

CAPITAL PUNISHMENT CASE STATUS REPORT

March 9, 2011

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INTRODUCTION

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

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KEY TO COURT ABBREVIATIONS

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

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------------------------|--------------|--|
| <u>NAME:</u> | | CROSS, Dayva Michael 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 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> , 549 U.S. 1022, 127 S. Ct. 559, 166 L. Ed. 2d 415 (2006). |
| 11/30/06 | 71267-1 WSSC | Mandate |
| 12/19/06 | 71267-1 WSSC | Amended Mandate |
| 01/30/07 | 99-1-02212-9 | Death Warrant (setting execution for February 27, 2007) |
| 01/31/07 | 79761-7 WSSC | Application for Stay of Execution |
| 02/02/07 | 79761-7 WSSC | Order Granting Stay of Execution and Appointing Counsel |
| 08/01/07 | 79761-7 WSSC | Petitioner's Motion for Leave to Conduct Discovery |
| 09/05/07 | 79761-7 WSSC | Department of Corrections' Response to Motion for Leave to Conduct Discovery; Declaration of Richard Morgan. |
| 09/06/07 | 79761-7 WSSC | Order (Petitioner's motion for appointment of Professors Boerner and Denno is denied. Motion for appointment of investigator Sanderson and Dr. Souter is granted. Motion to file under seal denied.) |
| 09/07/07 | 79761-7 WSSC | Reply in Support of Petitioner's Motion for Leave to Conduct Discovery |
| 09/18/07 | 99-1-02212-9 | Defendant's Motion to Allow Contact with Jurors |
| 09/26/07 | 79761-7 WSSC | Respondent's Objection to Ex Parte Order Granting Investigator on Jury Misconduct Issue and Request for Reconsideration |
| 10/01/07 | 79761-7 WSSC | Petitioner's Response to Respondent's Motion for Reconsideration |
| 10/01/07 | 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) |
| 10/02/07 | 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 | 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) |
| 10/24/07 | 79761-7 WSSC | Placeholder Petition |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 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. |
| 07/10/08 | 79761-7 WSSC | Order (denying Respondent's Motion for Judicial Determination of Petitioner's Competency, Respondent's RAP 16.26 Motion for Discovery, and Petitioner's Motion for Oral Argument) |
| 10/13/08 | 79761-7 WSSC | Response to Personal Restraint Petition |
| 11/10/08 | 79761-7 WSSC | Order (Respondent's Second Motion for Discovery is granted; Petitioner's Motion for Oral Argument is denied; Respondent's Motions to Strike Declarations of Boerner, Robinson, and Torres are denied) |
| 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 |
| 03/06/09 | 79761-7 WSSC | Order on Petitioner's Renewed Motion for Discovery re: Lethal Injection Claims |
| 03/16/09 | 79761-7 WSSC | Department of Corrections' Motion for Protective Order |
| 03/17/09 | 79761-7 WSSC | Order (Motion for a protective order is granted on a temporary basis only. This temporary protective order will remain in effect pending further order of the Court) |
| 04/03/09 | 79761-7 WSSC | Order (Petitioner's motion for oral argument is granted only on the <i>Alford</i> plea issues. Oral argument will be heard on June 25, 2009. All other issues in this case are stayed pending resolution of the <i>Alford</i> plea issues) |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|---|
| 06/25/09 | 79761-7 WSSC | Oral argument held |
| 07/08/09 | 79761-7 WSSC | Order (the Court denies relief based on the <i>Alford</i> plea issues presented. The Court's reasoning will be set forth in its opinion on the merits of the Petitioner's Personal Restraint Petition to be released in due course.) |
| 11/06/09 | 79761-7 WSSC | Order (Respondent's motion to lift the stay is granted in part and denied in part. The motion is denied with respect to consideration of the legality of Washington's lethal injection protocol. The motion to lift the stay is granted with respect to all other claims. The Respondent's motion for immediate dissemination of discovery is granted in part.) |
| 12/08/09 | 79761-7 WSSC | Reply Brief in Support of Personal Restraint Petition |
| 02/12/10 | 79761-7 WSSC | Order (Petitioner's motion for the appointment of Maria Fernanda Torres is denied but Ms. Torres may provide representation under the supervision of death penalty qualified counsel at public expense. The Respondent's motion for a deadline is granted. Petitioner has 30 days from entry of this order to comply with this Court's November 6, 2009, discovery order. The Respondent's motion for 60 days from receipt of discovery to file any additional relevant briefing on the ineffective assistance of counsel claims, and the Petitioner's motion for 60 days to respond, are granted.) |
| 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 |
| 09/27/10 | 79761-7 WSSC | Order (Both the Respondent's motion to compel production of the 12 documents submitted for the Court's en camera review and its Motion for compliance are denied.) |
| 10/27/10 | 79761-7 WSSC | Motion for Extension of Time to File Respondent's Supplemental Brief |
| 10/28/10 | 79761-7 WSSC | Order (Respondent's motion for extension of time to file the supplemental brief is granted, brief due November 19, 2010) |
| 11/19/10 | 79761-7 WSSC | Respondent's Motion for Permission to File Documents by Protective Order and for Directions as to Format for the Filing; State's Supplemental Response to PRP (filed under seal) |
| 12/01/10 | 79761-7 WSSC | Petitioner's Motion for Extension of Time to File Reply to State's Supplemental Response to PRP |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 12/07/10 | 79761-7 WSSC | Order (Petitioner's motion for extension of time in which to file a reply is granted. Petitioner's reply shall be served and filed by not later than March 15, 2011) |
| 12/21/10 | 79761-7 WSSC | Petitioner's Response to Respondent's Motion Regarding Filing of Discovery |
| 02/04/11 | 79761-7 WSSC | Respondent's Statement of Additional Authorities |

| <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> |
|-----------------|---------------------|---|
| 01/14/11 | 80209-2 WSSC | Order (The Court's order of July 9, 2010, granting the "Motion To Strike Improper Appendices To Appellant's Brief" is amended to refer to the Respondent's "Motion To Strike Improper Appendices To Appellant's Brief," not the Appellant's "Motion To Strike Improper Appendices To Appellant's Brief." The Court's order of July 9, 2010, granting the "Motion To Strike Improper Appendices To Appellant's Brief" is clarified as only striking those portions of the Appellant's opening brief as reflected in the revisions to the brief that have been made by this Court, and that the Court's revised Appellant's brief will be file dated with the date of this order and filed by the Clerk of this Court, and that the Clerk will send a copy of the Court revised Appellant's brief to the counsel of record in this matter.) |
| 01/19/11 | 80209-2 WSSC | Order (Motions to file amicus brief granted) |
| 01/19/11 | 80209-2 WSSC | Brief of Amici Curiae American Civil Liberties Union of Washington, Washington Association of Churches, and Lutheran Public Policy of Washington State |
| 01/19/11 | 80209-2 WSSC | Amicus Curiae Brief of Disability Rights Washington in Support of Appellant's Appeal |
| 01/27/11 | 80209-2 WSSC | RAP 16.23(a) Notice Regarding Oral Argument |
| 02/02/11 | 80209-2 WSSC | Motion to Strike Improper Arguments and Appendices in Amici Briefs |
| 02/04/11 | 80209-2 WSSC | Petitioner's Statement of Additional Authority |
| 02/09/11 | 80209-2 WSSC | Respondent's Statement of Additional Authority |
| 02/10/11 | 80209-2 WSSC | Order (Motion to Strike Improper Arguments and Appendices in Amici Briefs is passed to the merits) |
| 02/10/11 | 80209-2 WSSC | Oral argument held |
| 02/11/11 | 80209-2 WSSC | Respondent's Statement of Additional Authority |

| <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>(Direct Appeal, Washington Supreme Court #64085-8)</td> <td></td> </tr> <tr> <td>Michael P. Iaria</td> <td>Meredith Martin Rountree</td> </tr> <tr> <td>Seattle, WA</td> <td>Austin, TX</td> </tr> <tr> <td>Rita Griffith</td> <td>Charlotte Cassady (Withdrew 03-06-98)</td> </tr> <tr> <td>Seattle, WA</td> <td>Mobile, AL</td> </tr> <tr> <td>Jon Ostlund (06/17/96)</td> <td></td> </tr> <tr> <td>Bellingham, WA</td> <td></td> </tr> </table> | | (Direct Appeal, Washington Supreme Court #64085-8) | | Michael P. Iaria | Meredith Martin Rountree | Seattle, WA | Austin, TX | Rita Griffith | Charlotte Cassady (Withdrew 03-06-98) | Seattle, WA | Mobile, AL | Jon Ostlund (06/17/96) | | Bellingham, WA | |
| (Direct Appeal, Washington Supreme Court #64085-8) | | | | | | | | | | | | | | | | |
| Michael P. Iaria | Meredith Martin Rountree | | | | | | | | | | | | | | | |
| Seattle, WA | Austin, TX | | | | | | | | | | | | | | | |
| Rita Griffith | Charlotte Cassady (Withdrew 03-06-98) | | | | | | | | | | | | | | | |
| Seattle, WA | Mobile, AL | | | | | | | | | | | | | | | |
| Jon Ostlund (06/17/96) | | | | | | | | | | | | | | | | |
| Bellingham, WA | | | | | | | | | | | | | | | | |
| <u>PETITIONER'S ATTYS:</u> | <table border="0"> <tr> <td>(Personal Restraint Petition, Washington Supreme Court #70233-1)</td> <td></td> </tr> <tr> <td>Jeffrey E. Ellis</td> <td>Meredith Martin Rountree</td> </tr> <tr> <td>The Defender Association</td> <td>510 South Congress Avenue</td> </tr> <tr> <td>810 Third Avenue</td> <td>Suite 308</td> </tr> <tr> <td>Suite 800</td> <td>Austin, TX 78704-1739</td> </tr> <tr> <td>Seattle, WA 98104-1655</td> <td>(512) 320-0334</td> </tr> <tr> <td>(206) 447-3900</td> <td></td> </tr> </table> | | (Personal Restraint Petition, Washington Supreme Court #70233-1) | | Jeffrey E. Ellis | Meredith Martin Rountree | The Defender Association | 510 South Congress Avenue | 810 Third Avenue | Suite 308 | Suite 800 | Austin, TX 78704-1739 | Seattle, WA 98104-1655 | (512) 320-0334 | (206) 447-3900 | |
| (Personal Restraint Petition, Washington Supreme Court #70233-1) | | | | | | | | | | | | | | | | |
| Jeffrey E. Ellis | Meredith Martin Rountree | | | | | | | | | | | | | | | |
| The Defender Association | 510 South Congress Avenue | | | | | | | | | | | | | | | |
| 810 Third Avenue | Suite 308 | | | | | | | | | | | | | | | |
| Suite 800 | Austin, TX 78704-1739 | | | | | | | | | | | | | | | |
| Seattle, WA 98104-1655 | (512) 320-0334 | | | | | | | | | | | | | | | |
| (206) 447-3900 | | | | | | | | | | | | | | | | |

| <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) 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 Scott Engelhard (withdrew on 5/1/09) Seattle, WA 98104 TIMOTHY FORD MACDONALD HOAGUE & BAYLESS 705 SECOND AVE, SUITE 1500 SEATTLE, WA 98104-1745 (206) 622-1604 Meredith Rountree (withdrew on 5/1/09) Austin, TX |
| <u>RESPONDENT'S ATTYS:</u> | | (Personal Restraint Petition, Washington Supreme Court #62677-4) Russell Hauge, Prosecuting Attorney Randy Sutton, Deputy Pamela B. Loginsky, Special Deputy Washington Association Of Prosecuting Attorneys |

DATE CAUSE ACTION

RESPONDENT'S ATTY'S:

(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

| | | |
|----------|--------------|--|
| 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 |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|--------------|--|
| 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) |
| 03/26/04 | 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 |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|--|
| 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 |
| 05/22/09 | 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 |
| 10/02/09 | C99-0289 WDC | Order Granting Certificate of Appealability |
| 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 |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|---|
| 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 | Opening Brief of Appellant; Appellant's Motion to File Overlength Opening Brief |
| 06/21/10 | 09-99021 9CIR | Order (Motion for leave to file overlength brief is granted.) |
| 06/29/10 | 84039-3 WSSC | Supplement to Personal Restraint Petition |
| 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 |
| 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 |
| 09/23/10 | 09-99021 9 CIR | Appellant's Additional Authority Supporting Reversal and Motion for Remand (AOB 42-55), and Motion for Reconsideration of Commissioner's Order of August 30, 2010 |
| 10/13/10 | 09-99021 9 CIR | Order (appellant's motion for reconsideration of commissioner's order is denied) |
| 11/18/10 | 09-99021 9 CIR | Respondent-Appellee's Motion to File Overlength Brief; Brief of Respondent-Appellee |
| 11/24/10 | 84039-3 WSSC | Emergency Motion for Interim Relief from Ex Post Facto Solitary Confinement |
| 11/26/10 | 09-99021 9 CIR | Response to Respondent-Appellee's Motion to File Overlength Brief |
| 11/30/10 | 09-99021 9 CIR | Order (motion for leave to file oversize brief is granted, appellant's request for Appellee to respond to uncertified issue is denied, reply brief due 12/21/10) |
| 12/09/10 | 84039-3 WSSC | Response to Emergency Motion Regarding Classification |
| 12/15/10 | 84039-3 WSSC | Reply Regarding Emergency Motion on Classification |
| 12/30/10 | 84039-3 WSSC | Order (Motion for interim relief denied) |
| 12/30/10 | 84039-3 WSSC | Opinion denying personal restraint petition. Chief Justice Madsen authored the opinion for the Court. Justice Stephens, joined by Justice Sanders, dissented. <i>In re Gentry</i> , __ Wn.2d __, __ P.3d __ (2010). |
| 01/04/11 | 09-99021 9 CIR | Reply Brief of Appellant |
| 01/10/11 | 84039-3 WSSC | Order (Honorable Richard Sanders is appointed as Justice Pro Tempore to complete pending cases and other judicial business) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-----------------|---------------------|---|
| 01/18/11 | 84039-3 WSSC | Motion for Reconsideration |
| 01/28/11 | 09-99021 9 CIR | Appellee's Citation of Supplemental Authority |
| 02/01/11 | 88-1-00395-3 | Motion for Post-Conviction DNA Testing; Motion for Appointment of Counsel |
| 02/23/11 | 88-1-00395-3 | Statement of Finances Regarding Motion for DNA Testing |
| 03/02/11 | 88-1-00395-3 | Note for Motion Docket (Hearing on Motion for Post-Conviction DNA Testing will be held on March 21, 2011 at 9:00 a.m.) |
| 03/03/11 | 84039-3 WSSC | Order (Motion for Reconsideration is denied) |
| 03/04/11 | 84039-3 WSSC | Certificate of Finality |

| <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.) |
| 06/24/10 | 84614-6 WSSC | Clerk's Notice of Final List of Proceedings in Capital Case |
| 07/29/10 | 84614-6 WSSC | Objection to County Clerk's List of Proceedings |
| 09/23/10 | 84614-6 WSSC | AMENDED Clerk's Notice of Final List of Proceedings in Capital Case |
| 10/04/10 | 84614-6 WSSC | AMENDED Clerk's Notice of Final List of Proceedings in Capital Case |
| 10/18/10 | 84614-6 WSSC | Renewed Objection to County Clerk's List of Proceedings and Motion to Accept the Attached List as the "Final List" |
| 11/02/10 | 84614-6 WSSC | Response to and Concurrence with Petitioner's Renewed Objection to County Clerk's List of Proceedings and Motion to Accept Petitioner's Attached List as the "Final List" |
| 12/09/10 | 84614-6 WSSC | Motion to Stay the DOC's Collection of Costs Specifically Waived by Trial Court Order |
| 12/15/10 | 84614-6 WSSC | Order (The Court received the e-mail response of James M. Whisman regarding the Appellant's "Motion To Stay The Doc's Collection Of Costs Specifically Waived By The Trial Court Order." Further review of the motion, as well as a review of the status as to the actual parties in this matter, raises the issue as to whether or not the motion is properly filed in Supreme Court cause number 84614-6. First, it appears that the DOC is not a party to this action, nor would the challenge to its administrative interpretation and/or application of the terms of the trial court order regarding its apparent collections appear to be within the scope of the pending appeal. Accordingly, in that regard, the parties in this matter are directed to serve and file written comments (which may be in letter form) addressing whether or not the motion should be considered by this Court in this matter. Said comments should include citations to any authority in support of the position taken in the comments. The Appellant should serve and file said comments by not later than December 28, 2010; and the Respondent should serve and file a response to said comments by not later than 10 days after receipt of a copy of the Appellant's comments.) |
| 12/27/10 | 84614-6 WSSC | Appellant's comments (via letter) |
| 01/07/11 | 84614-6 WSSC | Respondent's comments |
| 02/18/11 | 84614-6 WSSC | Motion to Correct or Supplement the Record Pursuant to RAP 9.9 and 9.10 |
| 03/02/11 | 84614-6 WSSC | Order (Appellant's Motion to Stay the DOC's Collection of Costs Specifically Waived by Trial Court Order is denied) |

| <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> |
|-------------|--------------|---|
| 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 |
| 09/14/05 | C01-252 WDC | Notice of Appeal |
| 09/15/05 | C01-252 WDC | Notice of Appeal (re-file) |

| <u>DATE</u> | <u>CAUSE</u> | <u>ACTION</u> |
|-------------|----------------|---|
| 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) |
| 08/22/08 | 93-1-00039-1 | Petitioner's Motion for DNA Testing |
| 09/30/08 | 82197-6 WSSC | Petition and Memorandum in Support of Original Action Against State Officers for Writ of Prohibition and/or Mandamus; 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)). |
| 10/06/08 | 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 | Petition for Writ of Certiorari denied. <i>Stenson v. Uttecht</i> , 129 S. Ct. 247, 172 L. Ed. 2d 188 (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 | Mandate |
| 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 |

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| 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 |
| 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) |

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| 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) |
| 01/12/09 | 82197-6 WSSC | Certificate of Finality |
| 01/22/09 | 93-1-00039-1 | Further Order on DNA Testing |
| 01/30/09 | 82489-4 WSSC | RAP 2.3(b) Motion for Discretionary Review RAP 8.3 Motion for Stay of DNA Testing RAP 18.12 Motion for Accelerated Consideration; Statement of Grounds for Direct Review; Motion and Declaration for Permission to File Overlength Motion |
| 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 |

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| 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 |
| 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 |

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| 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 |
| 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 |
| 08/07/09 | 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 |

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| 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) |
| 10/01/09 | 83606-0 WSSC | Order (transfer of CrR 7.8(b) motion to Supreme Court for consideration as a sixth PRP is accepted; answer to PRP due October 23, 2009) |
| 10/07/09 | 83558-6 WSSC | Respondent's Response to Petitioner's Motion for Discretionary Review |
| 10/23/09 | 83606-0 WSSC | RAP 16.9 Response to Sixth Personal Restraint Petition |
| 11/06/09 | 61965-4 WSSC | Order (Appellant's "Petitioner's Motion Re: Release Of Exhibit 130A" [agreed by the parties to in fact be Exhibit 91] is granted, subject to the terms and conditions as set forth in Judge Williams' "Order Re DNA Testing Of Primer Cap" dated August 21, 2009.) |
| 11/06/09 | 83558-6 WSSC | Order (That Petitioner's "RAP 2.3(b) Motion for Discretionary Review, Motion to Terminate Stay of Execution, and Motion for Reassignment to Different Trial Judge" are denied. Accordingly, no action is necessary on the Petitioner's "RAP 18.12 Motion for Accelerated Consideration".) |
| 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 | 93-1-000391- | 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 |

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| 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 |
| 04/16/10 | 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 |

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| | | 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 |
| 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 | Reply Re: Motion for Stay of Execution |
| 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 |
| 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 |
| 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 |
| 09/14/10 | 93-1-00039-1 | State's Response to Defendant's Motion Re Further DNA Testing |
| 09/16/10 | 93-1-00039-1 | Order Granting Petitioner's Motion to Complete Previously Ordered DNA Testing of Exhibit 91 |
| 11/15/10 | 83130-1 WSSC | Order (State's motion to strike is granted with respect to attachment T and paragraph 3 of attachment J, and its remaining requests to strike are denied. That, with respect to Stenson's personal restraint petitions (No. 83130-1 and No. 83606-0), Judge Williams of the Clallam County Superior Court is directed to determine, based on the record from the reference hearing conducted in March 2010, whether during Stenson's trial the prosecution suppressed the newly discovered photographs and FBI file evidence in violation of <i>Brady v. Maryland</i> , 373 U.S. 83, 87, 83 S. Ct. 1194 (1963). In making this determination, Judge Williams must consider whether the suppressed evidence was "material" to guilt or punishment irrespective of good faith or bad faith, evidence being material "only if there is |

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| | | a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different." <i>U.S. v. Bagley</i> , 473 U.S. 667, 682, 105 S. Ct. 3375 (1985); <i>see also In re Pers. Restraint of Benn</i> , 134 Wn.2d 868, 916, 952 P.2d 116 (1998). A "reasonable probability" is not whether the defendant "would more than likely than not have received a different verdict with the evidence, but whether in its absence he received a fair trial, understood as a probability sufficient to undermine confidence in the outcome." <i>Benn</i> , 134 Wn.2d 868, 916. In making this determination, Judge Williams, in his discretion, may conduct an additional reference hearing and/or permit the parties to submit additional evidence and testimony. That Judge Williams is directed to file his determinations on the <i>Brady</i> question not later than January 21, 2011.) |
| 12/08/10 | 93-1-00039-1 | Notice of Withdrawal and Substitution of Counsel |
| 12/14/10 | 93-1-00039-1 | Ex Parte Motion for Appointment of Counsel (Sealed) |
| 12/15/10 | 93-1-00039-1 | Order Appointing Counsel (Sealed) |
| 12/30/10 | 93-1-00039-1 | State's Memorandum |
| 12/30/11 | 93-1-00039-1 | Petitioner's Memorandum of Law Regarding Materiality Analysis Under Brady v. Maryland |
| 01/06/11 | 93-1-00039-1 | Memorandum re Question Raised at Hearing on January 3, 2011 |
| 01/13/11 | C10-5359 WDC | Minute Order (Within 7 days of entry of this order, the Court requests the parties file an update on the status of the case. The Court requests the parties indicate what action they wish the Court to take or whether the case should be dismissed as inactive. Status Report due by 1/20/2011.) |
| 01/20/11 | C10-5359 WDC | Petitioner's Status Report |
| 01/20/11 | 93-1-00039-1 83130-1 WSSC 83606-0 WSSC | Trial Court's Opinion on Remand |
| 01/24/11 | 83130-1 WSSC 83606-0 WSSC | Order (The parties are to file briefs addressing Judge Williams' determinations entered on January 20, 2011. The briefs should be served and filed by not later than February 23, 2011, and should not exceed 25 pages in length) |
| 01/24/11 | 83130-1 WSSC 83606-0 WSSC | Motion to Extend Time to File Briefs |
| 01/24/11 | 83130-1 WSSC 83606-0 WSSC | Order (Motion to extend time to file briefs is granted, briefs now due March 2, 2011) |
| 02/16/11 | C10-5359 WDC | Notice of Appearance (Samson); Respondent's Motion to Transfer Petition, or to Dismiss for Lack of Jurisdiction; Respondent's Statement of Cause for Filing Motion in Lieu of Answer |
| 02/23/11 | 83606-0 WSSC | Joint Motion for Transfer of Superior Court Record |
| 03/01/11 | 83606-0 WSSC | Order (Motion for Transfer of Superior Court Record is granted) |
| 03/02/11 | 93-1-00039-1 83606-0 WSSC | State's Supplemental Designation of Clerk's Papers |

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| 03/02/11 | 83130-1 WSSC | State's Supplemental Brief Addressing Judge Williams' Determinations Entered on January 20, 2011 |
| 03/02/11 | 83130-1 WSSC | Petitioner's Response to Judge Williams' Memorandum Opinion of Jan. 20, 2011 |
| 03/03/11 | 83606-0 WSSC | Petitioner's Brief Addressing Reference Court's Findings of January 20, 2011 |
| 03/04/11 | 83606-0 WSSC | Request for Oral Argument |
| 03/07/11 | 93-1-00039-1 | Index for State's Supplemental Clerk's Papers |
| 03/07/11 | C10-5359 WDC | Petitioner's Opposition to Respondent's Motion to Transfer Petition, or to Dismiss for Lack of Jurisdiction |

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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
P.O. BOX 40116
OLYMPIA, WA 98504-0116
(360) 586-1445

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 |

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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.) |
| 04/16/03 | 71780-0 WSSC | Amended Personal Restraint Petition |
| 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 |
| 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) |
| 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 |

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| 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 |
| 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 |
| 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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| 10/06/10 | 09-99003 9 CIR | Petitioner-Appellant's Citation to Supplemental Authority Pursuant to Fed. R. App. P. 28(j) |
| 01/21/11 | 09-99003 9 CIR | Respondent-Appellee's Citation to 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 |
| 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) |
| 06/15/09 | 82101-1 WSSC | Opening Brief in Support of Personal Restraint Petition |
| 08/03/09 | 82101-1 WSSC | Amended Personal Restraint Petition and Supporting Brief |

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| 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 |
| 07/12/10 | 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 |
| 07/13/10 | 82101-1 WSSC | Order (Motion for Acceptance of Corrected Brief granted) |
| 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 |
| 09/27/10 | 82101-1 WSSC | Order (the Respondent's "Motion to have copy of Petition served upon Spokane County Prosecutor's Office to address claim that Petitioner received ineffective assistance of counsel to plead guilty in Spokane cases" is denied.) |
| 11/10/10 | 82101-1 WSSC | Order (That Respondent's "Motion to Strike Improper Appendices to Petitioner's Brief and Corresponding Arguments" is granted. "Petitioner's Motion for the Testimony of Bruce Moran to Be Taken By Deposition" is denied. "Petitioner's Motion for Discovery of All Documents and Computer Programs Used To Generate Jury Pools in Pierce County" is denied. That "Petitioner's Urgent Motion to Reset Due Date for Reply Brief" is granted in part. Petitioner's reply brief shall be due for filing thirty (30) days after the date of this order.) |
| 12/08/10 | 82101-1 WSSC | Petitioner's Motion to Extend Time for Filing Reply Brief |
| 12/15/10 | 82101-1 WSSC | Order (Petitioner's Motion to Extend Time for Filing Reply Brief is granted. The Petitioner's reply brief should be served and filed by not later than January 7, 2011.) |
| 12/21/10 | 82101-1 WSSC | Petitioner's Motion to Extend Time for Filing Reply Brief |
| 12/29/10 | 82101-1 WSSC | Order (Petitioner's Motion to Extend Time for Filing Reply Brief is granted. The Petitioner's reply brief should be served and filed by not later than January 21, 2011.) |
| 01/21/11 | 82101-1 WSSC | Petitioner's Motion to Extend Time for Filing Reply Brief |
| 01/21/11 | 82101-1 WSSC | Order (Petitioner's Motion to Extend Time for Filing Reply Brief is granted. The Petitioner's reply brief should be served and filed by not later than January 24, 2011.) |

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| 01/25/11 | 82101-1 WSSC | Order (The "Petitioner's Reply Brief" has been received but will not be formally filed because it exceeds the 75-page limit specified in RAP 16.22(c). See RAP 16.22(e). I also note that this Court's "Order Granting Stay Of Execution And Appointing Counsel", dated September 11, 2008, stated that the reply brief should not exceed 75 pages in length.) |
| 01/25/11 | 82101-1 WSSC | Motion to File Overlength Reply Brief |
| 01/31/11 | 82101-1 WSSC | Order (Motion to file overlength reply brief is granted) |