/11/03    | 72009-6 WSSC   | Opinion granting State's motion to strike Petitioner's second personal restraint petition. Chief Justice Alexander authored the opinion for the Court, holding that the petition is a mixed petition, containing both claims that are time-barred under RCW 10.73.090 and also claims that may fall within one of the exceptions to the time bar rule, RCW 10.73.100. The petition is dismissed. <i>In re Stenson</i> , 150 Wn.2d 207, 76 P.3d 241 (2003). |
| 10/06/03    | 72009-6 WSSC   | Certificate of Finality                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10/13/03    | 74593-5 WSSC   | Personal Restraint Petition [Third]                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 11/24/04    | 74593-5 WSSC   | Opinion denying third personal restraint petition as an abuse of the writ. Chief Justice Alexander authored the opinion for the Court. Justice Sanders dissented. <i>In re Stenson</i> , 153 Wn.2d 137, 102 P.3d 151 (2004).                                                                                                                                                                                                                               |
| 01/07/05    | 74593-5 WSSC   | Certificate of Finality                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 07/26/05    | C01-252 WDC    | Order (denying Petitioner's petition for writ of habeas corpus, granting Respondent's Motion to Strike; denying Petitioner's Motion to Expand the Record, denying Petitioner's Motion re: Evidentiary Hearing; and granting Petitioner's Motion to Take Judicial Notice); Judgment in a Civil Case                                                                                                                                                         |
| 09/06/05    | C01-252 WDC    | Order Denying Petitioner's Motion for Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                      |
| 09/14/05    | C01-252 WDC    | Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 10/06/05    | C01-252 WDC    | Order (granting Petitioner's motion for certificate of appealability)                                                                                                                                                                                                                                                                                                                                                                                      |
| 10/13/05    | C01-252 WDC    | Order (granting motion for stay of execution pending appeal; stay will terminate upon issuance of mandate)                                                                                                                                                                                                                                                                                                                                                 |
| 09/14/06    | 05-99011 9CIR  | Oral argument held                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 09/24/07    | 05-99011 9 CIR | Opinion affirming the judgment of the district court. Chief Judge Schroeder authored the opinion, with Judges Kleinfeld and Bea concurring. <i>Stenson v. Lambert</i> , 504 F.3d 873 (9 Cir. 2007).                                                                                                                                                                                                                                                        |
| 03/19/08    | 05-99011 9 CIR | Order (denying petition for rehearing)                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 04/03/08    | 05-99011 9 CIR | Mandate                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 08/22/08    | 93-1-00039-1   | Petitioner's Motion for DNA Testing                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 09/30/08    | 82197-6 WSSC   | Petition and Memorandum in Support of Original Action Against State Officers for Writ of Prohibition and/or Mandamus (re: application of RCW 10.95.160(2)).                                                                                                                                                                                                                                                                                                |
| 10/06/08    | 08-5328 USSC   | Petition for Writ of Certiorari denied. <i>Stenson v. Uttecht</i> , 129 S. Ct. 247, 172 L. Ed. 2d 188 (2008).                                                                                                                                                                                                                                                                                                                                              |
| 10/17/08    | 05-99011 9 CIR | Mandate                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10/24/08    | 93-1-00039-1   | Minute Order Granting Motion for Protection Order on Evidence and Evidence Preservation                                                                                                                                                                                                                                                                                                                                                                    |
| 10/29/08    | 82332-4 WSSC   | Personal Restraint Petition [Fourth]                                                                                                                                                                                                                                                                                                                                                                                                                       |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|-------------|--------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 11/07/08    | 82197-6 WSSC | Order (denying Petition Against State Officers for Writ of Prohibition and/or Mandamus; denying motions for oral argument and for stay of execution)                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/12/08    | 82332-4 WSSC | Response to Amici Curiae Briefs of the Washington State Bar Association, the American Civil Liberties Union and the American Civil Liberties Union of Washington and Murder Victims' Families for Reconciliation                                                                                                                                                                                                                                                                                                                                     |
| 11/19/08    | 82332-4 WSSC | Order (denying fourth personal restraint petition as successive)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 11/21/08    | 82332-4 WSSC | Motion for Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 11/21/08    | 82489-4 WSSC | Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 11/21/08    | 82440-1 WSSC | Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 11/26/08    | 82332-4 WSSC | Response to Petitioner's Motion for Reconsideration                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11/26/08    | 82332-4 WSSC | RAP 8.3(b) Motion to Vacate Stay of Execution and Motion for Accelerated Review of RAP 8.3(b) Motion to Vacate Stay of Execution                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 12/01/08    | 82332-4 WSSC | Order (consideration of motion for reconsideration is deferred pending further order of the Court)                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 12/01/08    | 93-1-00039-1 | Memorandum of Authorities Regarding Entry of DNA Testing Order                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 12/01/08    | 82440-1 WSSC | Order (The Court, by unanimous vote, grants the State's motion for accelerated review, but by majority vote, denies the State's motion to vacate the stay of execution, without prejudice to the State to renew before the trial court its motion to vacate the stay of execution following the passage of 90 days from the date of this order. The Court unanimously grants Stenson's motion to dismiss his notice of appeal that was filed on November 21, 2008, which leaves the trial court with authority to formally enter a subsequent order) |
| 12/03/08    | 93-1-00039-1 | Order Granting Plaintiff's Motion for DNA Testing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 12/04/08    | 93-1-00039-1 | Notice of Direct Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 12/09/08    | 82489-4 WSSC | Order (Parties are to serve and file written comments as to whether or not the notice of appeal should be redesignated a notice for discretionary review. The comments should be served and filed with this court by not later than December 19, 2008. The State of Washington is requested to provide this Court with a copy of the trial court motion upon which the order of review is sought is based.)                                                                                                                                          |
| 12/09/08    | 82440-1 WSSC | Dissent to Order (authored by Justice Madsen, joined by Justice J. Johnson)                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 12/19/08    | 82489-4 WSSC | Statement of Grounds for Direct Review, Statement of Reviewability as a Matter of Right and Alternative Motion for Discretionary Review                                                                                                                                                                                                                                                                                                                                                                                                              |
| 12/22/08    | 82489-4 WSSC | Order (redesignating notice of appeal as notice for discretionary review)                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 01/12/09    | 82197-6 WSSC | Certificate of Finality                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 01/22/09    | 93-1-00039-1 | Further Order on DNA Testing                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 01/30/09    | 82489-4 WSSC | RAP 2.3(b) Motion for Discretionary Review RAP 8.3 Motion for Stay of DNA Testing RAP 18.12 Motion for Accelerated Consideration; Statement of Grounds for Direct Review; Motion and Declaration for Permission to File Overlength Motion                                                                                                                                                                                                                                                                                                            |

| <u>DATE</u> | <u>CAUSE</u>   | <u>ACTION</u>                                                                                                                                                                                                    |
|-------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 02/02/09    | 82489-4 WSSC   | Order (at this time no action will be taken on the Motion for Discretionary Review RAP 8.3 Motion for Stay of DNA Testing RAP 18.12 Motion for Accelerated Consideration)                                        |
| 02/02/09    | 93-1-00039-1   | Order and Memorandum re Latent Prints Subject to DNA Testing                                                                                                                                                     |
| 02/06/09    | 82332-4 WSSC   | Order Denying Motion for Reconsideration                                                                                                                                                                         |
| 02/12/09    | 93-1-00039-1   | Plaintiff's Motion for Fingerprint Analysis                                                                                                                                                                      |
| 02/13/09    | 82332-4 WSSC   | Dissent to Order Denying Motion for Reconsideration                                                                                                                                                              |
| 02/26/09    | 82332-4 WSSC   | Certificate of Finality                                                                                                                                                                                          |
| 03/26/09    | 93-1-00039-1   | Order Denying Petitioner's Motion for Transfer and DNA Testing of Additional Evidence; Order Granting Further DNA Typing of Items Previously Ordered to be Tested; Order Denying Motion for Fingerprint Analysis |
| 04/15/09    | 82489-4 WSSC   | Motion to Dismiss Proceeding as Moot                                                                                                                                                                             |
| 04/29/09    | 05-99011 9 CIR | Motion to Recall the Mandate                                                                                                                                                                                     |
| 05/01/09    | 05-99011 9 CIR | Response to Stenson's Motion to Recall the Mandate                                                                                                                                                               |
| 05/05/09    | 82489-4 WSSC   | Order (motion to dismiss granted)                                                                                                                                                                                |
| 05/05/09    | 05-99011 9 CIR | Order (motion to recall mandate denied)                                                                                                                                                                          |
| 05/12/09    | 93-1-00039-1   | Order Denying Motion to Compel State to Provide Records Necessary for Fingerprint Testing                                                                                                                        |
| 05/15/09    | 83130-1 WSSC   | Personal Restraint Petition [Fifth]                                                                                                                                                                              |
| 05/22/09    | 93-1-00039-1   | Order Denying State's Motion for Order Terminating Stay of Execution and Order Directing Additional DNA Testing                                                                                                  |
| 05/28/09    | 82489-4 WSSC   | Certificate of Finality                                                                                                                                                                                          |
| 06/12/09    | 83130-1 WSSC   | Motion to Strike                                                                                                                                                                                                 |
| 07/08/09    | 83130-1 WSSC   | RAP 16.9 Response to Fifth Personal Restraint Petition                                                                                                                                                           |
| 07/16/09    | 83130-1 WSSC   | Petitioner's Response to State's Motion to Strike                                                                                                                                                                |
| 08/07/09    | 93-1-00039-1   | Darold Stenson's Motion to Vacate Conviction or Alternatively Vacate Sentence of Death Pursuant to CrR 7.8(b) (filed pro se)                                                                                     |
| 08/13/09    | 93-1-00039-1   | Motion to Transfer Motion to Washington Supreme Court                                                                                                                                                            |
| 08/18/09    | 93-1-00039-1   | Memorandum Opinion                                                                                                                                                                                               |
| 08/21/09    | 93-1-00039-1   | Order re DNA Testing of Primer Cap                                                                                                                                                                               |
| 09/03/09    | 93-1-00039-1   | Order Denying Petitioner Darold Stenson's Motion for Retesting of Exhibit 130A                                                                                                                                   |

| <u>DATE</u> | <u>CAUSE</u>                                 | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------|----------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09/09/09    | 93-1-00039-1                                 | Order of Transfer and Memorandum Opinion on CrR 7.8(b) Motion to Vacate Conviction or Alternatively to Vacate Sentence of Death                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 09/11/09    | 82332-4 WSSC                                 | Order (Counsel are requested to provide supplemental briefing to the Court addressing only the following questions: 1. Which order is controlling? 2. What is the correct number for the exhibit of which testing is sought? 3. Has the trial court entered an order granting testing of the exhibit? The briefing should be served and filed by not later than September 18, 2009.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 09/15/09    | 83606-0 WSSC                                 | Petitioner Darold Stenson's Motion to Vacate Conviction or Alternatively Vacate Sentence of Death Pursuant to CrR 7.8(b)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 10/01/09    | 83606-0 WSSC                                 | Order (transfer of CrR 7.8(b) motion to Supreme Court for consideration as a sixth PRP is accepted; answer to PRP due October 23, 2009)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 10/07/09    | 83558-6 WSSC                                 | Respondent's Response to Petitioner's Motion for Discretionary Review                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 10/23/09    | 83606-0 WSSC                                 | State's Response to Sixth Personal Restraint Petition                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 11/06/09    | 61965-4 WSSC                                 | Order (Appellant's "Petitioner's Motion Re: Release Of Exhibit 130A" [agreed by the parties to in fact be Exhibit 91] is granted, subject to the terms and conditions as set forth in Judge Williams' "Order Re DNA Testing Of Primer Cap" dated August 21, 2009.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 11/06/09    | 83558-6 WSSC                                 | Order (That Petitioner's "RAP 2.3(b) Motion for Discretionary Review, Motion to Terminate Stay of Execution, and Motion for Reassignment to Different Trial Judge" are denied. Accordingly, no action is necessary on the Petitioner's "RAP 18.12 Motion for Accelerated Consideration".)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 12/08/09    | 83606-0 WSSC<br>83130-1 WSSC                 | Order (remanding matter to Clallam County Superior Court for reference hearing before Judge Williams concerning Attachment D to "Personal Restraint Petition" in No. 83130-1 ("the Photographs") and Exhibit C to "Petitioner's Reply to State's RAP 16.9 Response to Petitioner's Fifth Personal Restraint Petition" in No. 83130-1 (the "FBI File"). The State's motion to strike in No. 83130-1 is deferred pending the result of the reference hearing.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 01/29/10    | 93-1-000391-                                 | Order re Privilege Judge                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 04/16/10    | 93-1-00039-1<br>83606-0 WSSC<br>83130-1 WSSC | Reference Hearing Findings and Conclusions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 04/29/10    | 83606-0 WSSC<br>83130-1 WSSC                 | Order (Counsel are directed to file supplemental briefs discussing the effects of the "Reference Hearing Findings and Conclusions" filed by Judge Williams on April 16, 2010.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 05/12/10    | 83130-1 WSSC                                 | Order (Petitioner's "Motion to Transfer Designated Portions of the Clallam County Reference Hearing Record to This Court" is granted. It is further ordered that the Respondents' request in their "Response To Motion To Transfer Designated Portions Of The Clallam County Reference Hearing Record To The Washington Supreme Court And Response To Ex Parte Motion For Appointment Of Sheryl Gordon McCloud" to additionally transfer (1) the transcripts of the hearings conducted on January 22, 2010, January 29, 2010, February 12, 2010, and February 26, 2010, and (2) clerk's papers numbered 618-645, 648-651, and 653-719, is denied without prejudice to renewal of the request with additional information. The Respondents' request in their "Response To Motion To Transfer Designated Portions Of The Clallam County Reference Hearing Record To The Washington Supreme Court And Response To Ex Parte Motion For |

| <u>DATE</u> | <u>CAUSE</u>                                 | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------|----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|             |                                              | Appointment Of Sheryl Gordon McCloud" to unseal certain trial court documents, specifically sub nos. 620, 621, 680, 681, 690, 702, and 712, is denied.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 05/12/10    | 83606-0 WSSC                                 | Order (Petitioner's Motion for Appointment of Counsel is granted); Order (Petitioner's "Ex Parte Motion to Seal Both This Motion and the Ex Parte Motion for Appointment of Counsel" is denied)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 05/13/10    | 93-1-00039-1                                 | Order Unsealing Clallam County Superior Court Pleadings Sub. Nos. 620, 621, 680, 681, 690, 702, 707, & 712                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 05/20/10    | C10-5359 WDC                                 | Petition for Writ Habeas Corpus [Second]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 05/25/10    | 93-1-00039-1<br>83606-0 WSSC                 | Memorandum Opinion and Order Removing Stay of Execution                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 07/14/10    | 83606-0 WSSC                                 | Order (Petitioner's Motion for Stay of Execution is granted. The stay shall be effective until further order of this Court.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 07/27/10    | C10-5359 WDC                                 | Order Denying Request to Proceed In Forma Pauperis                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 09/16/10    | 93-1-00039-1                                 | Order Granting Petitioner's Motion to Complete Previously Ordered DNA Testing of Exhibit 91                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 11/15/10    | 83130-1 WSSC                                 | Order (State's motion to strike is granted with respect to attachment T and paragraph 3 of attachment J, and its remaining requests to strike are denied. That, with respect to Stenson's personal restraint petitions (No. 83130-1 and No. 83606-0), Judge Williams of the Clallam County Superior Court is directed to determine, based on the record from the reference hearing conducted in March 2010, whether during Stenson's trial the prosecution suppressed the newly discovered photographs and FBI file evidence in violation of <i>Brady v. Maryland</i> , 373 U.S. 83, 87, 83 S. Ct. 1194 (1963). In making this determination, Judge Williams must consider whether the suppressed evidence was "material" to guilt or punishment irrespective of good faith or bad faith, evidence being material "only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." <i>U.S. v. Bagley</i> , 473 U.S. 667, 682, 105 S. Ct. 3375 (1985); <i>see also In re Pers. Restraint of Benn</i> , 134 Wn.2d 868, 916, 952 P.2d 116 (1998). A "reasonable probability" is not whether the defendant "would more than likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a probability sufficient to undermine confidence in the outcome." <i>Benn</i> , 134 Wn.2d 868, 916. In making this determination, Judge Williams, in his discretion, may conduct an additional reference hearing and/or permit the parties to submit additional evidence and testimony. Judge Williams is directed to file his determinations on the <i>Brady</i> question not later than January 21, 2011.) |
| 12/15/10    | 93-1-00039-1                                 | Order Appointing Counsel (Sealed)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 01/13/11    | C10-5359 WDC                                 | Minute Order (Within 7 days of entry of this order, the Court requests the parties file an update on the status of the case. The Court requests the parties indicate what action they wish the Court to take or whether the case should be dismissed as inactive. Status Report due by 1/20/2011.)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 01/20/11    | 93-1-00039-1<br>83130-1 WSSC<br>83606-0 WSSC | Trial Court's Opinion on Remand                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 02/16/11    | C10-5359 WDC                                 | Respondent's Motion to Transfer Petition, or to Dismiss for Lack of Jurisdiction; Respondent's Statement of Cause for Filing Motion in Lieu of Answer                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

| <u>DATE</u> | <u>CAUSE</u>                 | <u>ACTION</u>                                                                                                                                                                                                                                                                                               |
|-------------|------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 03/01/11    | 83606-0 WSSC                 | Order (Motion for Transfer of Superior Court Record is granted)                                                                                                                                                                                                                                             |
| 06/06/11    | C10-5359 WDC                 | Order on Government's Motion to Transfer or Dismiss (transferring petition to the Ninth Circuit)                                                                                                                                                                                                            |
| 06/09/11    | C10-5359 WDC                 | Petitioner's Notice of Civil Appeal                                                                                                                                                                                                                                                                         |
| 06/16/11    | 11-71651 9 CIR               | Letter to Court clarifying that the notice of appeal is appealing the district court's order finding that the petition is successive and that the Petitioner needs permission to file the instant petition                                                                                                  |
| 07/01/11    | 11-71651 9 CIR               | Response to Application to File a Second Habeas Petition                                                                                                                                                                                                                                                    |
| 10/20/11    | 83606-0 WSSC                 | Oral argument held                                                                                                                                                                                                                                                                                          |
| 10/26/11    | 11-71651 9 CIR               | Order (case stayed pending disposition of PRP in WSSC; 14 days after decision entered, Petitioner to file a status report; in the interim, Petitioner to file status report on 12/1/11 & on the 1st business day of every other month thereafter)                                                           |
| 05/10/12    | 83130-1 WSSC<br>83606-0 WSSC | Opinion dismissing Stenson's fifth PRP as moot, granting Stenson's sixth PRP, reversing his convictions and death sentence and remanding for a new trial. Justice Alexander authored the opinion for the Court. Justice James Johnson dissented. <i>In re Stenson</i> , 174 Wn.2d 474, 276 P.3d 286 (2012). |
| 07/03/12    | 83606-0 WSSC                 | Order (State's Motion to Delay Issuance of Certificate of Finality is denied)                                                                                                                                                                                                                               |
| 07/09/12    | 83130-1 WSSC                 | Certificate of Finality                                                                                                                                                                                                                                                                                     |
| 07/10/12    | 83606-0 WSSC                 | Certificate of Finality                                                                                                                                                                                                                                                                                     |
| 07/12/12    | 93-1-00039-1                 | Order for Production of Prisoner                                                                                                                                                                                                                                                                            |
| 07/18/12    | 93-1-00039-1                 | Criminal Information; Motion for Arrest Warrant; Order Directing Issuance of Bench Warrant; Warrant of Arrest                                                                                                                                                                                               |
| 07/20/12    | 93-1-00039-1                 | Sheriff's Return on a Bench Warrant; Order Establishing Conditions of Release                                                                                                                                                                                                                               |
| 07/24/12    | 93-1-00039-1                 | Waiver of 30-Day Notice Requirement Under RCW 10.95.040; Waiver of 30-Day Time Period for Filing Notice of Special Sentencing Proceeding                                                                                                                                                                    |
| 08/01/12    | 93-1-00039-1                 | Notice of Appearance; Request for Discovery                                                                                                                                                                                                                                                                 |
| 08/07/12    | 12-191 USSC                  | Petition for Writ of Certiorari                                                                                                                                                                                                                                                                             |
| 08/10/12    | 12-191 USSC                  | Order (Response to Petition due September 10, 2012)                                                                                                                                                                                                                                                         |
| 08/16/12    | 93-1-00039-1                 | Order Setting Case Schedule (Status Hearing 1/4/13, Trial Date 3/4/13)                                                                                                                                                                                                                                      |
| 08/16/12    | 93-1-00039-1                 | Agreed Order Placing Defendant at Shelton Correctional Center; Order to Transport Prisoner                                                                                                                                                                                                                  |
| 08/20/12    | 93-1-00039-1                 | Motion to Appoint Two Second Chair Counsel                                                                                                                                                                                                                                                                  |
| 08/20/12    | 93-1-00039-1                 | Order Appointing Co-Counsel (Sherilyn Peterson and Blake Kremer)                                                                                                                                                                                                                                            |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                         |
|-------------|--------------|-----------------------------------------------------------------------------------------------------------------------|
| 08/20/12    | 93-1-00039-1 | Ex Parte Motion and Affidavit for Public Funds for an Investigator; Motion for Mitigation Specialist                  |
| 08/20/12    | 93-1-00039-1 | Order Authorizing Funds for Investigative Services; Order Authorizing Funds for Mitigation Specialist                 |
| 09/10/12    | 12-191 USSC  | <b>Brief for Respondent in Opposition; Motion for Leave to Proceed In Forma Pauperis</b>                              |
| 09/19/12    | 12-191 USSC  | <b>Reply Brief for the State of Washington</b>                                                                        |
| 10/09/12    | 12-191 USSC  | Order denying petition for writ of certiorari. <i>Washington v. Stenson</i> , ___ S. Ct. ___, 2012 WL 3279465 (2012). |

| <u>DATE</u>                  | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                               |
|------------------------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| <u>NAME:</u>                 |              | WOODS, Dwayne<br>D.O.B.: 07-04-69<br>Race: Black                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                               |
| <u>DATE OF CRIME:</u>        |              | April 27, 1996                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                               |
| <u>PLACE OF CRIME:</u>       |              | Spokane County                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                               |
| <u>BRIEF FACTS:</u>          |              | Dwayne Woods was convicted of two counts of aggravated first degree murder for the murders of Telisha Shaver (Count 1) and Jade Moore (Count 2). As to Count 1, the aggravating circumstances were: (1) the murder was committed to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime; and (2) there was more than one victim and the murders were part of a common scheme or plan of the defendant. As to Count 2, the aggravating circumstances were: (1) [same as #1 above]; and (2) the murder was committed in the course of or in furtherance of the crime of first degree rape; and (3) [same as #2 for Count 1]. <i>State v. Woods</i> , Spokane County Superior Court Cause No. 96-1-01143-7. |                                                                                                                                               |
| <u>DATE OF CONVICTION:</u>   |              | June 20, 1997                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                               |
| <u>SPECIAL SENTENCING:</u>   |              | June 25, 1997                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                                                                                                               |
| <u>JUDGMENT AND SENTENCE</u> |              | Spokane County Superior Court<br>Cause No. 96-1-01143-7<br>July 23, 1997                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                                                                                                               |
| <u>TRIAL JUDGE:</u>          |              | Honorable Michael E. Donohue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                               |
| <u>DEFENSE ATTYS:</u>        |              | Richard Fasey<br>James Sheehan<br>James Ames<br>Spokane, WA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                                                                                                               |
| <u>PROSECUTING ATTYS:</u>    |              | Steven Tucker, Prosecuting Attorney<br>James R. Sweetser, prior counsel and former Prosecuting Attorney<br>John F. Driscoll, Senior Deputy Prosecutor<br>Spokane County Prosecutor's Office<br>Public Safety Building<br>West 1100 Mallon Avenue<br>Spokane, WA 99260<br>(509) 477-3662                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                               |
| <u>APPELLANT'S ATTYS:</u>    |              | Lenell Rae Nussbaum<br>Market Place Two<br>2001 Western Avenue<br>Suite 200<br>Seattle, WA 98121-2163<br>(206) 728-0996                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Joan M. Fisher<br>Oliver W. Loewy<br>Federal Public Defender - Id<br>317 West Sixth Street<br>Suite 204<br>Moscow, ID 83843<br>(208) 883-0180 |
| <u>PETITIONER'S ATTYS:</u>   |              | (Personal Restraint Petition #71780-0)<br>Lenell Rae Nussbaum<br>Seattle, WA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Judith M. Mandel<br>524 Tacoma Ave. S.<br>Tacoma, WA 98402-5416<br>(253) 272-5640                                                             |

DATE            CAUSE            ACTION

(Federal Habeas Corpus, USDC EDC #CV-05-0319-LRS)

**SUZANNE LEE ELLIOTT**  
**ATTORNEY AT LAW**  
**1300 HOGE BUILDING**  
**705 SECOND AVENUE**  
**SEATTLE, WA 98104**  
**(206) 623-0291**

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**1300 HOGE BUILDING**  
**705 SECOND AVENUE**  
**SEATTLE, WA 98104**  
**(206) 623-1595**

RESPONDENT'S ATTYS:

(Personal Restraint Petition #71780-0)  
Steven Tucker, Prosecuting Attorney  
Kevin Korsmo, Senior Deputy

(Federal Habeas Corpus, USDC EDC #CV-05-0319-LRS)  
**ROBERT M. MCKENNA, ATTORNEY GENERAL**  
**JOHN J. SAMSON, ASSISTANT ATTORNEY GENERAL**  
**CORRECTIONS DIVISION**  
**P.O. BOX 40116**  
**OLYMPIA, WA 98504-0116**  
**(360) 586-1445**

DATE            CAUSE            ACTION

|          |              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------|--------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/04/97 | 65585-5 WSSC | Notice of Appeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 03/22/00 | 65585-5 WSSC | Oral argument held                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 05/24/01 | 65585-5 WSSC | Opinion affirming conviction and death sentence. Chief Justice Alexander authored the opinion for the Court. Justice Sanders dissented. <i>State v. Woods</i> , 143 Wn.2d 561, 23 P.3d 1046 (2001)                                                                                                                                                                                                                                                                                                                                                                       |
| 06/01/01 | 65585-5 WSSC | Cost Bill (\$50,975.71 to AIDF & \$535.01 to Spokane County Prosecutor)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 08/20/01 | 01-5921 USSC | Petition for Writ of Certiorari                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 10/09/01 | 01-5921 USSC | Petition for Writ of Certiorari denied. <i>Woods v. Washington</i> , 534 U.S. 964, 122 S.Ct. 374, 151 L. Ed. 2d 285 (2001)                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 10/15/01 | 65585-5 WSSC | Mandate issued                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 11/27/01 | 96-1-01143-7 | Death Warrant (setting execution for December 12, 2001)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11/27/01 | 71780-0 WSSC | Application for Stay of Execution Pursuant to RAP 16.24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 11/27/01 | 71780-0 WSSC | Notation Order (the application for stay of execution is granted)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 07/02/02 | 71780-0 WSSC | Order (the matter is referred to the Spokane County Superior Court to hold a hearing and enter findings in answer to the following questions: (1) Is it Woods' desire to pursue a post-conviction relief by means of a personal restraint petition? (2) If the answer is yes, is it Woods' desire to proceed <i>pro se</i> in preparing and filing such a petition? (3) If Woods' answer to question two is no, or is a conditional or qualified yes, are his present counsel willing to abide by Woods' instructions regarding issues to be raised in such a petition?) |

| <u>DATE</u> | <u>CAUSE</u>   | <u>ACTION</u>                                                                                                                                                                                                                                                                         |
|-------------|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 07/15/02    | 71780-0 WSSC   | Reference Hearing Report (with attached transcript of hearing)                                                                                                                                                                                                                        |
| 08/12/02    | 71780-0 WSSC   | Additional Reference Hearing Report                                                                                                                                                                                                                                                   |
| 06/16/05    | 71780-0 WSSC   | Opinion denying personal restraint petition. Chief Justice Alexander authored the opinion for the Court. Justice Sanders dissented. <i>In re Woods</i> , 154 Wn.2d 400, 114 P.3d 607 (2005)                                                                                           |
| 09/30/05    | 71780-0 WSSC   | Order (denying motion for reconsideration)                                                                                                                                                                                                                                            |
| 10/03/05    | 71780-0 WSSC   | Certificate of Finality                                                                                                                                                                                                                                                               |
| 10/14/05    | C05-319 EDC    | Emergency Order Staying Execution of Dwayne Anthony Woods                                                                                                                                                                                                                             |
| 07/21/06    | C05-319 EDC    | Petition for Writ of Habeas Corpus                                                                                                                                                                                                                                                    |
| 08/21/08    | C05-319 EDC    | Order Denying Motion to Expand Record with Documents Re: Johnny Knight                                                                                                                                                                                                                |
| 02/05/09    | C05-319 EDC    | Order Denying Petition, Supplement, and Revised Petition for a Writ of Habeas Corpus; Judgment in a Civil Case                                                                                                                                                                        |
| 02/10/09    | C05-319 EDC    | Notice of Appeal                                                                                                                                                                                                                                                                      |
| 02/12/09    | C05-319 EDC    | Order (granting stay of execution pending Court's decision regarding certificate of appealability issue; if certificate of appealability is granted, the stay of execution will remain in effect during the pendency of the appeal and until the Court of Appeals issues its mandate) |
| 04/10/09    | C05-319 EDC    | Order Granting Motion for Certificate of Appealability in Part and Denying in Part                                                                                                                                                                                                    |
| 03/04/10    | 09-99003 9 CIR | Oral argument held                                                                                                                                                                                                                                                                    |
| 08/10/11    | 09-99003 9CIR  | Opinion affirming the judgment of the district court. Judge Paez authored the opinion, with Judges Tallman and Smith concurring. <i>Woods v. Sinclair</i> , 655 F.3d 886 (9 <sup>th</sup> Cir. 2011).                                                                                 |
| 09/07/11    | 09-99003 9 CIR | Petition for Rehearing En Banc                                                                                                                                                                                                                                                        |
| 09/29/11    | 09-99003 9 CIR | Order (denying petition for rehearing)                                                                                                                                                                                                                                                |
| 10/05/11    | 09-99003 9 CIR | Order (granting motion to stay the mandate)                                                                                                                                                                                                                                           |
| 12/19/11    | 11-7978 USSC   | Petition for Writ of Certiorari; Motion to Proceed In Forma Pauperis; Petitioner's Motion to Defer Consideration of his Petition for Writ of Certiorari Pending a Decision in <i>Martinez v. Ryan</i> , 10-1001                                                                       |
| 12/23/11    | 11-7978 USSC   | Response to Petitioner's Motion to Defer Consideration of Petition for a Writ of Certiorari                                                                                                                                                                                           |
| 12/28/11    | 09-99003 9 CIR | Order (granting motion to continue stay of mandate)                                                                                                                                                                                                                                   |
| 01/04/12    | 96-1-01143-7   | Notice of Appearance (Suzanne Elliott & David Zuckerman); Motion for Appointment of Counsel; Motion for DNA Testing                                                                                                                                                                   |
| 01/10/12    | 96-1-01143-7   | Order of Recusal (Judge Ellen Kalama)                                                                                                                                                                                                                                                 |
| 01/11/12    | 96-1-01143-7   | Order of Recusal (Judge Annette S. Plese)                                                                                                                                                                                                                                             |

| <u>DATE</u>     | <u>CAUSE</u>          | <u>ACTION</u>                                                                                                                                                                                                                  |
|-----------------|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 01/17/12        | 96-1-01143-7          | Order for Change of Judge (Judge Salvatore F. Cozza)                                                                                                                                                                           |
| 01/19/12        | 96-1-01143-7          | Order for Change of Judge (Judge Jerome J. Leveque)                                                                                                                                                                            |
| 01/19/12        | 96-1-01143-7          | Order of Recusal (Judge Gregory D. Sypolt)                                                                                                                                                                                     |
| 01/20/12        | 11-7978 USSC          | Respondent's Brief in Opposition                                                                                                                                                                                               |
| 01/23/12        | 96-1-01143-7          | Memorandum in Opposition (Vols 1 – 3)                                                                                                                                                                                          |
| 01/24/12        | 96-1-01143-7          | Status Conference Held (Judge Kathleen M. O'Connor)                                                                                                                                                                            |
| 01/27/12        | 96-1-01143-7          | Order Appointing Attorney (Elliott & Zuckerman)                                                                                                                                                                                |
| 01/31/12        | 11-7978 USSC          | Petitioner's Reply Brief                                                                                                                                                                                                       |
| 02/03/12        | 96-1-01143-7          | Reply Re: DNA Testing                                                                                                                                                                                                          |
| 02/13/12        | 96-1-01143-7          | Sur-Reply Memorandum in Opposition                                                                                                                                                                                             |
| 02/15/12        | 96-1-01143-7          | Supplemental and Clarifying Argument Re: DNA Testing                                                                                                                                                                           |
| 02/27/12        | 96-1-01143-7          | Supplemental Authority                                                                                                                                                                                                         |
| 03/20/12        | 96-1-01143-7          | Status Conference/Hearing held.                                                                                                                                                                                                |
| 03/26/12        | 11-7978 USSC          | Order (granting petition for writ of certiorari, vacating the judgment, and remanding to the Ninth Circuit for further consideration in light of <i>Martinez v. Ryan</i> .) <i>Woods v. Holbrook</i> , 132 S. Ct. 1819 (2012). |
| 04/02/12        | 96-1-01143-7          | Waiver of Presence                                                                                                                                                                                                             |
| 04/13/12        | 96-1-01143-7          | Hearing held on Motion for DNA Testing                                                                                                                                                                                         |
| 04/23/12        | 96-1-01143-7          | Defendant's Supplemental Exhibit                                                                                                                                                                                               |
| 05/17/12        | 09-99003 9 CIR        | Order (parties are ordered to file supplemental briefs addressing the effect of the Supreme Court's ruling in <i>Martinez v. Ryan</i> .)                                                                                       |
| 06/28/12        | 09-99003 9 CIR        | Respondent's Supplemental Brief Re: <i>Martinez v. Ryan</i>                                                                                                                                                                    |
| 06/29/12        | 09-99003 9 CIR        | Supplemental Brief of Petitioner-Appellant Regarding <i>Martinez v. Ryan</i> and <i>Sexton v. Cozner</i>                                                                                                                       |
| 07/13/12        | 96-1-01143-7          | Court's Memorandum Decision                                                                                                                                                                                                    |
| 08/28/12        | 09-99003 9 CIR        | Citation to Supplemental Authority Pursuant to Fed. R. App. P. 28(j)                                                                                                                                                           |
| 08/30/12        | 09-99003 9 CIR        | Response to Petitioner-Appellant's Letter Under Fed. R. App. P. 28(j)                                                                                                                                                          |
| <b>10/02/12</b> | <b>09-99003 9 CIR</b> | <b>Order to Show Cause (directed at Attorney David Zuckerman)</b>                                                                                                                                                              |
| <b>10/04/12</b> | <b>09-99003 9 CIR</b> | <b>Response to Order to Show Cause</b>                                                                                                                                                                                         |

| <u>DATE</u>                       | <u>CAUSE</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <u>ACTION</u>                                                                                                                                                                        |
|-----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>NAME:</u>                      | YATES, Robert Lee, Jr.<br>D.O.B.: May 27, 1952<br>Race: White                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                      |
| <u>DATE OF CRIME:</u>             | 1997 and 1998                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                      |
| <u>PLACE OF CRIME:</u>            | Pierce County                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                      |
| <u>BRIEF FACTS:</u>               | Robert Lee Yates, Jr. was convicted of two counts of aggravated first degree murder for the murders of Melinda Mercer in 1997 and Connie LaFontaine Ellis in 1998. The aggravating circumstances were: (1) there was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the defendant; (2) the murders were committed in the course of, in furtherance of, or in immediate flight from the crime of Robbery in the First Degree. <i>State v. Yates</i> , Pierce County Cause No. 00-1-03253-8. |                                                                                                                                                                                      |
| <u>DATE OF CONVICTION:</u>        | September 19, 2002                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                      |
| <u>SPECIAL SENTENCING:</u>        | October 3, 2002                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                      |
| <u>JUDGMENT AND:<br/>SENTENCE</u> | Pierce County Superior Court<br>Cause No. 00-1-03253-8<br>October 9, 2002                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                      |
| <u>TRIAL JUDGE:</u>               | Honorable John McCarthy                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                                                                      |
| <u>DEFENSE ATTYS:</u>             | Roger Hunko<br>Port Orchard, WA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Mary Kay High<br>Tacoma, WA                                                                                                                                                          |
| <u>PROSECUTING ATTYS:</u>         | Gerald Horne, Prosecuting Attorney<br>Jerry Costello, Deputy Prosecutor<br>Barbara Corey-Boulet, Deputy Prosecutor<br>930 Tacoma Avenue South<br>Tacoma, WA 98402<br>(253) 798-7400                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                                      |
| <u>APPELLANT'S ATTYS:</u>         | (Direct Appeal, WSSC No. 73155-1)<br>Gregory Link<br>Thomas Kummerow<br>Nancy Collins<br>WA Appellate Project<br>1511 Third Avenue, Suite 701<br>Seattle, WA 98101-3635<br>(206) 587-2711<br><br>Roger Hunko (withdrew 11/04/02)<br>Port Orchard, WA                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                      |
| <u>PETITIONER'S ATTYS:</u>        | (Personal Restraint Petition, WSSC No. 82101-1)<br><b>RONALD NESS</b><br><b>ATTORNEY AT LAW</b><br><b>420 CLINE AVE</b><br><b>PORT ORCHARD WA 98366-4604</b><br><br><b>JEFFREY E. ELLIS</b>                                                                                                                                                                                                                                                                                                                                                            | <b>JUDITH MANDEL</b><br><b>ATTORNEY AT LAW</b><br><b>POSTGRADUATE BLDG 300 D</b><br><b>CHANG'AN SOUTH RD</b><br><b>XI'AN SHAANXI PROVINCE ZZ 710063</b><br><br><b>STEVE WITCHLEY</b> |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                        |
|-------------|--------------|--------------------------------------------------------------------------------------------------------------------------------------|
|             |              | <b>OR CAPITAL RESOURCE CTR</b><br><b>621 SW MORRISON ST, SUITE 1025</b><br><b>PORTLAND, OR 97205-3813</b><br><b>(206) 218-7076</b>   |
|             |              | <b>ELLIS, HOLMES &amp; WITCHLEY PLLC</b><br><b>705 SECOND AVENUE, SUITE 401</b><br><b>SEATTLE, WA 98104</b><br><b>(206) 262-0300</b> |

RESPONDENT'S ATTYS: (Direct Appeal, WSSC No. 73155-1)  
Gerald Horne, Prosecuting Attorney  
Jerry Costello, Deputy Prosecutor  
Barbara Corey-Boulet, Deputy Prosecutor (Withdrew 02/03/04)  
Kathleen Proctor, Deputy Prosecutor  
Donna Yumiko Masumoto, Deputy Prosecutor

(Personal Restraint Petition, WSSC No. 82101-1)  
**KATHLEEN PROCTOR, DEPUTY PROSECUTOR**  
**DONNA YUMIKO MASUMOTO, DEPUTY PROSECUTOR**  
**KAREN ANNE WATSON, DEPUTY PROSECUTOR**

| <u>DATE</u> | <u>CAUSE</u>  | <u>ACTION</u>                                                                                                                                                                                                                                         |
|-------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 10/17/02    | 73155-1 WSSC  | Notice of Appeal                                                                                                                                                                                                                                      |
| 11/30/06    | 73155-1 WSSC  | Oral argument held                                                                                                                                                                                                                                    |
| 09/27/07    | 73155-1 WSSC  | Opinion affirming conviction and death sentence. Justice Owens authored the opinion for the Court. Justices Johnson and Chambers authored opinions concurring. Justice Sanders dissented. <i>State v. Yates</i> , 161 Wn.2d 714, 168 P.3d 359 (2007). |
| 12/24/07    | 73155-1 WSSC  | Order Denying Appellant's Motion for Reconsideration                                                                                                                                                                                                  |
| 01/03/08    | 73155-1 WSSC  | Ruling on Cost Bill (Costs in the amount of \$173,254.08 are awarded to the Office of Public Defense and costs in the amount of \$183.56 are awarded to Respondent State of Washington, Pierce County, to be paid by Appellant Yates).                |
| 06/23/08    | 07-10069 USSC | Petition for Writ of Certiorari denied. <i>Yates v. Washington</i> , 128 S. Ct. 2964 (2008).                                                                                                                                                          |
| 08/01/08    | 73155-1 WSSC  | Mandate                                                                                                                                                                                                                                               |
| 09/05/08    | 00-1-03253-8  | Death Warrant (setting execution date for September 19, 2008)                                                                                                                                                                                         |
| 09/08/08    | 82101-1 WSSC  | Application for Stay of Execution Under RAP 16.24(c)                                                                                                                                                                                                  |
| 09/10/08    | 82101-1 WSSC  | Motion for Appointment of Counsel                                                                                                                                                                                                                     |
| 09/11/08    | 82101-1 WSSC  | Personal Restraint Petition (placeholder petition)                                                                                                                                                                                                    |
| 09/11/08    | 82101-1 WSSC  | Order Granting Stay of Execution and Appointing Counsel                                                                                                                                                                                               |
| 05/18/09    | 82101-1 WSSC  | Petitioner's Statement of Grounds for Relief (requested to be filed under seal)                                                                                                                                                                       |
| 06/05/09    | 82101-1 WSSC  | Order (Petitioner's motion to file petitioner's statement of grounds for direct relief under seal is denied. The motion itself will remain sealed. The petitioner's statement of grounds for relief is being returned to counsel)                     |
| 06/15/09    | 82101-1 WSSC  | Opening Brief in Support of Personal Restraint Petition                                                                                                                                                                                               |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u>                                                                                                                                                                                                                                                                                                                                                 |
|-------------|--------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 08/03/09    | 82101-1 WSSC | Amended Personal Restraint Petition and Supporting Brief                                                                                                                                                                                                                                                                                                      |
| 06/28/10    | 82101-1 WSSC | State's Response to Personal Restraint Petition                                                                                                                                                                                                                                                                                                               |
| 07/13/10    | 82101-1 WSSC | Order (Motion for Acceptance of Corrected Brief granted)                                                                                                                                                                                                                                                                                                      |
| 09/27/10    | 82101-1 WSSC | Order (the Respondent's "Motion to have copy of Petition served upon Spokane County Prosecutor's Office to address claim that Petitioner received ineffective assistance of counsel to plead guilty in Spokane cases" is denied.)                                                                                                                             |
| 11/10/10    | 82101-1 WSSC | Order (That Respondent's "Motion to Strike Improper Appendices to Petitioner's Brief and Corresponding Arguments" is granted. "Petitioner's Motion for the Testimony of Bruce Moran to Be Taken By Deposition" is denied. "Petitioner's Motion for Discovery of All Documents and Computer Programs Used to Generate Jury Pools in Pierce County" is denied.) |
| 01/25/11    | 82101-1 WSSC | Petitioner's Reply Brief                                                                                                                                                                                                                                                                                                                                      |