

CAPITAL PUNISHMENT CASE STATUS REPORT

September 14, 2010

CAPITAL LITIGATION TEAM:

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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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| • <i>Stenson v. Vail, et al.</i> , Thurston County Cause No. 08-2-02080-8, WSSC Cause No. 83828-3, USDC EDC Cause No. CV-08-5079 | |
| • <i>Brown & Gentry v. Vail, et al.</i> , Thurston County Cause No. 09-2-00273-5, WSSC Cause No. 83474-1, USDC WDC Cause No. C09-5101 | |

KEY TO COURT ABBREVIATIONS

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

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> | | | | | | | | |
|---|--|---------------|--|----------------------------|--|-------------------------------------|---|---|--|--|
| <u>NAME:</u> | BROWN, Cal Coburn D.O.B. April 16, 1958 Race: White | | | | | | | | | |
| <u>DATE OF CRIME:</u> | May 24, 1991 | | | | | | | | | |
| <u>PLACE OF CRIME:</u> | King County | | | | | | | | | |
| <u>BRIEF FACTS:</u> | Cal Brown was convicted of aggravated first degree murder for the stabbing and strangulation death of Holly Washa. The aggravating circumstances were that the murder was committed (1) to conceal the identity of the person committing the crime, and (2) in the course of or furtherance of Kidnapping in the First Degree, Rape in the First Degree, and Robbery in the First Degree. <i>State v. Brown</i> , King County Superior Court Cause No. 91-1-03233-1. | | | | | | | | | |
| <u>DATE OF CONVICTION:</u> | December 10, 1993 | | | | | | | | | |
| <u>SPECIAL SENTENCING:</u> | December 27, 1993 | | | | | | | | | |
| <u>JUDGMENT AND: SENTENCE</u> | King County Superior Court Cause No. 91-1-03233-1 January 28, 1994 | | | | | | | | | |
| <u>TRIAL JUDGE:</u> | Honorable Ricardo S. Martinez | | | | | | | | | |
| <u>DEFENSE ATTYS:</u> | <table border="0"> <tr> <td>Terry L. Mulligan Port Orchard, WA</td> <td>Lin-Marie Hupp Kent, WA</td> </tr> <tr> <td colspan="2">Kern Clevon Bellingham, WA</td> </tr> </table> | | Terry L. Mulligan Port Orchard, WA | Lin-Marie Hupp Kent, WA | Kern Clevon Bellingham, WA | | | | | |
| Terry L. Mulligan Port Orchard, WA | Lin-Marie Hupp Kent, WA | | | | | | | | | |
| Kern Clevon Bellingham, WA | | | | | | | | | | |
| <u>PROSECUTING ATTYS:</u> | Honorable Norm Maleng King County Prosecutor Alfred Matthews, Deputy Theresa Fricke, Deputy 701 Fifth Avenue, Suite 4800 Seattle, WA 98104 (206) 296-9000 | | | | | | | | | |
| <u>APPELLANT'S ATTYS:</u> | <table border="0"> <tr> <td colspan="2">(Personal Restraint Petition, WSSC #66686-5)</td> </tr> <tr> <td>Gilbert Levy Seattle, WA</td> <td>Jeannette Jameson Mill Creek, WA</td> </tr> <tr> <td>Judith Mandel (withdrew 10/28/98) Port Orchard, WA</td> <td>Ronald D. Ness (withdrew 10/28/98) Port Orchard, WA</td> </tr> <tr> <td colspan="2">Michael Trickey (withdrew 05/01/96) Seattle, WA</td> </tr> </table> | | (Personal Restraint Petition, WSSC #66686-5) | | Gilbert Levy Seattle, WA | Jeannette Jameson Mill Creek, WA | Judith Mandel (withdrew 10/28/98) Port Orchard, WA | Ronald D. Ness (withdrew 10/28/98) Port Orchard, WA | Michael Trickey (withdrew 05/01/96) Seattle, WA | |
| (Personal Restraint Petition, WSSC #66686-5) | | | | | | | | | | |
| Gilbert Levy Seattle, WA | Jeannette Jameson Mill Creek, WA | | | | | | | | | |
| Judith Mandel (withdrew 10/28/98) Port Orchard, WA | Ronald D. Ness (withdrew 10/28/98) Port Orchard, WA | | | | | | | | | |
| Michael Trickey (withdrew 05/01/96) Seattle, WA | | | | | | | | | | |
| <u>PETITIONER'S ATTYS:</u> | <table border="0"> <tr> <td colspan="2">(Federal Habeas Corpus, USDC WDC #C01-715C)</td> </tr> <tr> <td colspan="2">(2d Federal Habeas Corpus, USDC WDC #C10-1446)</td> </tr> <tr> <td>Gilbert Levy Attorney At Law 2001 Western Avenue Market Place Two, Suite 200</td> <td>Suzanne Lee Elliott Attorney At Law 1300 Hoge Building 705 Second Avenue</td> </tr> </table> | | (Federal Habeas Corpus, USDC WDC #C01-715C) | | (2d Federal Habeas Corpus, USDC WDC #C10-1446) | | Gilbert Levy Attorney At Law 2001 Western Avenue Market Place Two, Suite 200 | Suzanne Lee Elliott Attorney At Law 1300 Hoge Building 705 Second Avenue | | |
| (Federal Habeas Corpus, USDC WDC #C01-715C) | | | | | | | | | | |
| (2d Federal Habeas Corpus, USDC WDC #C10-1446) | | | | | | | | | | |
| Gilbert Levy Attorney At Law 2001 Western Avenue Market Place Two, Suite 200 | Suzanne Lee Elliott Attorney At Law 1300 Hoge Building 705 Second Avenue | | | | | | | | | |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| | | Seattle, WA 98121-2163 (206) 443-0670 |
| | | Seattle, WA 98104 (206) 623-0291 |
| | | (Original Action Against State Officers, WSSC Cause #82742-7) (Second PRP, WSSC Cause # 82711-7) (Third PRP, WSSC Cause # 85021-6) SUZANNE LEE ELLIOTT, ATTORNEY AT LAW |

RESPONDENT'S ATTYS:

(Personal Restraint Petition, WSSC #66686-5)
Norm Maleng, Prosecuting Attorney
Ann Marie Summers, Deputy
Deborah Dwyer, Deputy

(Federal Habeas Corpus, USDC WDC #C01-715C)
(2d Federal Habeas Corpus, USDC WDC #C10-1446)
ROBERT M. MCKENNA, ATTORNEY GENERAL
JOHN J. SAMSON, ASSISTANT ATTORNEY GENERAL
Diana M. Sheythe, Assistant Attorney General (Withdrew 11/24/03)
CORRECTIONS DIVISION
PO BOX 40116
OLYMPIA, WA 98504-0116
(360) 586-1445

(Original Action Against State Officers, WSSC Cause #82742-7)
John J. Samson, Assistant Attorney General
Sara J. Olson, Assistant Attorney General

(Second PRP, WSSC Cause # 82711-7) (Third PRP, WSSC Cause # 85021-6)
JIM WHISMAN, SENIOR DEPUTY PROSECUTING ATTORNEY
KING COUNTY PROSECUTING ATTORNEY'S OFFICE
W554 KING COUNTY COURTHOUSE
516 THIRD AVENUE
SEATTLE, WA 98104

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---------------|
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(Note: see also *Brown and Gentry v. Vail, et al.*, Thurston County Superior Court Cause No. 09-2-00273-5, WSSC Cause No. 83474-1, and USDC WDC Cause No. C09-5101, under entries for "Lethal Injection Lawsuits")

| | | |
|----------|--------------|--|
| 01/28/94 | 61320-6 WSSC | <i>State v. Brown</i> ; Notice of Appeal |
| 02/01/94 | 61320-6 WSSC | State's Notice of Cross-Appeal |
| 06/27/96 | 61320-6 WSSC | Oral argument held |
| 07/24/97 | 61320-6 WSSC | Opinion affirming conviction and death sentence. Justice Smith authored the opinion for the Court. Justice Madsen authored an opinion concurring in part and dissenting in part, in which Justices Alexander and Sanders joined. <i>State v. Brown</i> , 132 Wn.2d 529, 940 P.2d 546 (1997). |
| 03/09/98 | 97-7283 USSC | Petition for Writ of Certiorari denied. <i>Brown v. Washington</i> , 523 U.S. 1007, 118 S. Ct. 1192, 140 L. Ed. 2d 322 (1998) |
| 03/13/98 | 61320-6 WSSC | Mandate issued |
| 03/16/98 | 61320-6 WSSC | Amended Mandate (with regards to month, date and year) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|---|
| 04/08/98 | 66686-5 WSSC | Death Warrant (setting execution for May 13, 1998) |
| 04/08/98 | 66686-5 WSSC | Order (application for stay of execution, pursuant to RAP 16.24, is granted and further proceedings in the trial court are stayed until further order of this court) |
| 04/19/01 | 66686-5 WSSC | Opinion denying personal restraint petition. Justice Smith authored the opinion for the Court. Justice Sanders dissented. <i>In re Brown</i> , 143 Wn.2d 431, 21 P.3d 687 (2001) |
| 06/14/01 | 66686-5 WSSC | Certificate of Finality; Supplemental Judgment (costs in the amount of \$64,481.44 awarded to the Appellate Indigent Defense Fund and \$1,145.00 to the King County Prosecutor's Office to be paid by the Petitioner) |
| 06/15/01 | 66686-5 WSSC | Order (the stay of execution is hereby lifted as of the date of the issuance of the certificate of finality) |
| 06/19/01 | C01-715 WDC | Order Staying Execution |
| 07/15/02 | C01-715-WDC | Amended Petition Under 28 U.S.C. § 2254 For Writ of Habeas Corpus |
| 09/13/02 | C01-715 WDC | Respondent's Answer to Amended Petition for a Writ of Habeas Corpus |
| 11/03-4/03 | C01-715 WDC | Evidentiary Hearing held |
| 09/16/04 | C01-715 WDC | Order (denying petition for writ of habeas corpus); Judgment in a Civil Case |
| 11/09/04 | 04-35998 9CIR | Petitioner's Notice of Appeal |
| 07/14/05 | 04-35998 9CIR | Oral argument held |
| 12/08/05 | 04-35998 9CIR | Opinion (affirming district court's judgment regarding the conviction but reversing and remanding with respect to the death sentence on the juror exclusion claim. Judge Kozinski authored the opinion, with Judges Reinhardt and Berzon concurring). <i>Brown v. Lambert</i> , 431 F.3d 661(9th Cir. 2005) |
| 06/19/06 | 04-35998 9CIR | Order and Amended Opinion (opinion filed December 8, 2005 and reported at 431 F.3d 661, is withdrawn, and is replaced by the Amended Opinion. The petition for rehearing is otherwise denied. A judge requested a vote on whether to rehear this case en banc, but a majority of the non-recused active judges did not vote in favor of en banc consideration. The petition for rehearing en banc is denied. Judge Tallman, joined by Judges O'Scannlain, Kleinfeld, Callahan, and Bea, dissented from denial of rehearing en banc). <i>Brown v. Lambert</i> , 451 F.3d 46 (9th Cir. 2006). |
| 01/12/07 | 06-413 USSC | Order (granting petition for writ of certiorari and Respondent's motion for leave to proceed in forma pauperis). <i>Uttecht v. Brown</i> , 127 S. Ct. 1055 (2007). |
| 04/17/07 | 06-413 USSC | Oral argument held |
| 06/04/07 | 06-413 USSC | Opinion reversing the judgment of the Ninth Circuit and remanding for further proceedings. Justice Kennedy authored the opinion for the Court. Justice Stevens, joined by Justices Souter, Ginsburg, and Breyer, dissented. Justice Breyer, joined by Justice Souter, authored a separate dissent. <i>Uttecht v. Brown</i> , 127 S. Ct. 2218 (2007). |
| 07/06/07 | 06-413 USSC | Judgment |
| 01/25/08 | 04-35998 9 CIR | Oral argument held |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-----------------|---------------------|--|
| 06/27/08 | 04-35998 9 CIR | Opinion (affirming the judgment of the district court. Chief Judge Kozinski authored the majority opinion. Judge Reinhardt dissented). <i>Brown v. Uttecht</i> , 530 F.3d 1031 (9 th Cir. 2008). |
| 08/15/08 | 04-35998 9 CIR | Order (denying petition for rehearing en banc). |
| 01/21/09 | 08-7204 USSC | Order denying petition for writ of certiorari. <i>Brown v. Sinclair</i> , 129 S. Ct. 1005 (2009) |
| 01/28/09 | 04-35998 9 CIR | Mandate |
| 02/11/09 | 82711-7 WSSC | Personal Restraint Petition [Second]; Emergency Motion to Stay Execution |
| 02/19/09 | 82742-7 WSSC | Petition Against State Officers; Brief in Support of Petition Against State Officers Pursuant to RAP 16.2(b); Emergency Motion to Stay Brown's March 13, 2009 Execution Pending Consideration of his Petition Against State Officers Pursuant to RAP 16.2(b) |
| 03/09/09 | 82742-7 WSSC | Order (denying petition against state officers and motion for stay) |
| 03/09/09 | 82711-7 WSSC | Order (denying personal restraint petition as time barred and denying stay) |
| 03/12/09 | 82832-6 WSSC | Order (granting stay of execution pending further order of the Supreme Court; returning this matter to the Thurston County Superior Court for further proceedings in <i>Brown v. Vail, et al.</i>) See "Lethal Injection Lawsuits." |
| 07/14/09 | 82832-6 WSSC | Motion to Vacate Stay of Execution |
| 07/28/09 | 82832-6 WSSC | Response to Vail's Motion to Vacate Stay of Execution |
| 07/30/09 | 82832-6 WSSC | Reply to Brown's Response to Motion to Vacate Stay of Execution |
| 09/10/09 | 82832-6 WSSC | Order (denying motion to vacate stay of execution) |
| 03/03/10 | 82832-6 WSSC | Certificate of Finality |
| 08/16/10 | C09-5101 WDC | Plaintiff Brown's Emergency Motion for Order Staying September 10, 2010, Execution; Brief in Support of Plaintiff Brown's Emergency Motion for Order Staying September 10, 2010 Execution |
| 08/19/10 | C09-5101 WDC | Response to Plaintiff's Motion for a Stay of Execution; Response to Plaintiffs' Supplement to Motion for Stay of Execution |
| 08/23/10 | C09-5101 WDC | Plaintiff Brown's Reply RE: Emergency Motion for Order Staying September 10, 2010, Execution |
| 08/23/10 | C09-5101 WDC | Defendants' Sur-Reply to Plaintiff Brown's Motion for Stay of Execution |
| 08/24/10 | 91-1-03233-1 | Petition for Order Certifying Witness List |
| 08/25/10 | C09-5101 WDC | Defendants' Supplement to Motion for Stay of Execution |
| 08/25/10 | C09-5101 WDC | Plaintiff Brown's Reply to Defendants' Supplement to Motion for a Stay of Execution |
| 08/31/10 | C09-5101 WDC | Order (Denying Motion for Stay of Execution) |
| 09/01/10 | C09-5101 WDC | Notice of Appeal |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|-----------------------------|--|
| 09/01/10 | 91-1-03233-1 | Order Certifying Witness List |
| 09/02/10 | 85021-6 WSSC | Personal Restraint Petition; Emergency Motion to Stay Execution Scheduled for September 10, 2010; Motion to Withdraw Mandate |
| 09/02/10 | 10-35771 9 CIR | Emergency Motion for Stay of Execution Under Circuit Rule 27-3 |
| 09/02/10 | 10-35771 9 CIR | Response to Emergency Motion for Stay of Execution |
| 09/03/10 | 85021-6 WSSC | Motion for Immediate Discovery Pursuant to RAP 16.26(a) |
| 09/03/10 | 91-1-03233-1 | Emergency Motion to Preclude Defendant's Execution on Grounds of Incompetency and Motion for Stay of Execution Pending Evidentiary Hearing |
| 09/03/10 | 10-35771 9 CIR | Appellant's Reply to Response to Emergency Motion for Stay of Execution |
| 09/04/10 | 10-35771 9 CIR | Order (denying motion for stay of execution) |
| 09/07/10 | 91-1-03233-1 | Response to Motion for Competency and Motion for Stay of Execution |
| 09/07/10 | 85021-6 WSSC | State's Response to Personal Restraint Petition and Response to Motions for Stay, Recall of the Mandate and Discovery |
| 09/07/10 | 10-6275 USSC 10A249 USSC | Application for Stay of Execution Pending Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit; Petition for Writ of Certiorari; Petitioner's Motion to Proceed In Forma Pauperis |
| 09/07/10 | 10-6275 USSC 10A249 USSC | Respondent's Brief in Opposition to Petition for Writ of Certiorari and Response to Application for Stay of Execution |
| 09/08/10 | 91-1-03233-1 | Findings of Fact and Conclusions of Law on Defendant's Competency to be Executed |
| 09/08/10 | 91-1-03233-1 | Notice of Discretionary Review to the Washington State Supreme Court |
| 09/08/10 | 85021-6 WSSC | Reply to State's Response to Personal Restraint Petition and Motion for Stay, Recall of the Mandate and Discovery |
| 09/08/10 | 85021-6 WSSC | Order (The emergency motion for a stay is denied; the motion for immediate discovery is denied; and the personal restraint petition is dismissed as untimely under RCW 10.73.090 and .100 and successive under RAP 16.4(d)). |
| 09/08/10 | 85045-3 WSSC | Motion for Discretionary Review; Emergency Motion to Stay in Support of Motion for Discretionary Review |
| 09/09/10 | 85045-3 WSSC | Response to Petitioner's Motion for Stay of Execution and Discretionary Review of Order Denying Evidentiary Hearing Regarding Competency to be Executed |
| 09/09/10 | 85045-3 WSSC | Reply Petitioner's Motion for Stay of Execution and Discretionary Review of Order Denying Evidentiary Hearing Re: Competency to be Executed |
| 09/09/10 | 85045-3 WSSC | Order (the motion for discretionary review is denied; the emergency motion to stay is also denied) |
| 09/09/10 | 10-6275 USSC 10A249 USSC | Order (Petition for Writ of Certiorari denied) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|-----------------------------|--|
| 09/09/10 | C10-1446 WDC | Petition Under 28 USC 2254 for Habeas Corpus; Brown's Emergency Motion for Order Staying September 10, 2010, 12:01AM Execution; Brief in Support of Brown's Emergency Motion for Order Staying September 10, 2010 12:01AM Execution Pursuant to LR 104(3) |
| 09/09/10 | C10-1446 WDC | Respondent's Answer and Memorandum of Authorities; Response to Petitioner's Motion for a Stay of Execution |
| 09/09/10 | C10-1446 WDC | Supplemental Response to Petitioner's Motion for a Stay of Execution |
| 09/09/10 | C10-1446 WDC | Reply RE: Petition for Writ of Habeas Corpus |
| 09/09/10 | C10-1446 WDC | Order (Brown's motion for a stay of execution and petition for writ of habeas corpus are denied) |
| 09/09/10 | C10-1446 WDC | Notice of Appeal |
| 09/09/10 | 10-35798 9 CIR | Emergency Motion for Order Staying Execution Set for September 10, 2010 at 12:01AM |
| 09/09/10 | 10-35798 9 CIR | Response to Emergency Motion for Stay of Execution |
| 09/09/10 | 10-35798 9 CIR | Order (Brown's emergency motion for stay of execution is denied) |
| 09/09/10 | 10-35798 9 CIR | Order (Pursuant to the rules applicable to capital cases in which an execution date has been scheduled, a deadline was established by which any judge could request a vote on whether the panel decision to deny the stay of execution should be reheard en banc. No judge has requested a vote within the time period. Therefore, the panel order denying the stay of execution is the final order of this Court) |
| 09/09/10 | 10-6343 USSC 10A267 USSC | Petition for Writ of Certiorari; Application for Stay of Execution Pending Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit |
| 09/09/10 | 10-6343 USSC 10A267 USSC | (Corrected) Petition for Writ of Certiorari to the Washington Supreme Court; (Corrected) Application for Stay of Execution Pending Petition for Writ of Certiorari to the Washington State Supreme Court |
| 09/09/10 | 10-6343 USSC 10A267 USSC | Response to Application for Stay of Execution |
| 09/10/10 | 10-6343 USSC 10A267 USSC | Order (The application for stay of execution and the petition for writ of certiorari are both denied) |

Cal Coburn Brown was executed on September 10, 2010. Death was pronounced at 12:56 a.m.

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------------------------|--------------|--|
| <u>NAME:</u> | | CROSS, Dayva Michael D.O.B.: September 19, 1959 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 Cause No. 99-1-02212-9 June 22, 2001 |
| <u>TRIAL JUDGE:</u> | | Honorable Joan DuBuque |
| <u>DEFENSE ATTYS:</u> | | Mark Larranaga Richard Warner Seattle, WA |
| <u>PROSECUTING ATTYS:</u> | | Norm Maleng, Prosecuting Attorney Don Raz, Senior Deputy Prosecutor Tim Bradshaw, Deputy Prosecutor King County Courthouse 516 Third Avenue, Suite W554 Seattle, WA 98104-2362 (206) 296-9000 |
| <u>APPELLANT'S ATTYS:</u> | | (Direct Appeal, WSSC Cause #71267-1) Todd Maybrown Allen Hansen & Maybrown P.S. 600 University Street, Suite 3020 Seattle, WA 98101-4105 (206) 447-9681 Kathryn Ross Jones, Ross, Besman & Connolly 828 Second Street, Suite D Mukilteo, WA 98275-1601 (425) 348-7937 |
| <u>PETITIONER'S ATTYS:</u> | | (Personal Restraint Petition, Washington Supreme Court #79761-7) TODD MAYBROWN ALLEN HANSEN & MAYBROWN P.S. 600 UNIVERSITY ST., SUITE 3020 SEATTLE, WA 98101-4105 (206) 447-9681 JAMES LOBSENZ CARNEY BADLEY SPELLMAN 701 5TH AVENUE, SUITE 3600 SEATTLE, WA 98104-7010 (206) 622-8020 |
| <u>RESPONDENT'S ATTYS:</u> | | NORM MALENG, PROSECUTING ATTORNEY Timothy Bradshaw, Deputy (withdrew 01/24/03) DONALD RAZ, DEPUTY JAMES WHISMAN, DEPUTY RANDI J. AUSTELL, DEPUTY |

| <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> , 127 S. Ct. 559 (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 |
| 10/01/07 | 79761-7 WSSC | Order (Counsel for Petitioner directed to file answer to Respondent's Objection to Ex Parte Order Granting Investigator on Jury Misconduct Issue and Request for Reconsideration by October 8, 2007. Parties are directed to advise the Court in writing no later than October 8, 2007 as to what action the trial court judge took on motion for contact with jurors) |
| 10/01/07 | 79761-7 WSSC | Petitioner's Motion to Vacate Superior Court's Order Precluding Contact with Jurors or, in the Alternative, to Permit Discovery Under RAP 16.26 |
| 10/02/07 | 79761-7 WSSC | Joint Motion to Delay Discovery, Briefing, and the Filing of Supporting Documents Relating to Lethal Injection Claims |
| 10/04/07 | 79761-7 WSSC | Response to RAP 16.26 Motion and Opposition to Request to Lift Order Limiting Juror Contact |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 10/04/07 | 79761-7 WSSC | Order (granting Joint Motion to Delay Discovery, Briefing, and the Filing of Supporting Documents Relating to Lethal Injection Claims; personal restraint petition now due January 29, 2008) |
| 10/04/07 | 79761-7 WSSC | Clarification of Objection to RAP 16.27 Funding Order and Update on Trial Court Proceedings |
| 10/23/07 | 79761-7 WSSC | Order (Parties are again directed to advise the Court in writing as to what action the trial court judge took on motion for contact with jurors no later than October 24, 2007) |
| 10/24/07 | 79761-7 WSSC | Placeholder Petition |
| 10/31/07 | 79761-7 WSSC | Response to Placeholder Petition |
| 11/05/07 | 79761-7 WSSC | Reply to Response to 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, Jeffrey Ellis, David Boerner, Dr. Robert Thompson, James E. Lobsenz, Jeffrey Robinson, Richard Warner. |
| 04/24/08 | 79761-7 WSSC | Respondent's RAP 16.26 Motion for Discovery; Respondent's Motion for Judicial Determination of Petitioner's Competency |
| 05/30/08 | 79761-7 WSSC | Petitioner's Response in Opposition to Respondent's Motion for Judicial Determination of Competency; Declaration of Todd Maybrown in Opposition to Respondent's Motion for a Competency Evaluation; Declaration of James E. Lobsenz |
| 06/02/08 | 79761-7 WSSC | Reply to Response on Issue of Cross' Competency |
| 06/04/08 | 79761-7 WSSC | Reply to Response to State's RAP 16.26 Motion for Discovery |
| 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) |
| 08/11/08 | 79761-7 WSSC | Respondent's Second Motion for Discovery Pursuant to RAP 16.26 |
| 09/03/08 | 79761-7 WSSC | Petitioner's Response in Opposition to Respondent's Second Discovery Motion |
| 10/13/08 | 79761-7 WSSC | Response to Personal Restraint Petition |
| 10/15/08 | 79761-7 WSSC | Respondent's Motion to Strike Declarations of Boerner and Robinson; Respondent's Motion to Strike Declaration of Torres |
| 10/16/08 | 79761-7 WSSC | State's Authority for the Restraint of Petitioner Dayva Cross |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 10/23/08 | 79761-7 WSSC | Response in Opposition to Respondent's Motion to Strike Declarations of Boerner and Robinson; Response in Opposition to Respondent's Motion to Strike Torres Declaration |
| 10/28/08 | 79761-7 WSSC | Reply to Response to Motion to Strike Declaration of Torres |
| 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) |
| 01/07/09 | 79761-7 WSSC | Petitioner's Renewed Motion for Discovery Re: Lethal Injection Claims |
| 01/07/09 | 79761-7 WSSC | Joint Motion to Obtain Sealed Clerk's Papers and for an Extension of Time for the Filing of Petitioner's Reply Brief |
| 01/09/09 | 79761-7 WSSC | Order Granting Motion for Extension of Time and Motion to Obtain Sealed Clerk's Papers |
| 01/20/09 | 79761-7 WSSC | Department of Corrections' Response to Petitioner's Renewed Motion for Discovery |
| 01/20/09 | 79761-7 WSSC | Petitioner's Motion to Lift Stay and Set Schedule Regarding Lethal Injection Claims |
| 01/23/09 | 79761-7 WSSC | Reply in Support of Petitioner's Renewed Motion for Discovery Re: Lethal Injection Claims |
| 01/23/09 | 79761-7 WSSC | Response to Motion to Lift Stay and Set Schedule Regarding Lethal Injection Claims |
| 01/30/09 | 79761-7 WSSC | Reply in Support of Petitioner's Motion to Lift Stay |
| 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) |
| 03/31/09 | 79761-7 WSSC | Petitioner's Opposition to DOC's Motion for Protective Order |
| 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) |
| 04/07/09 | 79761-7 WSSC | Department of Corrections' Reply to Petitioner's Opposition to Motion for Protective Order |
| 04/10/09 | 79761-7 WSSC | Order (Motion for clarification denied as all deadlines and discovery are stayed pending <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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 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.) |
| 07/29/09 | 79761-7 WSSC | Respondent's Motion to (1) Lift Stay, (2) Set Reply Brief Due Date, and (3) Order Immediate Dissemination of Discovery |
| 08/21/09 | 79761-7 WSSC | Petitioner's Response to Respondent's Motion to (1) Lift Stay, (2) Set Reply Brief Due Date, and (3) Order Immediate Dissemination of Discovery |
| 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 |
| 01/11/10 | 79761-7 WSSC | Petitioner's Motion for Appointment of Attorney Maria Fernanda Torres |
| 01/25/10 | 79761-7 WSSC | Motion for Deadline by Which Petitioner Provides Respondent with the Court-Ordered Discovery |
| 01/28/10 | 79761-7 WSSC | Petitioner Cross' Response to Respondent's Motion for Deadline for Discovery |
| 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.) |
| 05/14/10 | 79761-7 WSSC | Respondent's Motion to Compel Production of Discovery Already Ordered, Motion for Permission to File Electronic Brief, and Motion for Extension of Time. |
| 05/25/10 | 79761-7 WSSC | Petitioner's Response to Respondent's Motion to Compel Privileged Records |
| 05/27/10 | 79761-7 WSSC | Respondent's Reply to Petitioner's Response to Motion to Compel Production of Records |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------------------------|--------------|--|
| <u>NAME:</u> | | DAVIS, Cecil Emile D.O.B.: September 1, 1959 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 May 15, 2007 |
| <u>JUDGMENT AND SENTENCE:</u> | | Pierce County Superior Court Cause No. 97-1-00432-4 February 23, 1998, May 18, 2007 |
| <u>TRIAL JUDGE:</u> | | Honorable Frederick W. Fleming |
| <u>DEFENSE ATTYS:</u> | | Ronald Ness John L. Cross Port Orchard, WA Julia Lindstrom Lloyd Alton, Jr. Tacoma, WA |
| <u>PROSECUTING ATTYS:</u> | | Gerald Horne, Prosecuting Attorney John W. Ladenburg (Former Prosecuting Attorney) John M. Neeb, Deputy Prosecutor (Withdraw 01/26/00) John Hillman, Deputy Prosecutor (Former Prosecuting Attorney) Gerald T. Costello, Deputy Prosecutor Pierce County Prosecutor's Office 930 Tacoma Avenue South, Room 946 Tacoma, WA 98402-2171 |
| <u>APPELLANT'S ATTYS:</u> | | (Direct Appeal, WSSC Cause #66537-1) Judith Mandel Port Orchard, WA (Direct Appeal, WSSC Cause #80209-2) Eric Broman (Withdraw 1/15/09) ERIC NIELSEN NIELSEN BROMAN & KOCH LLC 1908 E. MADISON STREET SEATTLE, WA 98122-2842 (206) 623-2488 |
| | | Ronald D. Ness Port Orchard, WA DAVID KOCH NIELSEN BROMAN & KOCH LLC 1908 E. MADISON STREET SEATTLE, WA 98122-2842 (206) 623-2488 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 07/09/10 | 80209-2 WSSC | Order (The Appellant's "Motion to Strike Improper Appendices to Appellant's Brief" is granted and the appendices are stricken from the Appellant's Brief, along with all references to those documents, and all argument based upon the contents of the documents.) |
| 07/14/10 | 80209-2 WSSC | Order (The Appellant's "Statement of Additional Authority" is rejected for filing.) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> | | | | | | | | |
|---|--|---------------|--|--|---|---|------------------------------|--|--|--|
| <u>NAME:</u> | ELMORE, Clark Richard (aka James Elmore aka James Lee Dickey) D.O.B.: November 17, 1951 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 Cause No. 95-1-00310-1 May 3, 1996 | | | | | | | | | |
| <u>TRIAL JUDGE:</u> | Honorable David Nichols | | | | | | | | | |
| <u>DEFENSE ATTYS:</u> | John Komorowski Douglas Hyldahl Bellingham, WA | | | | | | | | | |
| <u>PROSECUTING ATTYS:</u> | David S. McEachran, Prosecuting Attorney Whatcom County Prosecutor's Office Whatcom County Courthouse 311 Grand Avenue Bellingham, WA 98225 (360) 676-6784 | | | | | | | | | |
| <u>APPELLANT'S ATTYS:</u> | <table border="0"> <tr> <td colspan="2">(Direct Appeal, Washington Supreme Court #64085-8)</td> </tr> <tr> <td>Michael P. Iaria Seattle, WA</td> <td>Meredith Martin Rountree Austin, TX</td> </tr> <tr> <td>Rita Griffith Seattle, WA</td> <td>Charlotte Cassady (Withdrawn 03-06-98) Mobile, AL</td> </tr> <tr> <td colspan="2">Jon Ostlund (06/17/96) Bellingham, WA</td> </tr> </table> | | (Direct Appeal, Washington Supreme Court #64085-8) | | Michael P. Iaria Seattle, WA | Meredith Martin Rountree Austin, TX | Rita Griffith Seattle, WA | Charlotte Cassady (Withdrawn 03-06-98) Mobile, AL | Jon Ostlund (06/17/96) Bellingham, WA | |
| (Direct Appeal, Washington Supreme Court #64085-8) | | | | | | | | | | |
| Michael P. Iaria Seattle, WA | Meredith Martin Rountree Austin, TX | | | | | | | | | |
| Rita Griffith Seattle, WA | Charlotte Cassady (Withdrawn 03-06-98) Mobile, AL | | | | | | | | | |
| Jon Ostlund (06/17/96) Bellingham, WA | | | | | | | | | | |
| <u>PETITIONER'S ATTYS:</u> | <table border="0"> <tr> <td colspan="2">(Personal Restraint Petition, Washington Supreme Court #70233-1)</td> </tr> <tr> <td>Jeffrey E. Ellis The Defender Association 810 Third Avenue Suite 800 Seattle, WA 98104-1655 (206) 447-3900</td> <td>Meredith Martin Rountree 510 South Congress Avenue Suite 308 Austin, TX 78704-1739 (512) 320-0334</td> </tr> </table> | | (Personal Restraint Petition, Washington Supreme Court #70233-1) | | Jeffrey E. Ellis The Defender Association 810 Third Avenue Suite 800 Seattle, WA 98104-1655 (206) 447-3900 | Meredith Martin Rountree 510 South Congress Avenue Suite 308 Austin, TX 78704-1739 (512) 320-0334 | | | | |
| (Personal Restraint Petition, Washington Supreme Court #70233-1) | | | | | | | | | | |
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DATE CAUSE ACTION

(Federal Habeas Corpus, USDC WDC #C08-0053)

JEFFREY E. ELLIS
ELLIS, HOLMES & WITCHLEY
705 SECOND AVENUE, SUITE 401
SEATTLE, WA 98104
(206) 262-0300

STEVE WITCHLEY
ELLIS, HOLMES & WITCHLEY
705 SECOND AVENUE, SUITE 401
SEATTLE, WA 98104
(206) 262-0300

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; request for appointment of counsel will be considered upon receipt of a recommendation from the Office of Public Defense) |
| 11/15/00 | 70233-1 WSSC | Petitioner's Statement Pursuant to RAP 16.25 |
| 11/16/00 | 70233-1 WSSC | Order (appointing Jeffrey Ellis and Meredith Martin Rountree as counsel) |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 07/17/01 | 70233-1 WSSC | Order (the motion to transport is granted with the following conditions: no one other than the Department of Corrections personnel, relevant medical personnel, and counsel for Mr. Elmore shall be notified of the date, time or place of the testing or be present during testing. Counsel shall give notice to the Department of Corrections at least 24 hours prior to the medical procedures if counsel elects to be present. The Department of Corrections shall have the ultimate authority over the arrangements for transporting Mr. Elmore) |
| 11/20/01 | 70233-1 WSSC | Response to Personal Restraint Petition and Brief |
| 12/31/01 | 70233-1 WSSC | Petitioner's Reply in Support of Personal Restraint Petition [Tab D of the brief is a sealed document] |
| 01/10/02 | 70233-1 WSSC | Order (Petitioner's motion for subpoena duces tecum for medical records of Juror #12 is denied without prejudice) |
| 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 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) |
| 04/03/03 | 70233-1 WSSC | Order (Petitioner's motion to expand scope of reference hearing is denied) |
| 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 |
| 04/12/05 | 70233-1 WSSC | Supplemental Brief of Petitioner |
| 05/11/05 | 70233-1 WSSC | Respondent's Supplemental Brief |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 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 |
| 05/29/08 | C08-0053 WDC | Respondent's Submission of State Court Record Pursuant to CR 104(i)(1) |
| 12/19/08 | C08-0053 WDC | Answer and Memorandum of Authorities; Respondent's Supplemental Submission of State Court Record Pursuant to CR 104(i)(1) |
| 03/13/09 | C08-0053 WDC | Petitioner's Traverse and Reply |
| 08/27/09 | C08-0053 WDC | Respondent's Second Supplemental Submission of State Court Record Pursuant to CR 104(i)(1) |
| 09/30/09 | C08-0053 WDC | Motion for Evidentiary Hearing |
| 10/30/09 | C08-0053 WDC | Response to Petitioner's Motion for Evidentiary Hearing |
| 11/13/09 | C08-0053 WDC | Reply in Support of Motion for Evidentiary Hearing |
| 11/13/09 | C08-0053 WDC | Petitioner's Supplemental Memorandum Regarding State's Newly Raised Teague Defense to Shackling Claims |
| 01/27/10 | C08-0053 WDC | Response to Petitioner's Supplemental Memorandum Regarding Teague Defense to Shackling Claims |
| 01/29/10 | C08-0053 WDC | Oral argument held on Motion for Evidentiary Hearing |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------------------------|--------------|--|
| <u>NAME:</u> | | GENTRY, Jonathan Lee D.O.B.: August 7, 1956 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 Cause No. 88-1-00395-3 July 22, 1991 |
| <u>TRIAL JUDGE:</u> | | Honorable Terence Hanley |
| <u>DEFENSE ATTYS:</u> | | Frederick D. Leatherman, Jr. Jeffery P. Robinson (trial) |
| <u>PROSECUTING ATTYS:</u> | | Russell Hauge, Prosecuting Attorney C. Danny Clem (former Prosecuting Attorney) Irene K. Asai, Deputy Prosecuting Attorney Brian T. Moran, Deputy Prosecuting Attorney |
| <u>APPELLANT'S ATTYS:</u> | | (Direct Appeal, Washington Supreme Court #58415-0) Michael P. Iaria Seattle, WA Frederick D. Leatherman, Jr. Seattle, WA |
| <u>PETITIONER'S ATTYS:</u> | | (Personal Restraint Petition, Washington Supreme Court #62677-4) (Federal Habeas Corpus, USDC WDC #C99-0289L) SCOTT ENGELHARD 320 MAYNARD BUILDING 510 SOUTH CONGRESS AVENUE 119 FIRST AVENUE SOUTH SEATTLE, WA 98104 (206) 749-0117 RITA J. GRIFFITH GRIFFITH & COLE 1305 NE 45TH STREET, SUITE 205 SEATTLE, WA 98105 (206) 547-1742 Brian Tsuchida (withdrew on 5/13/08) Seattle, WA Meredith Rountree (withdrew on 5/1/09) Austin, TX |
| <u>RESPONDENT'S ATTYS:</u> | | (Personal Restraint Petition, Washington Supreme Court #62677-4) |

DATE CAUSE ACTION

Russell Hauge, Prosecuting Attorney
 Randy Sutton, Deputy
 Pamela B. Loginsky, Special Deputy
 Washington Association Of Prosecuting Attorneys

RESPONDENT'S ATTYS:

(Federal Habeas Corpus, USDC WDC #C99-0289L)
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

(Note: see also *Brown and Gentry v. Vail, et al.*, Thurston County Superior Court Cause No. 09-2-00273-5, under entries for “Lethal Injection Lawsuits”)

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| 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) |
| 03/01/99 | C99-0289 WDC | Application for Appointment of Counsel |
| 03/08/99 | C99-0289 WDC | Order Appointing Counsel (Scott J. Engelhard and Meredith Martin Rountree) |
| 03/09/99 | 62677-4 WSSC | Petitioner’s Motion for Reconsideration |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 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 |
| 06/02/00 | C99-0289 WDC | Order (denying motion to prohibit Assistant Attorney General Brian Moran from participating in the litigation of this case); Order (granting in part and denying in part Petitioner's motion for leave to conduct discovery) |
| 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 Brady/Napue claim 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 Brady/Napue 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 |
| 03/25/03 | C99-0289 WDC | Order Denying Motion for Reconsideration and Regarding Related Matters |
| 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) |
| 03/08/04 | C99-0289 WDC | Oral argument held re: cause and prejudice; Court directs the filing of supplemental briefs not to exceed two pages re: applicability of <i>Banks v. Dretke</i> by March 15, 2004 |
| 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) |
| 01/05/06 | C99-0289 WDC | Petitioner's Motion for Summary Judgment (re: Claim A [dismissal of juror for cause]). |
| 01/23/06 | C99-0289 WDC | Response in Opposition to Motion for Summary Judgment |
| 01/27/06 | C99-0289 WDC | Reply in Support of Motion for Summary Judgment |
| 03/6-9/06 | C99-0289 WDC | Evidentiary hearing held |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| 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). |
| 03/28/06 | C99-0289 WDC | Petitioner's Report of Kay Sweeney in Support of Claim that Counsel was Ineffective for Failing to Investigate Crime Scene Evidence |
| 05/22/06 | C99-0289 WDC | Petitioner's Post-Evidentiary Hearing Brief ; Petitioner's Motion for Discovery Deposition of Leonard Smith; Petitioner's Motion to Admit Supplemental Exhibits |
| 06/05/06 | C99-0289 WDC | Response to Motion to Depose Leonard Smith; Response to Motion to Supplement Evidentiary Hearing Exhibits |
| 06/08/06 | C99-0289 WDC | Petitioner's Reply to Response Motion for Discovery Deposition of Leonard Smith; Petitioner's Reply to Response to Motion to Admit Supplemental Exhibits |
| 06/29/06 | C99-0289 WDC | Respondent's Post-Hearing Brief |
| 07/17/06 | C99-0289 WDC | Reply in Support of Petitioner's Post-Evidentiary Hearing Brief |
| 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]) |
| 10/18/07 | C99-0289 WDC | Respondent's Motion for Summary Judgment and Memorandum in Support Thereof |
| 11/13/07 | C99-0289 WDC | Petitioner's Response to Respondent's Motion for Summary Judgment and Cross Motion for Summary Judgment |
| 11/19/07 | C99-0289 WDC | Respondent's Reply and Response to Petitioner's Cross-Motion for Summary Judgment |
| 12/07/07 | C99-0289 WDC | Reply in Support of Petitioner's Cross-Motion for Summary Judgment |
| 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 |
| 05/07/09 | C99-0289 WDC | Petitioner's Motion for New Trial, or to Amend Judgment |
| 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 to the Ninth Circuit Court of Appeals |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-----------------|-----------------------|--|
| 10/02/09 | C99-0289 WDC | Order Granting Certificate of Appealability |
| 10/07/09 | 09-99021 9 CIR | Time Schedule Order (Gentry's brief due December 7, 2009; State's brief due February 5, 2010) |
| 11/23/09 | 09-99021 9 CIR | Appellant's Motion to Modify Briefing Schedule and Order Divided, Partly Expedited Briefing and Argument |
| 12/02/09 | 09-99021 9 CIR | Appellee's Response in Opposition to Motion to Modify Briefing Schedule and Order Divided, Partly Expedited Briefing and Argument |
| 12/07/09 | 09-99021 9 CIR | Appellant's Reply to Response to Motion to Modify Briefing Schedule and Order Divided, Partly Expedited Briefing and Argument; Second Dec of Ford in Support of Motion; Appellant's Request for Case Management Conference |
| 12/08/09 | 09-99021 9 CIR | Order (granting Appellant's extension of time to file opening brief, denying motion for divided briefing, & denying request for case management conference; Opening brief due June 8, 2010, Answering brief due August 10, 2010) |
| 12/30/09 | 84039-3 WSSC | Personal Restraint Petition; Declaration of Jennifer Davis; Declaration of Timothy Ford |
| 01/14/10 | 09-99021 9CIR | Appellant's Excerpts of Record Volume I |
| 03/02/10 | 84039-3 WSSC | Response of the Department of Corrections |
| 03/15/10 | C99-0289 WDC | Order Granting Motion to File Transcripts That Were Ordered, But Not Filed by Court Reporters |
| 04/05/10 | 84039-3 WSSC | Petitioner's Reply to Response of the Department of Corrections to Personal Restraint Petition; Declaration of Jonathan Gentry |
| 06/08/10 | 09-99021 9CIR | Appellant's Motion to File Overlength Opening Brief; Opening Brief of Appellant |
| 06/11/10 | 09-99021 9CIR | Supplement to Motion for Leave to File Overlength Opening Brief |
| 06/16/10 | 09-99021 9CIR | Appellee's Response in Opposition to Motion to File Overlength Opening Brief |
| 06/17/10 | 09-99021 9CIR | Request for Oral Argument |
| 06/21/10 | 09-99021 9CIR | Order (Motion for leave to file overlength brief is granted.) |
| 06/25/10 | 09-99021 9CIR | Appellee's Response to Request for Oral Argument |
| 06/29/10 | 84039-3 WSSC | Supplement to Personal Restraint Petition |
| 07/30/10 | 09-99021 9CIR | Appellee's Motion for Extension of Time; Declaration of Paul D. Weisser |
| 08/04/10 | 09-99021 9CIR | Order (granting motion for extension of time, Appellee's Answering Brief due November 19, 2010) |
| 08/13/10 | 09-99021 9 CIR | Motion for Reconsideration or Modification of Clerk's Order Granting Respondent's Motion for Extension of Time |
| 08/25/10 | 09-99021 9 CIR | Response to Motion for Reconsideration or Modification of Clerk's Order Granting Respondent's Motion for Extension of Time |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|---|
| 08/27/10 | 09-99021 9 CIR | Order (appellant's motion for reconsideration denied) |
| 09/10/10 | 09-99021 9 CIR | Motion for Reconsideration or Modification of Commissioner's Order Denying Reconsideration of Extension of Time to File Respondent's Brief and Response to Motion for Immediate Partial Remand |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------------------------|--------------|--|
| <u>NAME:</u> | | SCHIERMAN, Conner Michael D.O.B.: September 14, 1981 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 Cause No. 06-1-06563-4 May 27, 2010 |
| <u>TRIAL JUDGE:</u> | | Honorable Greg Canova |
| <u>DEFENSE ATTYS:</u> | | James Conroy Peter Connick Seattle, WA |
| <u>PROSECUTING ATTYS:</u> | | Dan Satterberg, Prosecuting Attorney Scott O'Toole, Senior Deputy Prosecutor King County Courthouse 516 Third Avenue Seattle, WA 98104 (206) 296-0100 |
| <u>APPELLANT'S ATTYS:</u> | | (Direct Appeal, WSSC No. 84614-6) SUZANNE ELLIOTT DAVID ZUCKERMAN ATTORNEYS AT LAW 705 2ND AVENUE, SUITE 1300 SEATTLE, WA 98104-1797 (206) 623-0291 |
| <u>RESPONDENT'S ATTYS:</u> | | (Direct Appeal, WSSC No. 84614-6) DAN SATTERBERG, PROSECUTING ATTORNEY SCOTT O'TOOLE, SENIOR DEPUTY PROSECUTOR KING COUNTY COURTHOUSE 516 THIRD AVENUE SEATTLE, WA 98104 (206) 296-0100 |

| <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.) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-----------------------------------|--|----------------------------------|
| <u>NAME:</u> | STENSON, Darold Ray aka Darold R. J. Stenson D.O.B. November 24, 1952 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: SENTENCE</u> | Clallam County Superior Court Cause No. 93-1-00039-1 August 19, 1994 | |
| <u>TRIAL JUDGE:</u> | Honorable Kenneth D. Williams | |
| <u>DEFENSE ATTYS:</u> | Frederick D. Leatherman, Jr. Seattle, WA | Dave Neupert Port Angeles, WA |
| <u>PROSECUTING ATTYS:</u> | Deborah Snyder Kelly, Prosecuting Attorney David H. Bruneau, trial counsel and former Prosecuting Attorney Stephen Traylor, Deputy Prosecuting Attorney Clallam County Prosecutor's Office Clallam County Courthouse 223 East Fourth Street Port Angeles, WA 98362-3098 (360) 417-2301 | |
| <u>APPELLANT'S ATTYS:</u> | (Direct Appeal, Washington Supreme Court #61965-4) James E. Lobsenz Seattle, WA | |
| <u>PETITIONER'S ATTYS:</u> | (Personal Restraint Petition, Washington Supreme Court #66565-6) Judith Mandel (1/29/01) Ronald D. Ness (1/29/01) Port Orchard, WA Port Orchard, WA | |
| | (Habeas Corpus Petition, USDC WDC Cause #C01-252P) Sheryl Gordon McCloud Robert H. Gombiner Attorney At Law Federal Public Defenders Office 710 Cherry Street 1601 Fifth Avenue, Suite 700 Seattle, WA 98104 Seattle, WA 98101-1605 (206) 224-8777 (206) 553-1100 | |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 03/06/01 | C01-252 WDC | Order Granting Motion for Stay of Execution |
| 05/01/01 | C01-252 WDC | Order (on Respondent's motion regarding 28 U.S.C § 2261) |
| 12/28/01 | 72009-6 WSSC | Personal Restraint Petition [Second]; Opening Brief in Support of Personal Restraint Petition |
| 01/02/02 | C01-252 WDC | Petition for Writ of Habeas Corpus; Memorandum in Support of Petition for Writ of Habeas Corpus; Declaration of John A. Strait |
| 03/04/02 | C01-252 WDC | Respondent's Answer, Memorandum of Authorities and Motion to Strike |
| 04/04/02 | 72009-6 WSSC | Response to Personal Restraint Petition; Motion to Strike Petitioner's Personal Restraint Petition |
| 04/30/02 | C01-252 WDC | Petitioner's Memorandum Regarding Procedural Defenses Only |
| 05/01/02 | 72009-6 WSSC | Petitioner's Opposition to Motion to Strike Personal Restraint Petition |
| 05/06/02 | C01-252 WDC | Motion to Expand the Record; Opposition to State's Motion to Strike |
| 05/15/02 | C01-252 WDC | Response to Motion to Expand the Record and Reply to Opposition to State's Motion to Strike |
| 06/25/02 | C01-252 WDC | Reply to Petitioner's Memorandum Regarding Procedural Defenses |
| 09/11/02 | C01-252 WDC | Order Staying Petition (the petition for writ of habeas corpus is stayed until further order of the Court. Counsel shall notify the court within 24 hours of any order issued by the Washington State Supreme Court which addresses Petitioner's personal restraint petition) |
| 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>State v. 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] |
| 11/18/03 | C01-252 WDC | Order Granting Motion to Lift Stay, and to Proceed with Habeas Corpus Proceedings |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|---|
| 09/14/05 | C01-252 WDC | Notice of Appeal |
| 09/15/05 | C01-252 WDC | Notice of Appeal (re-file) |
| 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 |
| 04/09/08 | 05-99011 9 CIR | Order (granting motion to recall the mandate and staying the mandate pending the filing of petition for writ of certiorari) |
| 07/15/08 | 08-5328 USSC | Petition for Writ of Certiorari; Motion for Leave to Proceed In Forma Pauperis |
| 07/24/08 | 08-5328 USSC | Supplemental Brief in Support of Petition for Writ of Certiorari |
| 08/18/08 | 08-5328 USSC | Respondent's Brief in Opposition |
| 08/22/08 | 93-1-00039-1 | Petitioner's Motion for DNA Testing |
| 08/27/08 | 08-5328 USSC | Petitioner's Reply Brief |
| 09/30/08 | 82197-6 WSSC | Petition and Memorandum in Support of Original Action Against State Officers for Writ of Prohibition and/or Mandamus; Affidavit in Support of Original Action Against State Officers for Writ of Prohibition and/or Mandamus; Motion to Proceed <i>In Forma Pauperis</i> (re: application of RCW 10.95.160(2)). |
| 10/02/08 | 82197-6 WSSC | Order Granting Motion to Proceed <i>In Forma Pauperis</i> |
| 10/06/08 | 93-1-00039-1 | Motion for Order Requiring Preservation of Evidence; Motion for Leave to Conduct Discovery; Motion for Independent DNA Testing of Evidence; Petitioner's First Request for Admissions |
| 10/06/08 | 08-5328 USSC | Order denying petition for writ of certiorari. <i>Stenson v. Uttecht</i> , 129 S. Ct. 247 (2008). |
| 10/07/08 | 82197-6 WSSC | Answer to Petition Against State Officers for Writ of Prohibition and/or Mandamus |
| 10/15/08 | 93-1-00039-1 | Motion for Leave to Conduct Discovery Re Handling of Evidence in Possession of Clallam County Sheriff's Department |
| 10/16/08 | 82197-6 WSSC | Reply to Petition Against State Officers for Writ of Prohibition and/or Mandamus |
| 10/17/08 | 05-99011 9 CIR | Order (denying motion to stay issuance of mandate); Mandate |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 10/17/08 | 93-1-00039-1 | Response to Motion to Conduct DNA Testing; Response to Motion to Conduct Discovery; Response to Motion to Request Discovery Re: Evidence; Response to Motion to Preserve Evidence |
| 10/20/08 | 93-1-00039-1 | Motion to Conduct Investigation |
| 10/21/08 | 82197-6 WSSC | Petitioner's Motion for Interim Relief; Declaration of Robert H. Gombiner |
| 10/22/08 | 82197-6 WSSC | Response to Motion for Stay of Execution |
| 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]; Opening Brief in Support of Personal Restraint Petition; Motion to Proceed in Forma Pauperis |
| 10/29/08 | 82332-4 WSSC | Response to Motion for Order Enjoining Execution |
| 10/30/08 | 82332-4 WSSC | RAP 16.9 Response to Personal Restraint Petition |
| 11/03/08 | 82332-4 WSSC | Memorandum in Support of Motion for Stay of Execution |
| 11/05/08 | 82332-4 WSSC | Amici Curiae Brief of the American Civil Liberties Union and the American Civil Liberties Union of Washington |
| 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 Review |
| 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 |
| 11/26/08 | 82440-1 WSSC | Response in Opposition to State's Motion for Accelerated Review; Supplemental Response in Opposition to State's Motion for Accelerated Review; Second Supplement to Response in Opposition to State's Motion for Accelerated Review |
| 11/26/08 | 82440-1 WSSC | Reply to Response in Opposition to State's Motion for Accelerated Review |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 12/01/08 | 82440-1 WSSC | Motion to Dismiss Review or, in the Alternative to Grant Leave Pursuant to RAP 7.2(e) to Trial Judge to Formally Enter Order |
| 12/01/08 | 82440-1 WSSC | Supplemental Reply to Stenson's Supplemental Response to State's Motion for Accelerated Review of its RAP 18.3(b) Motion to Vacate the State of Execution |
| 12/01/08 | 82440-1 WSSC | Opposition to Motion to Dismiss Appeal and Opposition to Motion for Leave Pursuant to RAP 7.2(e) for Entry of Order Granting DNA Testing |
| 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 | Stipulation re Release of Evidence |
| 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 | 93-1-00039-1 | Washington State Patrol's Response to Court's December 3, 2008 Order Granting Petitioner's Motion for DNA Testing; Declaration of Dr. Gary Shutler |
| 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 | Petitioner's Memorandum Re: Appealability of Order Granting DNA Testing |
| 12/22/08 | 82489-4 WSSC | Order (redesignating notice of appeal as notice for discretionary review) |
| 01/05/09 | 93-1-00039-1 | Memorandum re Propriety of Further DNA Testing |
| 01/12/09 | 82197-6 WSSC | Certificate of Finality |
| 01/14/09 | 82332-4 WSSC | Petitioner's Additional Authorities |
| 01/15/09 | 93-1-00039-1 | Supplemental Memorandum re the Propriety of Further DNA Testing |
| 01/16/09 | 93-1-00039-1 | Response to January 15, 2009 Motions |
| 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 |
| 03/12/09 | 93-1-00039-1 | Petitioner's Motion for Transfer and DNA Test of Additional Evidence |
| 03/17/09 | 93-1-00039-1 | Response to Petitioner's Motion for Fingerprint Analysis; Response to Petitioner's Motion for Transfer and DNA Testing of Additional Evidence |
| 03/20/09 | 93-1-00039-1 | Crime Lab Report Pursuant to Order dated January 22, 2009 |
| 03/26/09 | 93-1-00039-1 | Final Crime Lab Report Pursuant to Order dated January 22, 2009 |
| 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 |
| 03/26/09 | 93-1-00039-1 | Declaration of Rick Wyant; Declaration of Greg Frank in Response to Petitioner's Motion for Transfer and DNA Testing of Additional Evidence |
| 04/15/09 | 82489-4 WSSC | Motion to Dismiss Proceeding as Moot |
| 04/15/09 | 93-1-00039-1 | Crime Laboratory Report Pursuant to Order Granting Further DNA Testing of Items Dated March 26, 2009 |
| 04/29/09 | 05-99011 9 CIR | Motion to Recall the Mandate |
| 04/30/09 | 93-1-00039-1 | Motion for Order Terminating Stay of Execution |
| 04/30/09 | 93-1-00039-1 | Motion for Order Compelling State to Complete DNA Testing Previously Ordered and to Order Certain Mini-STR Testing |
| 05/01/09 | 05-99011 9 CIR | Response to Stenson's Motion to Recall the Mandate |
| 05/01/09 | 93-1-00039-1 | Motion for Primary Data, Bench Notes, and Printouts Relevant to DNA Testing; Motion to Compel State to Provide Records Necessary for Fingerprint Testing |
| 05/05/09 | 82489-4 WSSC | Order (motion to dismiss granted) |
| 05/05/09 | 05-99011 9 CIR | Order (motion to recall mandate denied) |
| 05/05/09 | 93-1-00039-1 | Response to Petitioner's Motion for Primary Data, Bench Notes, and Printouts Relevant to DNA Testing; Response to Petitioner's Motion to Compel State to Provide Records Necessary for Fingerprinting Testing; Response to Motion for Order Compelling State to Perform Additional DNA Testing; Motion to Strike all Hearsay from the Declaration of Twila Wentz |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 05/06/09 | 93-1-00039-1 | Crime Lab Response to Defendant's Motion and Order Compelling State to Complete DNA Testing Previously Ordered and to Order Certain Mini-STR Testing |
| 05/06/09 | 93-1-00039-1 | Petitioner Darold Stenson's Response to State's Motion for Order Terminating Stay of Execution |
| 05/06/09 | 93-1-00039-1 | Reply to Petitioner Darold Stenson's Response to State's Motion for Order Terminating Stay of Execution |
| 05/08/09 | 93-1-00039-1 | Supplemental Declaration to Crime Lab Response to Defendant's Motion and Order Compelling State to Complete DNA Testing |
| 05/11/09 | 93-1-00039-1 | Reply to Crime Lab's Response to Defendant's Motion and Order Compelling State to Complete DNA Testing Previously Ordered and to Order Certain Mini-STR Testing; Reply to WAPA's Response to Defendant's Motion and Order Compelling State to Complete DNA Testing Previously Ordered and to Order Certain Mini-STR Testing |
| 05/11/09 | 93-1-00039-1 | Opposition to Motion to Strike Hearsay from Wentz Declaration |
| 05/11/09 | 93-1-00039-1 | Petitioner Darold Stenson's Motion for Hearing to Receive Testimony of Blank |
| 05/12/09 | 93-1-00039-1 | Response to Petitioner Darold Stenson's Motion for Hearing to Receive Testimony of Blank |
| 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]; Opening Brief in Support of Personal Restraint Petition |
| 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 |
| 06/09/09 | 93-1-00039-1 | Motion for Order Terminating Stay of Execution |
| 06/12/09 | 83130-1 WSSC | Motion to Strike |
| 06/15/09 | 93-1-00039-1 | Reply to Opposition to Motion to Terminate Stay of Execution |
| 06/16/09 | 93-1-00039-1 | Opposition to Motion to Terminate Stay of Execution |
| 06/16/09 | 93-1-00039-1 | Motion to Compel Primer Removal at Washington State Crime Laboratory |
| 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 |
| 07/17/09 | 93-1-00039-1 | Petitioner's Motion for Retesting of Exhibit 130A |
| 07/20/09 | 83130-1 WSSC | Reply Re Motion to Strike |
| 07/21/09 | 93-1-00039-1 | Statement of Supplemental Authorities in Support of Motion to Compel Primer Removal at Washington State Crime Laboratory |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 07/22/09 | 93-1-00039-1 | Response to Petitioner's Motion to Compel Primer Removal at Washington State Crime Lab and to Motion for Retesting of Exhibit 130A |
| 07/22/09 | 93-1-00039-1 | Washington State Patrol Crime Lab's Response to Defendant's Motion to Compel Primer Removal at WSP Crime Lab and for Retesting of Exhibit 130A |
| 08/03/09 | 93-1-00039-1 | Statement of Supplemental Authority in Support of Washington State Patrol Crime Labs Response to Defendant's Motion to Compel Primer Removal at WSP Crime Lab and Retesting of Exhibit 130A |
| 08/05/09 | 93-1-00039-1 | Response to Defendant's Oral Motion for a Stay of Execution Pending Appeal |
| 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 | 83558-6 WSSC | Notice of Direct Discretionary Review; RAP 2.3(b) Motion for Discretionary Review; Motion to Terminate Stay of Execution; Motion for Reassignment to Different Trial Judge, RAP 18.12 Motion for Accelerated Consideration |
| 09/03/09 | 93-1-00039-1 | Order Denying Petitioner Darold Stenson's Motion for Retesting of Exhibit 130A |
| 09/08/09 | 83130-1 WSSC | Petitioner's Reply to State's RAP 16.9 Response to Petitioner's Fifth Personal Restraint Petition |
| 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) |
| 09/15/09 | 82332-4 WSSC | Petitioner's Reply re Release of Exhibit 91 |
| 09/11/09 | 82332-4 WSSC | Petitioner's Answers to Court's Questions re Exhibit # and Superior Court Order |
| 09/18/09 | 82332-4 WSSC | Respondent's Answers to Questions Concerning Exhibit and Testing |
| 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 |
| 10/13/09 | 83558-6 WSSC | State's Reply |
| 10/23/09 | 83606-0 WSSC | RAP 16.9 Response to Sixth Personal Restraint Petition |

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| 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".) |
| 11/09/09 | 83606-0 WSSC | RAP 16.9 Reply to Sixth Personal Restraint Petition |
| 12/08/09 | 83606-0 WSSC 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.) |
| 01/20/10 | 93-1-00039-1 | Petitioner Darold Stenson's Memorandum of Authorities re Evidentiary Hearing |
| 01/22/10 | 93-1-00039-1 | Memorandum of Authorities re Procedural Issues Related to Reference Hearing |
| 01/27/10 | 93-1-00039-1 | Response to Stenson's January 19, 2010 Motion for Discovery |
| 01/28/10 | 93-1-00039-1 | Petitioner's Memorandum re Discovery and Appointment of Judge Moreno to Review File |
| 01/29/10 | 93-1-00039-1 | Order re Privilege Judge |
| 02/05/10 | 93-1-00039-1 | Petitioner Darold Stenson's Motion to Suppress Due to State's Violation of RPC 4.2 and the Sixth Amendment |
| 02/10/10 | 93-1-00039-1 | Response to Petitioner Darold Stenson's Motion to Suppress Due to State's Violation of RPC 4.2 and the Sixth Amendment |
| 02/16/10 | 93-1-00039-1 | Motion for Protective Order |
| 02/17/10 | 93-1-00039-1 | Reply re Motion Concerning State's Violation of RPC 4.2 |
| 02/18/10 | 93-1-00039-1 | Motion to Compel Previously Ordered DNA Testing of Exhibit 91 |
| 02/25/10 | 93-1-00039-1 | Washington State Patrol Crime Lab's Response to Defendant's Motion to Compel Previously Ordered DNA Testing of Exhibit 91 |
| 02/26/10 | 93-1-00039-1 | Motion to Compel Compliance with Subpoena Duces Tecum |
| 02/26/10 | 93-1-00039-1 | Petitioner Darold Stenson's Motion to Compel Disclosure of Notes from STA Ex Parte Unmirandized Interrogation |
| 03/04/10 | 93-1-00039-1 | Response to Petitioner's Motion to Compel Previously Ordered DNA Testing on Exhibit 91 |
| 04/07/10 | 93-1-00039-1 | State's Post-Hearing Memorandum |
| 04/08/10 | 93-1-00039-1 | Petitioner's Post-Hearing Brief |

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|-------------|--|--|
| 04/16/10 | 93-1-00039-1 83606-0 WSSC 83130-1 WSSC | Reference Hearing Findings and Conclusions |
| 04/16/10 | 93-1-00039-1 | Petitioner's Objections to Findings and Conclusions |
| 04/29/10 | 83606-0 WSSC 83130-1 WSSC | Motion to Transfer Designated Portions of the Clallam County Reference Hearing Record to this Court |
| 04/29/10 | 83606-0 WSSC 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.) |
| 05/04/10 | 83606-0 WSSC | Ex Parte Motion for Appointment of Counsel; Declaration in Support of Ex Parte Motion for Appointment of Counsel |
| 05/04/10 | 83606-0 WSSC | 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 |
| 05/05/10 | 83606-0 WSSC | Ex Parte Motion to Seal Both This Motion and the Ex Parte Motion for Appointment of Counsel |
| 05/05/10 | 93-1-00039-1 | Motion for Order Terminating Stay of Execution |
| 05/06/10 | 93-1-00039-1 | Motion to Unseal Documents |
| 05/07/10 | 93-1-00039-1 | Opposition to Motion to Dissolve Stay of Execution |
| 05/10/10 | 93-1-00039-1 | Reply to Opposition to Motion to Dissolve Stay of Execution |
| 05/11/10 | 83606-0 WSSC | Motion for Stay of Execution |
| 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 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 |
| 05/14/10 | 83606-0 WSSC | Petitioner's Supplemental Brief on Effect of Reference Court's Findings and Conclusions |

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|-----------------|------------------------------|--|
| 05/14/10 | 83606-0 WSSC | Respondent's Supplemental Brief Regarding the Effects of the "Reference Hearing Findings and Conclusions" |
| 05/17/10 | 83606-0 WSSC | Response to Motion for Stay of Execution |
| 05/20/10 | C10-5359 WDC | Petition for Writ Habeas Corpus |
| 05/25/10 | 93-1-00039-1 83606-0 WSSC | Memorandum Opinion and Order Removing Stay of Execution |
| 05/28/10 | 83606-0 WSSC | Motion for Permission to File Overlength Reply; Reply Re: Motion for Stay of Execution |
| 06/01/10 | 83606-0 WSSC | Order (Motion to file overlength reply is granted.) |
| 06/07/10 | 83130-1 WSSC | Petitioner's Supplemental Brief on Effect of Reference Court's Findings and Conclusions |
| 06/14/10 | C10-5359 WDC | Application to Proceed In Forma Pauperis |
| 06/16/10 | 83606-0 WSSC | Notice of Appearance (Peter Avenia for Stenson) |
| 07/06/10 | 83130-1 WSSC | Respondent's Statement of Additional Authorities |
| 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 |
| 07/28/10 | 83130-1 WSSC | Petitioner's Statement of Additional Authorities |
| 08/26/10 | 93-1-00039-1 | Motion to Complete Previously Ordered DNA Testing on Exhibit 91 |
| 09/03/10 | 93-1-00039-1 | Washington State Patrol's Crime Lab's Response to Defendant's Motion to Complete Previously Ordered DNA Testing on Exhibit 91 |

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|------------------------------|--------------|---|---|
| <u>NAME:</u> | | WOODS, Dwayne D.O.B.: 07-04-69 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 Cause No. 96-1-01143-7 July 23, 1997 | |
| <u>TRIAL JUDGE:</u> | | Honorable Michael E. Donohue | |
| <u>DEFENSE ATTYS:</u> | | Richard Fasey James Sheehan James Ames Spokane, WA | |
| <u>PROSECUTING ATTYS:</u> | | Steven Tucker, Prosecuting Attorney James R. Sweetser, prior counsel and former Prosecuting Attorney John F. Driscoll, Senior Deputy Prosecutor Spokane County Prosecutor's Office Public Safety Building West 1100 Mallon Avenue Spokane, WA 99260 (509) 477-3662 | |
| <u>APPELLANT'S ATTYS:</u> | | Lenell Rae Nussbaum Market Place Two 2001 Western Avenue Suite 200 Seattle, WA 98121-2163 (206) 728-0996 | Joan M. Fisher Oliver W. Loewy Federal Public Defender - Id 317 West Sixth Street Suite 204 Moscow, ID 83843 (208) 883-0180 |
| <u>PETITIONER'S ATTYS:</u> | | (Personal Restraint Petition #71780-0) Lenell Rae Nussbaum Seattle, WA | Judith M. Mandel 524 Tacoma Ave. S. Tacoma, WA 98402-5416 (253) 272-5640 |

DATE CAUSE ACTION

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

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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
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DATE CAUSE ACTION

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| 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) |
| 06/03/02 | 71780-0 WSSC | Order (the motion for depositions, motion for appointment of mitigation expert and Respondent's motion to compel will be considered at the same time as the personal restraint petition). |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| | | 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? The court should make a thorough record and transmit by not later than August 15, 2002, its findings along with a complete record of the hearing) |
| 07/11/02 | 71780-0 WSSC | Petitioner's Brief |
| 07/15/02 | 71780-0 WSSC | Reference Hearing Report (with attached transcript of hearing) |
| 08/12/02 | 71780-0 WSSC | Additional Reference Hearing Report |
| 09/30/02 | 71780-0 WSSC | Respondent's Motion to Clarify Status of Petition and Response |
| 10/14/02 | 71780-0 WSSC | Order (motion to clarify will not be decided at this time. The State should respond to all issues raised in the Personal Restraint Petition and Supplemental Personal Restraint Petition filed by Petitioner's counsel. At the time the Court considers the Personal Restraint Petition and Supplemental Personal Restraint Petition, it will resolve whether it will address issues other than those verified by the Petitioner.) |
| 04/02/03 | 71780-0 WSSC | Petitioner's Motion to Recall Mandate and Reopen Direct Appeal of Judgment and Sentence |
| 04/14/03 | 71780-0 WSSC | Answer to Motion to Recall Mandate |
| 04/16/03 | 71780-0 WSSC | Amended Personal Restraint Petition |
| 04/25/03 | 71780-0 WSSC | Petitioner's Reply Re: Motion to Recall Mandate |
| 05/07/03 | 71780-0 WSSC | Respondent's Motion to Strike Unverified Claims in Amended Personal Restraint Petition; Motion to Strike Time Barred Claims |
| 05/08/03 | 71780-0 WSSC | Order (Petitioner's motion to recall mandate and reopen direct appeal of judgment and sentence is denied) |
| 05/09/03 | 71780-0 WSSC | Order (Respondent's motions to strike will be passed to the merits and considered at the same time as the personal restraint petition) |
| 05/23/03 | 71780-0 WSSC | Response to Personal Restraint Petition and Brief of Respondent; Response to Motion for Evidentiary Hearing |
| 05/30/03 | 71780-0 WSSC | Petitioner's Response to Motions to Strike Time Barred and Unverified Claims |
| 06/24/03 | 71780-0 WSSC | Reply Brief in Support of Amended Personal Restraint Petition; Petitioner's Second Motion for Deposition and for Protective Order |
| 06/27/03 | 71780-0 WSSC | Letter (the following motions were recently filed and the Court has determined to pass them to the merits to be considered at the same time as the Personal Restraint Petition: Respondent's motion to compel deposition; Respondent's motion to strike hearsay and incompetent evidence; Respondent's motion to strike time barred claims and Petitioner's motion to strike) |
| 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) |

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|-------------|--------------|--|
| 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 | Petitioner's Writ of Habeas Corpus |
| 08/14/06 | C05-319 EDC | Petitioner's Supplement to Writ Petition Under 28 U.S.C. 2254 for Habeas Corpus |
| 09/11/06 | C05-319 EDC | State Court Record filed |
| 10/19/06 | C05-319 EDC | Respondent's Supplemental Submission of State Court Record (Previously Sealed Documents) |
| 10/31/06 | C05-319 EDC | Respondent's Answer and Memorandum of Authorities |
| 01/11/07 | C05-319 EDC | Revised Petition for Writ of Habeas; Revised Supplement to Petition |
| 07/31/07 | C05-319 EDC | Order Re: Procedural Status of Claims and Request to Expand Record |
| 10/01/07 | C05-319 EDC | Petitioner's Brief Regarding Cause and Prejudice; Motion to Expand the Record and File Declarations Under Habeas Rule 7; Memorandum in Support of Motion. |
| 11/09/07 | C05-319 EDC | Response to Petitioner's Motion to Expand the Record; Response to Petitioner's Brief Re: Cause and Prejudice; Respondent's Motion for Determination of Whether Claim 4.4 is Procedurally Barred |
| 12/06/07 | C05-319 EDC | Petitioner's Response to Uttecht's Motion for Determination of Whether Claim 4.4 is Procedurally Barred; Reply Re: Motion to Expand the Record and File Declarations Under Habeas Rule 7; Petitioner's Reply Brief Regarding Cause and Prejudice |
| 12/12/07 | C05-319 EDC | Reply to Motion for Determination of Whether Claim 4.4 is Procedurally Barred |
| 01/08/08 | C05-319 EDC | Amended Order Re: Procedural Status of Claims and Request to Expand Record |
| 01/08/08 | C05-319 EDC | Order Granting Respondent's Motion For Determination of Whether Claim 4.4 is Procedurally Barred |
| 04/03/08 | C05-319 EDC | Order Re: Motion to Expand Record and File Declarations and Procedural Status of Claims 5.2 and 4.7 |
| 06/02/08 | C05-319 EDC | Petitioner's Merits Memorandum |
| 07/17/08 | C05-319 EDC | Respondent's Merits Brief |
| 08/20/08 | C05-319 EDC | Petitioner's Reply Merits Memorandum |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|---|
| 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 |
| 07/06/09 | 09-99003 9 CIR | Opening Brief of Petitioner-Appellant |
| 08/05/09 | 09-99003 9 CIR | Brief of Respondent-Appellee |
| 09/11/09 | 09-99003 9 CIR | Reply Brief of Petitioner-Appellant |
| 01/15/10 | 09-99003 9 CIR | Order (Respondent to file supplemental answering brief re uncertified issue A by February 3, 2010) |
| 02/03/10 | 09-99003 9 CIR | Respondent-Appellee's Supplemental Brief Concerning Uncertified Issue A |
| 02/18/10 | 09-99003 9 CIR | Reply Brief of Petitioner-Appellant Regarding Uncertified Claim |
| 03/04/10 | 09-99003 9 CIR | Oral argument held |
| 04/22/10 | 09-99003 9 CIR | Petitioner-Appellant's Citation to Supplemental Authority Pursuant to Fed. R. App. P. 28(j) |
| 05/20/10 | 09-99003 9 CIR | Respondent-Appellee's Citation of Supplemental Authorities |

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|------------------------------|--------------|---|
| <u>NAME:</u> | | YATES, Robert Lee, Jr. D.O.B.: May 27, 1952 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 to conceal the commission of a crime or to protect or conceal the identity of any person committing a crime; and (3) 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 SENTENCE</u> | | Pierce County Superior Court Cause No. 00-1-03253-8 October 9, 2002 |
| <u>TRIAL JUDGE:</u> | | Honorable John McCarthy |
| <u>DEFENSE ATTYS:</u> | | Roger Hunko Port Orchard, WA Mary Kay High Tacoma, WA |
| <u>PROSECUTING ATTYS:</u> | | Gerald Horne, Prosecuting Attorney Jerry Costello, Deputy Prosecutor Barbara Corey-Boulet, Deputy Prosecutor 930 Tacoma Avenue South Tacoma, WA 98402 (253) 798-7400 |
| <u>APPELLANT'S ATTYS:</u> | | (Direct Appeal, WSSC No. 73155-1) Gregory Link Thomas Kummerow Nancy Collins WA Appellate Project 1511 Third Avenue, Suite 701 Seattle, WA 98101-3635 (206) 587-2711 Roger Hunko (withdrew 11/04/02) Port Orchard, WA |
| <u>PETITIONER'S ATTYS:</u> | | (Personal Restraint Petition, WSSC No. 82101-1) RONALD NESS ATTORNEY AT LAW 420 CLINE AVE PORT ORCHARD WA 98366-4604 JUDITH MANDEL ATTORNEY AT LAW POSTGRADUATE BLDG 300 D CHANG'AN SOUTH RD XI'AN SHAANXI PROVINCE ZZ 710063 |

DATE CAUSE ACTION

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

DATE CAUSE ACTION

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| 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 |
| 10/14/08 | 82101-1 WSSC | Order (Petitioner's request for new counsel is denied) |
| 10/16/08 | 82101-1 WSSC | Motion and Affidavit for Order Authorizing Attorney Substitution |
| 10/22/08 | 82101-1 WSSC | Order (Motion for Order Authorizing Attorney Substitution is granted. Jeff Ellis is appointed as co-counsel) |
| 04/21/09 | 82101-1 WSSC | Motion to Extend Time to File Opening Brief and to Enter Finding That Request for a Stay Constitutes a Properly Filed Personal Restraint Petition |
| 04/24/09 | 82101-1 WSSC | State's Response to Motion to Extend Time and for Finding re His Request for Stay |
| 04/28/09 | 82101-1 WSSC | Petitioner's Reply Regarding Motion to Extend Time |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| 04/29/09 | 82101-1 WSSC | Order (motion to extend time to file brief & finding that request for stay constitutes a properly filed PRP is granted, PRP now due June 8, 2009) |
| 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) |
| 06/10/09 | 82101-1 WSSC | Motion for Leave to Amend and/or Supplement Personal Restraint Petition, and to Set Deadline for State's Response after August 1, 2009 |
| 06/15/09 | 82101-1 WSSC | Opening Brief in Support of Personal Restraint Petition |
| 07/09/09 | 82101-1 WSSC | Order (Motion for Leave to Amend and/or Supplement Personal Restraint Petition, and to set Deadline for State's Response after August 1, 2009, is granted. Petitioner's amended and/ or supplemented personal restraint petition shall be served and filed by not later than August 3, 2009) |
| 08/03/09 | 82101-1 WSSC | Amended Personal Restraint Petition and Supporting Brief |
| 12/01/09 | 82101-1 WSSC | Motion for Extension of Time to File State's Response Brief |
| 12/02/09 | 82101-1 WSSC | Order (Respondent's Motion for Extension of Time to File State's Response brief is granted. The Respondent's response to Petitioner's Personal Restraint Petition should be served and filed by not later than March 31, 2010) |
| 03/29/10 | 82101-1 WSSC | Motion for Extension of Time to File State's Response Brief; Affidavit in Support of State's Motion for Extension to File State's Response Brief |
| 04/01/10 | 82101-1 WSSC | Order (Respondent's Motion for Extension of Time to File State's Response brief is granted. The Respondent's response to Petitioner's Personal Restraint Petition should be served and filed by not later than June 15, 2010) |
| 06/15/10 | 82101-1 WSSC | Motion for Extension of Time to File State's Response Brief; Affidavit in Support of State's Motion for Extension to File State's Response Brief |
| 06/21/10 | 82101-1 WSSC | Order (Respondent's Motion for Extension of Time to File State's Response Brief is granted. Respondent, State of Washington shall serve and file its response brief by not later than June 23, 2010) |
| 06/28/10 | 82101-1 WSSC | State's Response to Personal Restraint Petition |
| 06/28/10 | 82101-1 WSSC | Motion to Strike Improper Appendices to Petitioner's Brief and Corresponding Arguments; 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 |
| 07/09/10 | 82101-1 WSSC | Motion for Acceptance of Corrected Response Brief with Complete Issue Statements; State's Corrected Response to Personal Restraint Petition |
| 07/12/10 | 82101-1 WSSC | Petitioner's Response to State's Motion to Strike Exhibits; Petitioner's Response to State's Motion to Serve Spokane County Prosecutor with Copy of Petition |

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| 07/13/10 | 82101-1 WSSC | Order (Motion for Acceptance of Corrected Brief granted) |
| 08/04/10 | 82101-1 WSSC | Petitioner's Motion to Extend Time to File Reply Brief |
| 08/17/10 | 82101-1 WSSC | Petitioner's Motion for Discovery of All Documents and Computer Programs Used to Generate Jury Pools in Pierce County |
| 08/18/10 | 82101-1 WSSC | Order (Petitioner's Motion to Extend Time to File Reply Brief is granted. Petitioner's reply brief shall be served and filed by not later than September 9, 2010) |
| 08/24/10 | 82101-1 WSSC | Petitioner's Motion for the Testimony of Bruce Moran to be Taken By Deposition |
| 08/24/10 | 82101-1 WSSC | Petitioner's Urgent Motion to Reset Due Date for Reply Brief |
| 08/26/10 | 82101-1 WSSC | State's Response to Motion for Discovery and Motion to Depose Bruce Moran |
| 08/31/10 | 82101-1 WSSC | State's Response to Motion for Urgent Motion to Reset Due Date for Reply Brief |
| 09/09/10 | 82101-1 WSSC | Petitioner's Reply in Support of Motion for Discovery Re: Selection of Jury Venire |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|---------------|---|
| 09/24/08 | 08-2-02080-8 | Defendants' Motion to Dismiss or Transfer Case to the Supreme Court and Memorandum in Support Thereof |
| 10/20/08 | 08-2-02080-8 | Plaintiff's Responding Brief in Opposition to Defendants' Motion to Dismiss or Transfer |
| 10/24/08 | 08-2-02080-8 | Reply to Response to Defendants' Motion to Dismiss or Transfer Case to the Supreme Court |
| 10/29/08 | 08-2-02080-8 | First Amended and Supplemental Complaint for Declaratory Judgment and Injunctive Relief; Plaintiff's Responding Brief to Defendants' Motion to Strike; Plaintiff's Sur-Reply to Defendants' Reply in Support of Motion to Dismiss |
| 10/30/08 | 08-2-02080-8 | Reply to Plaintiff's Responding Brief to Defendants' Motion to Strike; Defendants' Supplemental Memorandum in Support of Defendants' Motion to Dismiss or Transfer Case to the Supreme Court |
| 11/03/08 | 08-2-02080-8 | Plaintiff's Supplemental Filing in Opposition to Defendants' Motion to Dismiss or Transfer |
| 11/13/08 | 08-2-02080-8 | Plaintiff's Motion for Preliminary Injunction |
| 11/13/08 | 08-2-02080-8 | Defendants' Motion for Summary Judgment; Defendants' Response to Motion for Preliminary Injunction |
| 11/17/08 | 08-2-02080-8 | Defendants' Supplemental Memorandum in Response to Plaintiff's Motion for Preliminary Injunction |
| 11/19/08 | 08-2-02080-8 | Plaintiff's Reply in Support of Plaintiff's Motion for Preliminary Injunction |
| 11/19/08 | 08-2-02080-8 | Defendants' Supplemental Memorandum in Support of Defendants' Motion to Dismiss or Transfer Case to the Supreme Court |
| 11/20/08 | C08-5079 EDC | Complaint for Equitable and Injunctive Relief |
| 11/21/08 | C08-5079 EDC | Plaintiff Darold Stenson's Motion for Temporary Restraining Order |
| 11/21/08 | C08-5079 EDC | Response to Motion for Temporary Restraining Order or Preliminary Injunction |
| 11/21/08 | 08-2-02080-8 | Order Denying Plaintiff's Motion for Preliminary Injunction; Order Denying in Part and Granting in Part Defendants' Motion to Dismiss; Order Granting in Part and Denying in Part Defendants' Motion to Strike |
| 11/24/08 | 82438-0 WSSC | Emergency Motion for Discretionary Review of Denial of Preliminary Injunction |
| 11/24/08 | 82438-0 WSSC | Answer to Emergency Motion for Discretionary Review of Denial of Preliminary Injunction |
| 11/24/08 | 08-2-02080-8 | Defendants' Answer to Plaintiff's First Amended and Supplemental Complaint for Declaratory Judgment and Injunctive Relief |
| 11/24/08 | C08-5079 EDC | Plaintiff's Reply in Support of Motion for Temporary Restraining Order; Motion for Preliminary Injunction |
| 11/25/08 | C08-5079 EDC | Order Granting Stay |
| 11/25/08 | 08-35974 9CIR | Emergency Motion Under Circuit Rule 27-3 to Vacate Stay of Execution |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|--|
| 11/26/08 | 08-35974 9CIR | Order (motion to vacate the district court's stay of execution is denied as moot) |
| 11/26/08 | 08A471 USSC | Application to Vacate Stay of Execution |
| 11/30/08 | 08A471 USSC | Opposition to Application to Vacate Stay of Execution |
| 12/03/08 | C08-5079 EDC | Defendants' Answer to Plaintiff's Complaint for Equitable and Injunctive Relief |
| 12/03/08 | 08A471 USSC | Order (application to vacate stay of execution is granted). <i>Vail v. Stenson</i> , 129 S. Ct. 537 (2008). |
| 01/12/09 | 08-2-02080-8 | Plaintiff's Responding Brief in Opposition to Defendants' Motion for Summary Judgment |
| 01/16/09 | 08-2-02080-8 | Defendants' Reply to Plaintiff's Response to Defendants' Motion for Summary Judgment |
| 01/20/09 | 08-2-02080-8 | Plaintiff's Motion to Compel Discovery Regarding the Lethal Injection Team |
| 01/22/09 | 08-2-02080-8 | Defendants' Response to Plaintiff's Motion to Compel Discovery Regarding the Lethal Injection Team |
| 01/26/09 | 08-2-02080-8 | Plaintiff's Reply in Support of Motion to Compel Discovery Regarding the Lethal Injection Team |
| 02/05/09 | 09-2-00273-5 | Summons; Complaint for Injunctive and Declaratory Relief |
| 02/10/09 | 09-2-00273-5 | Notice of Removal to Federal Court (USDC Eastern District) [<i>Brown & Gentry v. Vail, et al.</i>] |
| 02/10/09 | CV-09-5012 EDC | Notice of Removal of Thurston County Superior Court Cause No. 09-2-00273-5 to Federal Court; Notice to Plaintiffs of Removal to Federal Court |
| 02/19/09 | CV-09-5012 EDC | Defendants' Answer to Plaintiff's Complaint for Injunctive and Declaratory Relief |
| 02/19/09 | 08-2-02080-8 | Judge's Notice of Issue (Presentation of Protective Order and Order on Motion to Compel), Proposed Protective Order, Proposed Order Granting in Part and Denying in Part Plaintiff's Motion to Compel Discovery Re Lethal Injection Team |
| 02/20/09 | CV-09-5012 EDC | Defendants' Motion to Dismiss |
| 02/23/09 | CV-09-5012 EDC | Motion for a Temporary Restraining Order and Request for Oral Argument |
| 02/23/09 | CV-09-5012 EDC | Response to Motion for Temporary Restraining Order |
| 02/24/09 | CV-09-5012 EDC | Order on Remand; Notice of Remand |
| 02/26/09 | C09-5101 WDC | Motion for Temporary Restraining Order and Order to Show Cause |
| 02/27/09 | C09-5101 WDC | Response to Plaintiff Brown's Motion for Stay of Execution; Defendants' Answer to Plaintiffs' Complaint for Injunctive and Declaratory Relief |
| 02/27/09 | 08-2-02080-8 | Judge's Notice of Issue; Plaintiff's Position Statement in Support of Entry of Orders on Plaintiff's Motion to Compel Discovery Regarding the Lethal Injection Team Heard on January 27, 2009 |
| 03/02/09 | C09-5101 WDC | Order (staying federal proceedings and remanding back to superior court) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| 03/03/09 | 09-2-00273-5 | Defendants' Response to Motion for Temporary Restraining Order |
| 03/05/09 | 09-2-00273-5 | Plaintiff Cal Brown's Motion for a Temporary Restraining Order and Order to Show Cause |
| 03/05/09 | 09-2-00273-5 | Defendants' Supplemental Response to Motion for Temporary Restraining Order |
| 03/09/09 | 09-2-00273-5 | Defendants' Second Supplemental Response to Motion for Temporary Restraining Order |
| 03/10/09 | 09-2-00273-5 | Plaintiff Brown's Reply to Response to Motion for a Temporary Restraining Order |
| 03/11/09 | 09-2-00273-5 | Order Denying Plaintiff Brown's Motion for Temporary Restraining Order; Order Granting in Part and Denying in Part Plaintiff's Motion to Compel Discovery Regarding the Lethal Injection Team; Protective Order; Supplemental Order with Findings |
| 03/11/09 | 09-2-00273-5 | Stipulated Order Granting Consolidation With Case No. 08-2-02080-8 (<i>Stenson v. Vail, et al.</i>) |
| 03/11/09 | 82832-6 WSSC | Motion for Discretionary Review |
| 03/11/09 | 82832-6 WSSC | Answer to Emergency Motion for Discretionary Review of Denial of Preliminary Injunction |
| 03/12/09 | 82832-6 WSSC | Reply and Supplemental Argument in Support of Brown's Emergency Motion for Discretionary Review of Denial of Preliminary Injunction |
| 03/12/09 | C09-5101 WDC | Plaintiff Brown's Motion to Lift Stay and Renewed Motion for Temporary Restraining Order |
| 03/12/09 | C09-5101 WDC | Supplemental Response to Plaintiff Brown's Motion for Stay of Execution |
| 03/12/09 | 82832-6 WSSC | Order (granting motion for discretionary review for limited purpose of staying March 13, 2009 execution and returning matter to Superior Court) |
| 03/12/09 | C09-5101 WDC | Order Denying Motion to Lift Stay and Denying Motion for a Temporary Restraining Order as Moot |
| 03/17/09 | 82832-6 WSSC | Dissent to Order (dissent regarding March 12, 2009 order granting stay of execution) |
| 03/19/09 | 08-2-02080-8 | Order Granting in Part and Denying in Part Defendants' Motion for Summary Judgment |
| 03/27/09 | 08-2-02080-8 | Order Granting in Part and Denying in Part Defendants' Motion for Reconsideration of Rulings Concerning Plaintiff's Motion to Compel and Submission of Documents for In Camera Review; Order Denying Defendants' Motion to Reconsider Summary Judgment Motion; Trial Court's Statement in Support of Direct Discretionary Review (re Motion to Compel); Trial Court's Statement in Support of Direct Discretionary Review (re Motion for SJ) |
| 03/30/09 | 08-2-02080-8 | Notice of Direct Discretionary Review to the Supreme Court |
| 03/31/09 | 08-2-02080-8 | Plaintiff Stenson's Second Amended & Supplemental Complaint for Declaratory Judgment & Injunctive Relief |
| 04/01/09 | 08-2-02080-8 | Defendants' Motion to Compel Plaintiff Stenson to Respond to Defendants' Interrogatories and Requests for Production |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| 04/02/09 | 08-2-02080-8 | Defendants' Motion for Summary Judgment on Plaintiff Stenson's Count Number III |
| 04/09/09 | 82901-2 WSSC | Statement of Grounds for Direct Review by the Supreme Court; Motion for Accelerated Direct Discretionary Review of Orders Denying Summary Judgment |
| 04/20/09 | 08-2-02080-8 | Plaintiff Stenson's Responding Brief in Opposition to Defendants' Motion for Summary Judgment on Count III of his Second Amended and Supplemental Complaint |
| 04/21/09 | 08-2-02080-8 | Defendants' Answer to Plaintiff Stenson's Second Amended Complaint for Declaratory Judgment and Injunctive Relief |
| 04/21/09 | 82901-2 WSSC | Answer to Statement of Grounds for Direct Review; Opposition to Motion for Accelerated Direct Discretionary Review of Orders Denying Summary Judgment |
| 04/23/09 | 08-2-02080-8 | Defendants' Reply to Plaintiff's Response to Motion for Summary Judgment |
| 04/30/09 | 08-2-02080-8 | Order Denying Plaintiff Stenson's Motion to Continue the Trial Date; Order Denying Plaintiff Stenson's Motion to Enforce Court's January 27 Ruling and March 11 and 27 Orders Compelling Discovery Regarding the Lethal Injection Team |
| 04/30/09 | 08-2-02080-8 | Plaintiffs' Notice for Discretionary Review to the Supreme Court of Washington |
| 05/01/09 | 83056-8 WSSC | Statement of Grounds for Direct Review of Orders Denying Discovery Requests and Trial Continuance; Motion for Accelerated Direct Discretionary Review |
| 05/05/09 | 08-2-02080-8 | Defendants' Trial Brief; Defendants' Final Witness List; Defendants' Exhibit List; Defendants' Proposed Findings of Fact and Conclusions of Law |
| 05/05/09 | 08-2-02080-8 | Plaintiff Stenson's Trial Brief; Plaintiff's Trial Witness List; Plaintiff's Exhibit List; Plaintiff Stenson's Proposed Findings of Fact and Conclusions of Law |
| 05/05/09 | 08-2-02080-8 | Notation letter (granting Defendants' Motion for Summary Judgment on Plaintiff Stenson's Count Number III) |
| 05/05/09 | 82489-4 WSSC | Order (State of Washington's Motion to Dismiss is granted) |
| 05/07/09 | 82901-2 WSSC | Order (denying Motion for Accelerated Direct Discretionary Review of Orders Denying Summary Judgment) |
| 05/08/09 | 83056-8 WSSC | Response to Statement of Grounds for Direct Review; Answer to Motion for Accelerated Direct Discretionary Review of Orders Denying Discovery Requests and Trial Continuance |
| 05/13/09 | 83056-8 WSSC | Reply in Support of Motion for Accelerated Direct Discretionary Review |
| 05/15/09 | 83056-8 WSSC | Order (denying motions for discretionary review, accelerated review, & stay) |
| 05/21/09 | 08-2-02080-8 | Order Granting Defendants' Motion for Summary Judgment on Count III |
| 05/28/09 | 82489-4 WSSC | Certificate of Finality |
| 06/02/09 | 08-2-02080-8 | Trial held May 21, May 22, May 26, May 27, May 28, and June 2, 2009 |
| 07/10/09 | 08-2-02080-8 | Decision of the Court; Findings of Fact and Conclusions of Law (concluding that Washington's lethal injection protocol does not violate the federal or state constitutions) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| 07/28/09 | 08-2-02080-8 | Final Judgment |
| 08/10/09 | 08-2-02080-8 | Stenson's Notice of Appeal |
| 08/11/09 | 08-2-02080-8 | Gentry's Notice of Appeal; Brown's Notice of Appeal |
| 08/14/09 | 08-2-02080-8 | Notice of Defendants' Cross-Appeal |
| 08/26/09 | 83474-1 WSSC | Petitioners-Plaintiffs' Statement of Grounds for Direct Review |
| 08/27/09 | 83474-1 WSSC | Respondents'/Cross-Appellants' Statement of Grounds for Direct Review |
| 11/06/09 | 83474-1 WSSC | Order (That this consolidated case shall be retained for decision by this Court. However, it is further ordered that the matter of <i>Darold R.J. Stenson v. Eldon Vail</i> shall be deconsolidated from Supreme Court number 83474-1 and assigned Supreme Court number 83828-3. Accordingly, both Supreme Court number 83474-1 and Supreme Court number 83828-3 shall each be separately set for oral argument on March 18, 2009, as companion cases. The parties are directed to file separate briefs in each of the Supreme Court cause numbers. It is further ordered that the Petitioner's Renewed Motion for Review at Public.) |
| 11/12/09 | 83828-3 WSSC | Order (Hon. Teresa Kulik is appointed as Supreme Court Justice Pro Tem for all proceedings having to do with the resolution of this case.) |
| 12/24/09 | 83828-3 WSSC | Opening Brief; Appendix in Support of Opening Brief |
| 12/24/09 | 83474-1 WSSC | Brief of Appellants Brown & Gentry |
| 12/24/09 | 83828-3 WSSC | Opening Brief of Stenson |
| 01/25/10 | 83828-3 WSSC | Brief of Respondents-Cross-Appellants |
| 01/25/10 | 83474-1 WSSC | Opening Brief of Respondents/Cross-Appellants |
| 02/24/10 | 83828-3 WSSC | Petitioner's Reply Brief |
| 03/02/10 | 83828-3 WSSC 83474-1 WSSC | Respondents' Motion to Dismiss as Moot the Claims That the Three Drug Protocol is Unconstitutional |
| 03/03/10 | 83828-3 WSSC 83474-1 WSSC | Amicus Curiae Brief of the American Civil Liberties Union of Washington |
| 03/04/10 | 83828-3 WSSC 83474-1 WSSC | Order (motion for court to hear argument as panel of ten denied as moot); Order (reconsolidating Brown/Gentry & Stenson WSSC cases under Cause No. 83474-1) |
| 03/08/10 | 83474-1 WSSC | Petitioner's Response to Respondents' Motion to Dismiss as Moot the Claims that the Three Drug Protocol is Unconstitutional |
| 03/10/10 | 83474-1 WSSC | Order (denying Petitioners' motion for continuance & motion to file evidence not contained in the record; granting Respondents' motion to strike exhibits; motion to dismiss will be considered same time as oral argument) |
| 03/10/10 | 83474-1 WSSC | Reply to Response to Motion to Dismiss as Moot the Claims that the Three Drug Protocol is Unconstitutional |
| 03/10/10 | 83474-1 WSSC | Respondents' Answer to ACLU Amicus Brief |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
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| 03/18/10 | 83474-1 WSSC | Oral argument held |
| 06/17/10 | 83474-1 WSSC | Notice of Withdrawal of Counsel (Diane Meyers for Stenson) |
| 07/13/10 | 83474-1 WSSC 83828-3 WSSC | Notice of Withdrawal of Counsel (Beth Andrus) |
| 07/29/10 | 83474-1 WSSC 83828-3 WSSC | Opinion affirming dismissal of challenges to DOC's authority to develop policy and DOC's authority to obtain and use lethal substances and dismissing as moot challenges to the lethal injection protocol. This opinion also lifted the stay of execution as to Cal Brown. Justice Stephens authored this unanimous opinion for the Court. <i>Brown, et al. v. Vail, et al.</i> , ___ P.3d ___, 2010 WL 2948856 (2010). |
| 08/09/10 | C09-5101 WDC | Motion to Lift Stay; Motion for Leave to File Amended Complaint |
| 08/11/10 | C09-5101 WDC | Response to Plaintiffs' Motion for Leave to File an Amended Complaint; Response to Plaintiffs' Motion to Lift Stay of Federal Proceedings |
| 08/12/10 | C09-5101 WDC | Order (granting Brown's motion to lift stay & motion for leave to file amended complaint) |
| 08/16/10 | C09-5101 WDC | Amended Complaint for Injunctive and Declaratory Relief |
| 08/18/10 | C09-5101 WDC | Motion for Expedited Discovery |
| 08/23/10 | C09-5101 WDC | Stipulation and Order to Voluntarily Dismiss Without Prejudice Plaintiff Gentry |
| 08/25/10 | C09-5101 WDC | Plaintiff Gentry's Withdrawal of Stipulation of Dismissal |
| 08/25/10 | 83474-1 WSSC 83828-3 WSSC | Mandate |
| 08/26/10 | C09-5101 WDC | Answer to Plaintiffs' Amended Complaint |
| 08/26/10 | C09-5101 WDC | Minute Order (response to motion for expedited discovery due no later than noon on 8/27/10) |
| 08/27/10 | C09-5101 WDC | Defendants' Motion to Dismiss; Response to Plaintiffs' Motion for Expedited Discovery |
| 08/27/10 | C09-5101 WDC | Plaintiff Brown's Reply to Defendants' Response to Motion for Expedited Discovery |
| 08/27/10 | C09-5101 WDC | Order (Plaintiff's motion for expedited discovery is denied) |