

CAPITAL PUNISHMENT CASE STATUS REPORT

November 14, 2018

CAPITAL LITIGATION TEAM:

Timothy N. Lang, Division Chief
Paul D. Weisser, Senior Counsel
John J. Samson, Senior Counsel
Tina E. Bushaw, Paralegal

ROBERT W. FERGUSON

Attorney General
State of Washington
Corrections Division
P.O. Box 40116
Olympia, WA 98504-0116
(360) 586-1445

INTRODUCTION

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

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KEY TO COURT ABBREVIATIONS

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

NAME: CROSS, Dayva Michael
D.O.B.: September 19, 1959
Race: Caucasian

DATE OF CRIME: March 6, 1999

PLACE OF CRIME: King County

BRIEF FACTS: 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. *State v. Cross*, King County Cause 99-1-02212-9.

DATE OF GUILTY PLEA: October 23, 2000

SPECIAL SENTENCING: May 7, 2001

JUDGMENT AND SENTENCE: King County Superior Court
Cause No. 99-1-02212-9
June 22, 2001

TRIAL JUDGE: Honorable Joan DuBuque

DEFENSE ATTYS: Mark Larranaga
Richard Warner
Seattle, WA

PROSECUTING ATTYS: 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

APPELLANT'S ATTYS: (Direct Appeal, WSSC Cause #71267-1)
Todd Maybrown
Seattle, WA
Kathryn Ross
Mukilteo, WA

PETITIONER'S ATTYS: (Personal Restraint Petition, WSSC Cause #79761-7; USSC #14-7683)
Todd Maybrown
Seattle, WA
James Lobsenz
Seattle, WA 98104

(Personal Restraint Petition, WSSC Cause #95018-1)
Peter Alan Offenbecher
Skellenger Bender PS
Seattle, WA
Erin Curtis Newton
Skellenger Bender PS
Seattle, WA

(Federal Habeas Corpus, USDC WDC #C14-1092)
Todd Maybrown
Allen Hansen & Maybrown
600 University St., Suite 3020
Seattle, WA 98101-4105
(206) 447-9681
Peter Offenbecher
Skellenger Bender, Ps
1301 5th Ave, Suite 3401
Seattle, WA 98101-2605
(206) 623-6501

RESPONDENT'S ATTYS:

(Direct Appeal, WSSC Cause #71267-1)
(Personal Restraint Petition, WSSC Cause #79761-7)
Daniel T. Satterberg, Prosecuting Attorney
Timothy Bradshaw, Deputy (Withdrew 01/24/03)
Donald Raz, Deputy
James Whisman, Deputy
Randi J. Austell, Deputy

(Personal Restraint Petition, USSC #14-7683)
James M. Whisman, Sr. Deputy Prosecuting Attorney
Seattle, WA 98101

(Federal Habeas Corpus, USDC WDC #C14-1092)
Robert W. Ferguson, Attorney General
John J. Samson, Senior Counsel
Corrections Division
Po Box 40116
Olympia, WA 98504-0116
(360) 586-1445

<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).
11/06/06	06-6333 USSC	Petition for writ of certiorari denied. <i>Cross v. Washington</i> , 549 U.S. 1022 (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)
02/02/07	79761-7 WSSC	Order Granting Stay of Execution and Appointing Counsel
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.)
09/26/13	79761-7 WSSC	Opinion (holding that a capital sentence can be predicated on an <i>Alford</i> plea, therefore that portion of the personal restraint petition is denied. The remaining issues will be disposed of by separate opinion.) Justice Pro Tem Chambers authored the opinion for the unanimous court. <i>In re Cross</i> , 178 Wn.2d 519, 309 P.3d 1186 (2013).
06/26/14	79761-7 WSSC	Opinion denying personal restraint petition. Justice Wiggins authored the opinion for the Court. Justice Sanders dissented. <i>In re Cross</i> , 180 Wn.2d 660, 327 P.3d 660 (2014)
07/15/14	79761-7 WSSC	Petitioner's Motion for Reconsideration

07/15/14	C14-1092 WDC	Ex Parte Motion to Appoint Counsel in an Anticipated Habeas Corpus Proceeding
07/22/14	C14-1092 WDC	Order Granting Ex Parte Motion to Appoint Counsel
10/06/14	79761-7 WSSC	Order denying motion for reconsideration
10/07/14	79761-7 WSSC	Certificate of Finality
10/14/14	C14-1092 WDC	Order Granting Stay of Execution
03/30/15	14-7683 USSC	Petition for writ of certiorari denied. <i>Cross v. Washington</i> , 135 S. Ct. 1701 (2015).
05/29/15	C14-1092 WDC	First Amended Petition for Writ of Habeas Corpus
07/13/15	C14-1092 WDC	Second Amended Petition for Writ of Habeas Corpus
10/29/15	C14-1092 WDC	Answer to Second Amended Habeas Corpus Petition
07/06/17	C14-1092 WDC	Agreed Motion for Stay and Abeyance
07/10/17	C14-1092 WDC	Order (granting Agreed Motion for Stay and Abeyance. Matter stayed pending further proceedings in Washington Supreme Court.)
9/21/17	95018-1 WSSC	Personal Restraint Petition; Memorandum in Support of Personal Restraint Petition; Declarations of Peter Offenbecher, Todd Maybrown, Richard Warner, Mark Larranaga
01/05/18	958018-1 WSSC	Order (ordering State to file a brief addressing whether the PRP is procedurally barred)
04/23/18	958018-1 WSSC	Joint Motion for Briefing Schedule
05/01/18	958018-1 WSSC	Order on Motions (granting Joint Motion for Briefing Schedule. State's brief addressing whether PRP is procedurally barred due July 16, 2018. Petitioner response brief due September 21, 2018)
07/13/18	95018-1 WSSC	Motion for Extension of Time to File Brief on Procedural Bars
07/19/18	95018-1 WSSC	Petitioner's Non-Opposition to Respondent's Motion for Extension of Time to File Brief on Procedural Bars
07/23/18	95018-1 WSSC	Order on Motions (granting the Motion for Extension of Time to File Brief on Procedural Bars, and setting briefing schedule)
07/26/18	95018-1 WSSC	State's Brief re: Procedural Bars to Personal Restraint Petition

NAME: DAVIS, Cecil Emile
D.O.B.: September 1, 1959
Race: Black

DATE OF CRIME: January 25, 1997

PLACE OF CRIME: Pierce County

BRIEF FACTS: 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. *State v. Davis*, Pierce County Cause 97-1-00432-4.

DATE OF CONVICTION: February 6, 1998

SPECIAL SENTENCING: February 10-12, 1998
May 15, 2007

JUDGMENT AND SENTENCE: Pierce County Superior Court
Cause No. 97-1-00432-4
February 23, 1998, May 18, 2007

TRIAL JUDGE: Honorable Frederick W. Fleming

DEFENSE ATTYS: Ronald Ness
John L. Cross
Port Orchard, WA

Julia Lindstrom
Lloyd Alton, Jr.
Tacoma, WA

PROSECUTING ATTYS: Gerald Horne, Prosecuting Attorney
John W. Ladenburg (Former Prosecuting Attorney)
John M. Neeb, Deputy Prosecutor (Withdrawn 01/26/00)
John Hillman, Deputy Prosecutor (Former Deputy Prosecuting Attorney)
Gerald T. Costello, Deputy Prosecutor
Pierce County Prosecutor's Office
930 Tacoma Avenue South, Room 946
Tacoma, WA 98402-2171

APPELLANT'S ATTYS: (Direct Appeal, WSSC Cause #66537-1)
Judith Mandel
Port Orchard, WA

Ronald D. Ness
Port Orchard, WA

(Direct Appeal, WSSC Cause #80209-2)
Eric Broman (Withdrawn 1/15/09)
Eric Nielsen
Seattle, WA

David Koch
Seattle, WA

PETITIONER'S ATTYS:

(Personal Restraint Petition, WSSC #70834-7)
Gilbert Levy
Catherine Ann Chaney

(Personal Restraint Petition, WSSC #89590-2)
Michael Filipovic
Mohammad A. Hamoudi
Federal Public Defender
1601 5th Ave Ste 700
Seattle, WA 98101-1642
(206) 553-1100
Jacqueline K. Walsh
Walsh & Larranaga
705 2nd Ave Ste 501
Seattle, WA 98104-1715
(206) 352-7900 EXT 5

(Federal Habeas Corpus, USDC WDC #C17-0808)
Michal Filipovic
Mohammad A. Hamoudi
Ashwin Cattamanchi
1601 5th Ave Ste 700
Seattle, WA 98101-1642
(206) 553-1100
Jacueline K. Walsh
Walsh & Larranga
705 2nd Ave Ste 501
Seattle, WA 98104-1715
(206) 352-7900 Ext 5

(Personal Restraint Petition, WSSC #96395-9)
Michal Filipovic
Mohammad A. Hamoudi
Ashwin Cattamanchi
1601 5th Ave Ste 700
Seattle, WA 98101-1642
(206) 553-1100
Jacueline K. Walsh
Walsh & Larranga
705 2nd Ave Ste 501
Seattle, WA 98104-1715
(206) 352-7900 Ext 5

RESPONDENT'S ATTYS:

(Direct Appeal, WSSC Cause #66537-1)
(Personal Restraint Petition, WSSC #70834-7)
Barbara Corey-Boulet, Deputy
John Hillman, Deputy

(Direct Appeal, WSSC Cause #80209-2)
Gerald Horne, Prosecuting Attorney
John Martin Neeb, Deputy
Kathleen Proctor, Deputy

(Personal Restraint Petition, WSSC #89590-2)
Mark E. Lindquist, Prosecuting Attorney
Kathleen Proctor, Deputy

(Federal Habeas Corpus, Usdc Wdc #C17-0808)
Robert W. Ferguson, Attorney General
John J. Samson, Assistant Attorney General
Mandy L. Rose, Assistant Attorney General
Corrections Division
P.O. Box 40116
Olympia WA 98504-0116
(360) 586-1445

DATE

CAUSE

ACTION

09/28/00 66537-1-WSSC Opinion affirming conviction and death sentence. Justice Smith authored the opinion for the Court. Justice Sanders dissented. *State v. Davis*, 141 Wn.2d 798, 10 P.3d 977 (2000)

11/04/04	70834-7 WSSC	Opinion granting personal restraint petition in part and remanding for a new sentencing proceeding. Justice Ireland authored the opinion for the Court. Justice Chambers filed a concurring opinion. Justice Sanders dissented. <i>In re Davis</i> , 152 Wn.2d 647, 101 P.3d 1 (2004)
05/18/07	97-1-00432-4	Judgment and Sentence
02/10/11	80209-2 WSSC	Oral argument held
09/20/12	80209-2 WSSC	Opinion (affirming conviction and sentence of death). Majority opinion authored by Justice Alexander. Justice Fairhurst, joined by Justices Wiggins and Stephens dissented. Justice Gonzales did not participate. <i>State v. Davis</i> , 175 Wn.2d 287, 290 P.3d 43 (2012)
10/07/13	12-9685 USSC	Petition for writ of certiorari denied. <i>Davis v. Washington</i> , 571 U.S. 832 (2013)
10/11/13	80209-2 WSSC	Mandate
11/21/13	97-1-00432-4	Death Warrant (setting execution for December 17, 2013)
12/12/13	89590-2 WSSC	Order (Defendant's First Motion for Stay of Execution is granted)
04/13/15	89590-2 WSSC	Personal Restraint Petition
05/14/15	89590-2 WSSC	Petitioner's Supplemental Brief Modifying Motion for Extension of Deadlines to Include Extension of Statutory Time Limitation; Amended Personal Restraint Petition
05/18/17	89590-2 WSSC	Opinion denying personal restraint petition. Justice Gonzalez authored the opinion for the Court. Justice Gordon McCloud filed a concurring opinion, in which Justice Fairhurst joined. Justice Madsen dissented. <i>In Re Davis</i> , 188 Wn.2d 356, 371, 395 P.3d 998 (2017)
05/24/17	17-00808 WDC	Notice of Intention to File a Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. 2254
06/08/17	17-00808 WDC	Order Appointing Federal Public Defender (appointment of attorney Jacqueline K. Walsh for Petitioner)
06/12/17	89590-2 WSSC	Order on Motions (approving substitution of new counsel, Michael Filipovic, Mohammad Hamoudi, and Jackie Walsh for current counsel Paula Olson and Roger Hunko)
07/20/17	89590-2 WSSC	Order on Motions (denying Respondent State of Washington's motion for reconsideration)
09/14/17	17-00808 WDC	Petition for Writ of Habeas Corpus Under 28 U.S.C 2254; Motion to Stay and Abey
09/19/17	89590-2 WSSC	Motion to Strike Improper Appendices to Petitioner's Motion for Reconsideration and Corresponding Arguments; Motion to Strike Amici Briefs and Appendices
11/13/17	89590-2 WSSC	Order on Motion for Reconsideration (Petitioner's Motion for Reconsideration is denied)
11/14/17	17-00808 WDC	Minute Order (Docket No. 15 will remain sealed)
11/17/17	89590-2 WSSC	Certificate of Finality
11/27/17	17-00808 WDC	Unopposed Motion to Stay Execution
11/29/17	17-00808 WDC	Order (granting Motion for Stay of Execution)

01/31/18	17-00808 WDC	Scheduling Order (Respondent will file the state court record by August 1, 2018; Petitioner may file a first amended petition on or before September 14, 2018)
03/12/18	17-00808 WDC	Notice of Appearance (Mohammad A. Hamoudi, Attorney for Petitioner)
07/23/18	17-00808 WDC	Stipulated Motion to Amend the Scheduling Order; Order (granting Stipulated Motion to Amend the Scheduling Order)
07/26/18	17-00808 WDC	Notice of Filing Respondent's Submission of State Court Record
09/10/18	17-00808 WDC	Amended Petition for Writ of Habeas Corpus
10/05/18	96395-9 WSSC	Personal Restraint Petition; Motion to Proceed IFP; Statement of Finances
10/10/18	96395-9 WSSC	Ruling on Motion (payment of filing is waived)
10/10/18	96395-9 WSSC	Court Letter (acknowledging receipt of the PRP, Motion to Proceed IFP, and Statement of Finances; requesting verification to be filed by November 9, 2018; and setting briefing schedule for response and reply to PRP)
10/18/18	17-00808 WDC	Order Requesting Joint Status Report (due 11/9/2018)
11/01/18	17-00808 WDC	Unopposed Motion to Dismiss Petition in Its Entirety
11/05/18	17-00808 WDC	Order Granting Petitioner's Unopposed Motion to Dismiss Petition in Its Entirety
11/06/18	17-00808 WDC	Civil Case Terminated

<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 Kristy Ohnstad, 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>	(Direct Appeal, Washington Supreme Court #64085-8) Michael P. Iaria Seattle, WA Rita Griffith Seattle, WA Jon Ostlund (06/17/96) Bellingham, WA	
		Meredith Martin Rountree Austin, TX Charlotte Cassady (Withdrew 03/06/98) Mobile, AL
<u>PETITIONER'S ATTYS:</u>	(Personal Restraint Petition, Washington Supreme Court #70233-1) Jeffrey E. Ellis Seattle, WA Meredith Martin Rountree Austin, TX	

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
		(Federal Habeas Corpus, USDC WDC #C08-0053, 9 th Cir #12-99003) Jeffrey E. Ellis Law Office of Alsept & Ellis 621 SW Morrison St, Suite 1025 Portland, OR 97205-3813 (206) 218-7076
		Robert Gombiner Law Offices of Gombiner 119 1st Avenue, Suite 500 Seattle, WA 98104 (206) 621-8777
		Steven Witchley (withdrew 8/29/12) Seattle, WA

RESPONDENT'S ATTYS:

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

(Federal Habeas Corpus, USDC WDC #C08-0053, 9th Cir #12-99003)
Robert W. Ferguson, Attorney General
John J. Samson, Senior Counsel
Corrections Division
PO Box 40116
Olympia, WA 98504-0116
(360) 586-1445

Gregory J. Rosen, AAG (withdrew 6/6/13)
Olympia, WA

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
05/13/96	64085-8 WSSC	Notice of Appeal
11/19/98	64085-8 WSSC	Oral argument held
10/07/99	64085-8 WSSC	Opinion affirming conviction and death sentence and granting State's motion to strike Appellant's "Social History". Justice Talmadge authored the opinion for the Court. Justice Sanders dissented. <i>State v. Elmore</i> , 139 Wn.2d 250, 985 P.2d 289 (1999)
10/02/00	99-9587 USSC	Petition for writ of certiorari denied, <i>Elmore v. Washington</i> , 531 U.S. 837 (2000)
10/09/00	64095-8 WSSC	Mandate issued
10/31/00	95-1-00310-1	Death Warrant (setting execution for November 28, 2000)
11/07/00	70233-1 WSSC	Notation Order (motion for stay of execution is granted)
06/29/01	70233-1 WSSC	Petitioner's Personal Restraint Petition and Brief in Support
09/27/02	70233-1 WSSC	Order (trial court is directed to hold a reference hearing on the issue of whether counsel's failure to consult and call mental health experts in the penalty phase was deficient performance)
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))
01/27/05	70233-1 WSSC	Trial Court Findings of Fact

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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)
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 Granting Motion for Stay of Execution
04/22/08	C08-0053 WDC	First Amended Petition for Writ of Habeas Corpus
11/02/11	C08-0053 WDC	Order (denying Petitioner's motion for evidentiary hearing)
06/21/12	C08-0053 WDC	Order Denying Petition for Habeas Corpus; Judgment in a Civil Case (certificate of appealability denied)
06/28/12	C08-0053 WDC	Order Granting Respondent's Motion to Amend the Court's January 18, 2008, Order Staying Elmore's Execution
08/03/12	C08-0053 WDC	Order Denying Reconsideration
08/10/12	C08-0053 WDC	Petitioner's Notice of Appeal
05/14/13	12-99003 9 CIR	Order (granting certificate of appealability on four claims and setting briefing schedule)
09/09/14	12-99003 9 CIR	Oral argument held
04/01/15	12-99003 9 CIR	Opinion affirming the decision of the district court. Judge Milan D. Smith authored the opinion of the court, with Judge Clifton concurring. Judge Hurwitz filed a separate opinion concurring in part and concurring in the result. <i>Elmore v. Sinclair</i> , 781 F.3d 1160 (9 th Cir. 2015)
05/15/15	12-99003 9 CIR	Petition for Panel Rehearing and Petition for Rehearing En Banc
09/03/15	12-99003 9 CIR	Order and Amended Opinion (amending the Opinion and concurring Opinion filed on April 1, 2015, and denying Elmore's petition for rehearing and rehearing en banc). <i>Elmore v. Sinclair</i> , 799 F.3d 1238 (9 th Cir. 2015)
10/17/16	15-7848 USSC	Petition for a writ of certiorari denied. Justice Sotomayor, joined by Justice Ginsberg, dissented from the denial of certiorari. <i>Elmore v. Holbrook</i> , 580 U.S. ____ (2016)
12/05/16	15-7848 USSC	Petition for Rehearing denied. <i>Elmore v. Holbrook</i> , 580 U.S. ____ (2016)
12/29/16	95-1-00310-1	*Non-Judicial: Warrant of Reprieve issued by Governor Jay Inslee; Reprieve will remain in effect until rescinded by Governor Inslee or a future Governor of Washington State

<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
<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; #92315-9) (Federal Habeas Corpus, USDC WDC #C99-0289L, 9 th Cir # 09-99021, USSC #12-10321) Rita J. Griffith Griffith & Cole 1305 NE 45th Street, Suite 205 Seattle, WA 98105 (206) 547-1742 Timothy Ford Macdonald Hoague & Bayless 705 Second Ave, Suite 1500 Seattle, WA 98104-1745 (206) 622-1604 Brian Tsuchida (withdrew on 5/13/08) Seattle, WA Meredith Rountree (withdrew on 5/1/09) Austin, TX Scott Engelhard (withdrew on 5/1/09) Seattle, WA
<u>RESPONDENT'S ATTYS:</u>		(Personal Restraint Petition, Washington Supreme Court #62677-4; #92315-9) Russell Hauge, Prosecuting Attorney Randy Sutton, Deputy Pamela B. Loginsky, Special Deputy Washington Association of Prosecuting Attorneys
<u>RESPONDENT'S ATTYS:</u>		(Federal Habeas Corpus, USDC WDC #C99-0289L, 9 th Cir # 09-99021, USSC #12-10321)

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
		Robert W. Ferguson, Attorney General Paul D. Weisser, Senior Counsel Gregory J. Rosen, Assistant Attorney General Corrections Division PO Box 40116 Olympia, WA 98504-0116 (360) 586-1445

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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 (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
02/18/99	62677-4 WSSC	Opinion denying personal restraint petition. Justice Talmadge authored the opinion for the Court. Justice Sanders, joined by Justice Johnson, dissented in part. <i>In re Gentry</i> , 137 Wn.2d 378, 972 P.2d 1250 (1999)
06/30/99	62677-4 WSSC	Order (Petitioner's motion for reconsideration is denied); Order Changing Opinion; Order (Respondent's motion, to dissolve the stay of execution upon issuance of the certificate of finality, is granted)
07/19/99	C99-0289 WDC	Order (staying execution of Jonathan Lee Gentry)
07/21/99	62677-4 WSSC	Certificate of Finality
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	First Amended Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. §2254
03/09/06	C99-0289 WDC	Evidentiary hearing held
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).

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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
10/02/09	C99-0289 WDC	Order Granting Certificate of Appealability
12/30/10	84039-3 WSSC	Opinion denying second personal restraint petition [challenge to conditions of confinement]. Chief Justice Madsen authored the opinion for the Court. Justice Stephens, joined by Justice Sanders, dissented. <i>In re Gentry</i> , 170 Wn.2d 711, 245 P.3d 766 (2010).
02/01/11	88-1-00395-3	Motion for Post-Conviction DNA Testing; Motion for Appointment of Counsel
03/03/11	84039-3 WSSC	Order (Motion for Reconsideration is denied)
04/06/11	88-1-00395-3	Response to Motion for Post-Conviction DNA Testing
05/31/11	10-10814 USSC	Petition for writ of certiorari [re: second PRP]
07/25/11	88-1-00395-3	Order Granting Post-Conviction DNA Testing
10/10/11	86585-0 WSSC	Personal Restraint Petition [Third]
10/17/11	10-10814 USSC	Petition for writ of certiorari denied [re 84039-3]. <i>Gentry v. Sinclair</i> , 1565 U.S. 963 (2011)
08/28/12	09-99021 9 CIR	Opinion affirming the judgment of the district court. Judge Clifton authored the opinion, with Judges Fisher and Paez concurring. <i>Gentry v. Sinclair</i> , 693 F.3d 867 (9th Cir. 2012).
01/15/13	09-99021 9 CIR	Order and Amended Opinion (amending the Court's opinion affirming the district court's judgment and denying Gentry's petition for rehearing and rehearing en banc). <i>Gentry v. Sinclair</i> , 705 F.3d 884 (9th Cir. 2013)
09/20/13	88-1-00395-3	Ruling on Motion to Deny Further Post Conviction DNA Testing (granting State's motion)
10/07/13	12-10321 USSC	Petition for writ of certiorari denied. [re: 09-99021] <i>Gentry v. Sinclair</i> , 571 U.S. 845 (2013)
10/28/13	88-1-00395-3	Order Denying Motion to Reconsider Defendant's Motion for Recusal; Order Denying Further Post-Conviction DNA Testing
11/21/13	88-1-00395-3 89620-8 WSSC	Notice of Discretionary Review [re: trial court's denial of further DNA testing]
12/02/13	12-10321 USSC	Petition for rehearing denied. [re: 09-99021] <i>Gentry v. Sinclair</i> , 571 U.S. 845 (2013).
12/02/13	86585-0 WSSC	Motion for a Stay of Execution of Death Sentence
12/16/13	86585-0 WSSC	Order (Appellant's Motion for a Stay of Execution of Death Sentence is granted, and execution of the death sentence is stayed pending resolution of the personal restraint petition in this Court; Appellant's Motion for Leave to File Pleadings from <i>Gentry v. Sinclair</i> , U.S. Supreme Court No. 12-10321 is denied)

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
01/23/14	86585-0 WSSC	Opinion denying third personal restraint petition and granting State's motion to strike appendix to Petitioner's brief in response to briefs of amici. Justice Stephens authored the opinion for the Court. Justice Wiggins dissented. <i>In re Gentry</i> , 316 P.3d 1020 (2014).
02/05/14	C99-0289 WDC	Order Granting Motion to Vacate Stay of Execution [re: Stay of Execution in C99-0289]
05/05/14	86585-0 WSSC	Order Changing Opinion. <i>In re Gentry</i> , 179 Wn.2d 614, 316 P.3d 1020 (2014) (amended opinion)
06/06/14	89620-8 WSSC	Order (granting motion for stay of execution)
03/10/15	89620-8 WSSC	Oral argument
08/20/15	89620-8 WSSC	Opinion affirming the trial court's denial of further DNA testing. Justice Stephens authored the unanimous opinion for the Court. Justices McCloud and Gonzalez are recused. <i>State v. Gentry</i> , 183 Wn.2d 749, 356 P.3d 714 (2015)
08/27/15	89620-8 WSSC	Cost Bill
09/30/15	92315-9 WSSC	Personal Restraint Petition (Fourth); Motion to Waive Filing Fee
10/02/15	92315-9 WSSC	Order (granting Motion for Stay, and the execution of the death sentence is stayed pending resolution of the Personal Restraint Petition in this Court)
10/19/15	89620-8 WSSC	Order Changing Opinion
11/10/15	89620-8 WSSC	Mandate; Ruling on Cost Bill
03/16/16	92315-9 WSSC	State's Motion for Stay
03/25/16	92315-9 WSSC	Order on Motions (granting State's Motion for Stay pending decision in <i>State v. Gregory</i> , WSSC 88086-7)
01/16/18	92315-9 WSSC	Motion for a Partial Lift of Stay of Proceedings
01/23/18	92315-9 WSSC	State's Response to Motion to Lift Stay
02/08/18	92315-9 WSSC	Order on Motion (granting Motion for a Partial Lift of Stay of Proceedings)
03/15/18	92315-9 WSSC	Petitioner's Supplemental Brief; Respondent's Supplemental Brief
03/15/18	92315-9 WSSC	Supplemental Appendices to Personal Restraint Petition
03/16/18	92315-9 WSSC	Petitioner's Motion to File Corrected Brief; Petitioner's Supplemental Brief (corrected)
03/19/18	92315-9 WSSC	Ruling on Motion (corrected Supplemental Brief accepted for filing)
03/21/18	92315-9 WSSC	Petitioner's Additional Authorities
10/23/18	92315-9 WSSC	State's Motion to Lift Stay and Dismiss Petition
10/31/18	92315-9 WSSC	Petitioner's Response to State's Motion to Lift Stay and Dismiss Petition

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>	
<u>NAME:</u>		GREGORY, Allen Eugene D.O.B.: June 9, 1972 Race: Black	
<u>DATE OF CRIME:</u>		July 27, 1996	
<u>PLACE OF CRIME:</u>		Pierce County	
<u>BRIEF FACTS:</u>		Allen Eugene Gregory was convicted on retrial of one count of aggravated first degree murder for the stabbing death of his neighbor, Geneine Harshfield. The aggravating circumstances were that the murder was committed: (1) in the course of or furtherance of Robbery in the First Degree, and (2) in the course of or furtherance of Rape in the First or Second Degree. <i>State v. Gregory</i> , Pierce County Cause No. 98-1-04967-9.	
<u>DATE OF CONVICTION:</u>		May 15, 2012	
<u>SPECIAL SENTENCING:</u>		June 13, 2012	
<u>JUDGMENT AND SENTENCE:</u>		Pierce County Superior Court Cause No. 98-1-04967-9	
<u>TRIAL JUDGE:</u>		Honorable Rosanne Buckner	
<u>DEFENSE ATTYS:</u>		Zenon Olbertz Brett A. Purtzer Attorneys At Law 1008 Yakima Avenue, Ste 302 Tacoma, WA 98405-4850 (253) 272-9967	
<u>PROSECUTING ATTYS:</u>		Mark Lindquist, Prosecuting Attorney John Neeb, Deputy Prosecuting Attorney Pierce County Prosecutor's Office County-City Building 930 Tacoma Avenue South, Room 946 Tacoma, WA 98402-2102 (253) 798-7400	
<u>APPELLANT'S ATTYS:</u>		(WSSC No. 88086-7) Neil M. Fox Law Office of Fox, PLLC 2125 Western Ave Ste 330 Seattle, WA 98121-2140 (206) 728-5440	Lila J. Silverstein Washington Appellate Project 1511 3rd Ave Ste 701 Seattle, WA 98101-3647 (206) 587-2711
<u>RESPONDENT'S ATTYS:</u>		(Direct Appeal, WSSC No. 88086-7) John Martin Neeb, Prosecuting Attorney Kathleen Proctor, Deputy Prosecutor 930 Tacoma Ave S, Rm 946 Tacoma, WA 98402-2171 (253) 798-7400	
11/30/06	71155-1 WSSC	Opinion reversing conviction for the rape of R.S., affirming the aggravated first degree murder conviction for the murder of G.H., reversing the death sentence, and remanding for resentencing in the murder case. Justice Bridge authored the opinion for the Court. Justice Sanders filed a dissenting opinion. <i>State v. Gregory</i> , 158 Wn.2d 759, 147 P.3d 1201 (2006)	

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
06/13/12	98-1-04967-9	Judgment and Sentence
11/09/12	98-1-04967-9	Notice of Appeal
11/09/12	88086-7 WSSC	Agreed Order RE: Indigency; Order After Evidentiary Hearing on Claim of Juror Misconduct; Judgment and Sentence/Warrant of Commitment; Notice of Judgment and Sentence Imposing Death Penalty
03/10/14	88086-7 WSSC	Opening Brief of Appellant; Motion to Transfer Selected Transcripts from Earlier Appeal (#71155-1) to this Case
07/10/14	88086-7 WSSC	Order (motion to transfer selected transcripts from earlier appeal to this case and the motion to make one page from transcript of dismissed rape case part of record in this case are granted)
01/08/15	88086-7 WSSC	Order (granting appellant's Motion for Permission to File Updated Report on Race and the Death Penalty in Washington; denying State's Motion to Strike Improper Appendices to Appellant's Brief)
04/20/15	88086-7 WCCS	Brief of Respondent
06/30/15	88086-7 WSSC	Appellant's Reply Brief
12/22/15	88086-7 WSSC	Brief of Amicus Curiae Fred T. Korematsu Center for Law and Equality in Support of Appellant
01/08/16	88086-7 WSSC	Brief of Amicus Curiae, Washington Coalition to Abolish the Death Penalty
01/13/16	88086-7 WSSC	Brief of Amicus Curiae, 56 Former and Retired WA State Judges, a Former U.S. Attorney, ACLU, ACLU - Washington, Church Council of Greater Seattle, Catholic Mobilizing Network, Faith Action Network, Friends Committee on WA Public Policy, League of Women Voters of WA, Murder Victims Families for Reconciliation, Two Law School Professors, WA Association of Criminal Defense Lawyers, and WA Defenders Association
02/25/16	88086-7 WSSC	Oral Argument
03/16/16	88086-7 WSSC	Other Order (granting a special hearing before Commissioner Pierce and directing each party to file a memorandum of no more than 25 pages no later than 30 days from the date of this order.)
04/15/16	88086-7 WSSC	State's Response to March 16, 2016 Court Order re: Special Proceeding; Appellant's Memorandum regarding March 16, 2016 Court Order re: Special Proceeding
05/20/16	88086-7 WSSC	Other Order (granting parties' agreed proposal for conducting a special proceeding and ordering the parties to serve on the other party and file in this court the identified documents on the dates established in the agreed proposal.)
05/27/16	88086-7 WSSC	Other (Copies of the coding manual and data file for the study on the role of race in capital sentencing in Washington.)
07/08/16	88086-7 WSSC	State's Expert's Curriculum Vitae and Report on the Reliability of the Methodology and Conclusions of the Beckett Report on the Role of Race in Washington Capital Cases
08/25/16	88086-7 WSSC	Response to Evaluation of "The Role of Race in Washington State Capital Sentencing, 1981-2014" by Nicholas Church

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
11/07/16	88086-7 WSSC	Other Ruling (determination to appoint a neutral technical advisor.)
11/18/16	88086-7 WSSC	Stayed (pending completion of 11/07/16 ruling)
06/12/17	88086-7 WSSC	Other Ruling (Commissioner's Interrogatories to Parties' Experts; answers to interrogatories should be received by July 12, 2017. Upon consideration of answers, a final report will be submitted)
07/11/17	88086-7 WSSC	Dr. Scurich's Answers to the Commissioner's Interrogatories
07/12/17	88086-7 WSSC	Response to Commissioner's Interrogatories to Parties' Experts
09/14/17	88086-7 WSSC	Other Ruling (Commissioner's Supplemental Interrogatories (by Narda Pierce as Acting Deputy Commissioner). Lists supplemental interrogatories 34-39. Answers to these interrogatories should be received by the court and counsel of record for the parties by September 29, 2017. Upon consideration of answers to interrogatories, a final report will be submitted to the court for such weight as each Justice determines to accord it in deciding the matter.
09/29/17	88086-7 WSSC	Response to Commissioner's Supplemental Interrogatories
11/21/17	88086-7 WSSC	Order (Order from Court regarding the Commissioner's Findings and Report Relating to Parties' Expert Reports)
12/01/17	88086-7 WSSC	Letter (Court has requested that Professor Katherine Beckett, expert for appellant Allen Eugene Gregory, submit her updated data set to the court)
12/15/17	88086-7 WSSC	Other Filing (updated version of the "WA Death Penalty Adults 1981-2014" excel spreadsheet that was filed with the court on May 27, 2016)
01/22/18	88086-7 WSSC	Supplemental Brief of Appellant Allen Gregory; Brief of Social Scientists and Researchers Catherine Grasso, Jeffrey Fagan, et al., and Amici Curiae in Support of Appellant
01/22/18	88086-7 WSSC	Final Codebook (revised January 2018-Beckett Report); Excel Data File; Letter (cover letter for Final Codebook and Excel Data File)
01/22/18	88086-7 WSSC	Supplemental Brief of Amici Curiae, 56 Former and Retired Washington State Judges, a Former U.S. Attorney, ACLU Foundation, ACLU of Washington, Church Council of Greater Seattle, Catholic Mobilizing Network, Faith Action Network, Friends Committee on Washington Public Policy, League of Women Voters of Washington, Murder Victims Families for Reconciliation, Two Law School Professors, Washington Association of Criminal Defense Lawyers, and Washington Defender Association
01/22/18	88086-7 WSSC	Supplemental Brief of Amicus Curiae Washington Coalition to Abolish the Death Penalty
10/11/18	88086-7 WSSC	Opinion (holding unanimously that Washington's death penalty laws are unconstitutional as administered; therefore, all death sentences are converted to life imprisonment without the possibility of parole). Chief Justice Fairhurst wrote the lead opinion and was joined by Justices Wiggins, Gonzalez, Gordon McCloud, and Yu, with Justice Gonzalez concurring in the result only. Justice Johnson authored a separate concurring opinion in which Justices Owens, Stephens, and Madsen joined. The Court expressly declined to reconsider Gregory's challenges to the guilt phase of his trial. <i>State v. Gregory</i> , __ Wn.2d __, 427 P.3d 621 (2018).
11/07/18	88086-7 WSSC	Mandate

NAME: SCHERF, Byron Eugene
D.O.B.: August 3, 1958
Race: Caucasian

DATE OF CRIME: January 29, 2011

PLACE OF CRIME: Snohomish County

BRIEF FACTS: Byron Scherf was convicted of one count of aggravated first degree murder in the death of Correctional Officer Jayme Biendl. The aggravating circumstances were (1) the victim was a corrections officer who was performing her official duties at the time of the act resulting in death and the victim was known by the defendant to be such at the time of the killing, and (2) at the time of the act resulting in death, the defendant was serving a term of imprisonment in a state facility. *State v. Scherf*, Snohomish County Superior Court Cause No. 11-1-00404-4.

DATE OF CONVICTION: May 9, 2013

SPECIAL SENTENCING: May 15, 2013

JUDGMENT AND SENTENCE: Snohomish County Superior Court
Cause No. 11-1-00404-4
May 15, 2013

TRIAL JUDGE: Honorable George Appel

DEFENSE ATTYS: Karen Ann Halverson
Jon Thomas Scott
Everett, WA

James Elliot Lobsenz
Seattle, WA

PROSECUTING ATTYS: Mark Roe, Prosecuting Attorney
Edward E. Stemler, Deputy Prosecutor
Paul Stern, Deputy Prosecutor
3000 Rockefeller
Everett, WA 98201
(425) 388-3333

APPELLANT'S ATTYS: (Direct Appeal, WSSC No. 88906-6)
Rita Griffith
Attorney At Law
4616 25th Ave Ne
Seattle, WA 98105-4523
(206) 547-1742
Mark Larranaga
Walsh & Larranaga
705 2nd Ave Ste 501
Seattle, WA 98104-1715
(206) 325-7900

RESPONDENT'S ATTYS: (Direct Appeal, WSSC No. 88906-6)
Mark Roe, Prosecuting Attorney
Seth Fine, Deputy Prosecuting Attorney
Snohomish County Courthouse
3000 Rockefeller Ave
Everett, WA 98201-4060
(425) 388-3333

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
05/15/13	11-1-00404-4	Judgment and Sentence
05/31/13	88906-6 WSSC	Notice of Appeal
06/03/13	88906-6 WSSC	Notice of Cross-Appeal to the Supreme Court
08/30/13	88906-6 WSSC	Pleading dated August 27, 2013 (the Appellant requests to stop the "general" review of conviction and/or sentence, expedite the mandatory sentence review, and expedite the death sentence imposed); Motion to Strike and Withdraw Notice of Appeal
09/03/13	88906-6 WSSC	Response of Petitioner's Counsel to Pleading dated August 27, 2013
09/03/13	88906-6 WSSC	Letter from Appellant (stating he was not clearly thinking and requesting to withdraw his previous motion to strike his appeal)
08/06/14	88906-6 WSSC	Opening Brief of Appellant
09/02/14	88906-6 WSSC	Statement of Additional Grounds for Review
07/01/15	88906-6 WSSC	Respondent's Brief
11/03/15	88906-6 WSSC	Appellant's Reply Brief
01/21/16	88906-6 WSSC	Brief of Respondent in Answer to Supplemental Assignment of Error
10/04/16	88906-6 WSSC	Brief of Amicus Curiae of The Fair Punishment Project, The Charles Hamilton Houston Institute for Race & Justice and the Promise of Justice Initiative
10/24/16	88906-6 WSSC	Respondent's Answer to Amicus Curiae Brief
11/10/16	88906-6 WSSC	Oral Argument
11/17/16	88906-6 WSSC	Order to Stay (pending final report in <i>State v. Gregory</i> , WSSC 88086-7)
12/08/17	88906-6 WSSC	Order (by order dated November 17, 2016, this case was stayed pending the Court's determination in Supreme Court No. 88086-7, <i>State of Washington v. Allen Eugene Gregory</i> , of issues related to the Beckett report. The "Findings and Report Relating to Parties' Expert Reports" having been filed in Supreme Court No. 88086-7, <i>State of Washington v. Allen Eugene Gregory</i> , and the Court having determined that the parties and amicus in the <i>Gregory</i> case may file supplemental briefs addressing the report, the following order is hereby entered: the stay of this case is lifted. The parties and any amicus that have already filed briefs in this case may serve and file supplemental briefs addressing the report by January 22, 2018. Any other amicus that wishes to file a brief addressing the report must file a motion seeking permission pursuant to RAP 10.6 by December 21, 2017)
01/22/18	88906-6 WSSC	Brief of Appellant on Commissioner's Report and Findings Regarding the Beckett Report
01/22/18	88906-6 WSSC	Supplemental Brief of Respondent on Expert Reports
11/08/18	88906-6 WSSC	Opinion (conviction affirmed; death sentence vacated based on holding in <i>State v. Gregory</i>). Justice Johnson authored the opinion of the Court. Justice Gonzalez, joined by Justice Yu, wrote a separate concurring opinion

NAME: SCHIERMAN, Conner Michael
D.O.B.: September 14, 1981
Race: Caucasian

DATE OF CRIME: July 16, 2006, or early morning July 17, 2006

PLACE OF CRIME: King County

BRIEF FACTS: 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. *State v. Schierman*, King County Superior Court Cause No. 06-1-06563-4.

DATE OF CONVICTION: April 12, 2010

SPECIAL SENTENCING: May 5, 2010

JUDGMENT AND SENTENCE: King County Superior Court
Cause No. 06-1-06563-4
May 27, 2010

TRIAL JUDGE: Honorable Gregory Canova

DEFENSE ATTYS: James Conroy
Peter Connick
Seattle, WA

PROSECUTING ATTYS: Dan Satterberg, Prosecuting Attorney
Scott O'Toole, Senior Deputy Prosecutor
King County Courthouse
516 Third Avenue
Seattle, WA 98104
(206) 296-0100

APPELLANT'S ATTYS: (Direct Appeal, WSSC No. 84614-6)
Suzanne Elliott
Gregory Link (Co-Counsel)
David Zuckerman (Withdrew 10/03/17)
Attorneys At Law
705 2nd Avenue, Ste 1300
Seattle, WA 98104-1797
(206) 623-0291

RESPONDENT'S ATTYS: (Direct Appeal, WSSC No. 84614-6)
Dan Satterberg, Prosecuting Attorney
Donna Lynn Wise, Prosecuting Attorney
Erin H. Becker, Prosecuting Attorney (Withdrew 04/20/18)
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
11/09/11	06-1-06563-4	Order re Access to Juror Information GR 31(j)
11/18/13	84614-6 WSSC	Appellant's Opening Brief
07/03/14	84614-6 WSSC	Brief of Respondent
09/15/14	84614-6 WSSC	Appellant's Reply Brief
02/09/15	84614-6 WSSC	Brief of Amicus Curiae of the American Civil Liberties Union of Washington
02/26/15	84614-6 WSSC	Respondent's Answer to Amicus Curiae brief
05/05/15	84614-6 WSSC	Oral argument held
04/12/18	84614-6 WSSC	Opinion (affirming convictions and death sentence. Justices Gordon McCloud, Yu, Madsen, and Stephens, and Chief Justice Fairhurst all issued separate opinions. <i>State v. Schierman</i> , ____ Wn.2d ____, 415 P.3d 106 (2018))
04/19/18	84614-6 WSSC	Memorandum (advising Justice Madsen has requested a minor change be made to her concurring opinion)
04/23/18	84614-6 WSSC	Order on Motions (in accordance with SPRC 2, Gregory Link is appointed co-counsel to represent Conner M. Schierman effective April 23, 2018)
04/25/18	84614-6 WSSC	Order on Motions (granting Appellant's Motion for Extension of Time to File a Motion for Reconsideration)
05/03/18	84614-6 WSSC	Order on Motions (Appellant's Motion to Clarify the Scope of Relief RAP 17.1, denied without prejudice)
06/14/18	84614-6 WSSC	Motion for Reconsideration
07/12/18	84614-6 WSSC	Motion for Extension of Time to File an answer to the motion for reconsideration)
07/13/18	84614-6 WSSC	Order (granting respondent's motion for extension of time to file an answer to the motion for reconsideration)
08/16/18	84614-6 WSSC	Answer to Defendant's Motion for Reconsideration and State's Motion to Strike
08/17/18	84614-6 WSSC	Motion for Leave to File a Reply to State's Answer
08/21/18	84614-6 WSSC	Order on Motion (granting motion for leave to file reply to State's answer)
08/21/18	84614-6 WSSC	Reply to State's Answer
10/16/18	84614-6 WSSC	Order on Motion for Reconsideration (denying appellant's motion for reconsideration and the request for clarification and reargument, and denying the State's motion to strike. Notwithstanding the entry of this Order, the court in <i>State v. Gregory</i> directed all death sentences be converted to life imprisonment. Further action in this case is stayed until <i>State v. Gregory</i> mandates)

NAME: YATES, Robert Lee, Jr.
D.O.B.: May 27, 1952
Race: White

DATE OF CRIME: 1997 and 1998

PLACE OF CRIME: Pierce County

BRIEF FACTS: Robert Lee Yates, Jr. was convicted of two counts of aggravated first degree murder for the murders of Melinda Mercer in 1997 and Connie LaFontaine Ellis in 1998. The aggravating circumstances were: (1) there was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the defendant; (2) the murders were committed in the course of, in furtherance of, or in immediate flight from the crime of Robbery in the First Degree. *State v. Yates*, Pierce County Cause No. 00-1-03253-8.

DATE OF CONVICTION: September 19, 2002

SPECIAL SENTENCING: October 3, 2002

JUDGMENT AND SENTENCE: Pierce County Superior Court
Cause No. 00-1-03253-8
October 9, 2002

TRIAL JUDGE: Honorable John McCarthy

DEFENSE ATTYS: Roger Hunko Mary Kay High
Port Orchard, WA Tacoma, WA

PROSECUTING ATTYS: Gerald Horne, Prosecuting Attorney
Jerry Costello, Deputy Prosecutor
Barbara Corey-Boulet, Deputy Prosecutor
930 Tacoma Avenue South
Tacoma, WA 98402
(253) 798-7400

APPELLANT'S ATTYS: (Direct Appeal, WSSC No. 73155-1)
Gregory Link
Thomas Kummerow
Nancy Collins
WA Appellate Project

Roger Hunko (withdrew 11/04/02)
Port Orchard, WA

PETITIONER'S ATTYS: (Personal Restraint Petition, WSSC No. 82101-1)
Ronald Ness Judith Mandel
Port Orchard, WA Xi'an Shaanxi Province ZZ 710063

Jeffrey E. Ellis Steve Witchley
Portland, OR Seattle, WA

(Federal Habeas Corpus, USDC WDC #C13-0842-RSM)

Jeffrey E. Ellis
OR Capital Resource Ctr
621 SW Morrison St, Suite 1025
Portland, OO 97205-3813
(206) 218-7076

Todd Maybrown
Allen, Hansen & Maybrown, P.S.
600 University Street, Suite 3020
Seattle, WA 98101
(206) 447-9681

RESPONDENT'S ATTYS:

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

(Personal Restraint Petition, WSSC No. 82101-1)
Kathleen Proctor, Deputy Prosecutor
Donna Yumiko Masumoto, Deputy Prosecutor
Karen Anne Watson, Deputy Prosecutor

(Federal Habeas Corpus, USDC WDC #C13-0842-RSM)
Robert W. Ferguson, Attorney General
Paul D. Weisser, Senior Counsel
Mandy Lynn Rose, Assistant Attorney General
Corrections Division
PO Box 40116
Olympia, WA 98504-0116
(360) 586-1445

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
10/17/02	73155-1 WSSC	Notice of Appeal
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).
06/23/08	07-10069 USSC	Petition for Writ of Certiorari denied. <i>Yates v. Washington</i> , 554 U.S. 922 (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)
09/11/08	82101-1 WSSC	Personal Restraint Petition (placeholder petition)
09/11/08	82101-1 WSSC	Order Granting Stay of Execution and Appointing Counsel
08/03/09	82101-1 WSSC	Amended Personal Restraint Petition and Supporting Brief
03/14/13	82101-1 WSSC	Opinion denying personal restraint petition. Justice Owens authored the opinion for the Court. Chief Justice Madsen filed a concurring opinion in which Justices Gonzalez and Wiggins joined. <i>In re Yates</i> , 177 Wn.2d 1, 296 P.3d 872 (2013).
05/10/13	82101-1 WSSC	Certificate of Finality

05/13/13	C13-0842 WDC	Application for Writ of Habeas Corpus; Motion to Appoint Counsel; Request for Stay of Execution
05/14/13	C13-0842 WDC	Order Granting Motion for Stay of Execution; Minute Entry (appointing Jeff Ellis and Todd Maybrown)
01/21/14	C13-0842 WDC	First Amended Petition for Writ of Habeas Corpus; Petitioner's Motion for Stay and Abeyance
01/21/14	89792-1 WSSC	Personal Restraint Petition [Second]
02/07/14	C13-0842 WDC	Order Granting Petitioner's Motion for Stay and Abeyance (all proceedings stayed during pendency of Yates's personal restraint petition in Cause No. 89792-1)
07/09/15	89792-1 WSSC	Opinion dismissing second personal restraint petition as untimely. Justice Owens authored the opinion for a unanimous court. <i>In re Yates</i> , 183 Wn.2d 572, 353 P.3d 1283 (2015)
08/04/15	89792-1 WSSC	Certificate of Finality
08/13/15	C13-0842 WDC	Order Lifting Stay of Proceedings
03/10/16	C13-0842 WDC	Respondent's Answer to Petition for Writ of Habeas Corpus
07/20/16	C13-0842 WDC	Order Granting Respondent's Unopposed Motion to Extend Time; Order Granting Petitioner's Motion to Extend Time until All Pending Motions/Issues Are Resolved and a Status Conference Has Been Conducted
07/25/16	C13-0842 WDC	Order Granting in Part and Denying in Part Petitioner's Motion for Discovery and to Expand the Record (State is Ordered to Supplement the Record with the Proportionality Review Records by a Date to Be Determined at the August 9, 2016 Status Conference)
08/31/16	C13-0842 WDC	Respondent's Submission of State Trial Judge Reports
09/08/16	C13-0842 WDC	Reply to Motion for Evidentiary Hearing; Declarations of Maybrown and Ellis
11/02/16	C13-0842 WDC	Order Granting in Part and Denying in Part Petitioner's Motion for Evidentiary Hearing
11/16/16	C13-0842 WDC	Agreed Order re Prehearing Discovery
11/29/16	C13-0842 WDC	Order (granting Motion for Protective Order)
02/23/17	C13-0842 WDC	Petitioner's Prehearing Brief
02/24/17	C13-0842 WDC	Respondent's Prehearing Brief
02/27/17	C13-0842 WDC	Order for Writ of Habeas Corpus Ad Testificandum; Writ of Habeas Corpus Ad Testificandum
03/01/17	C13-0842 WDC	Petitioner's Reply to Respondent's Prehearing Brief
03/06/17	C13-0842 WDC	Evidentiary hearing held March 6 and 7, 2017
05/30/17	C13-0842 WDC	Order granting Petitioner's Motion to Authorize Reliance on Evidence

07/24/17	C13-0842 WDC	Petitioner's Supporting Brief on the Merits
09/11/17	C13-0842 WDC	Response to Petitioner's Supporting Brief on the Merits
09/25/17	C13-0842 WDC	Reply by Petitioner to Response
02/05/18	C13-0842 WDC	Order to Show Cause (directing all parties to show cause why this Court should not stay the habeas petition for six months while the Washington legislature considers the bill regarding abolition of death penalty)
02/20/18	C13-0842 WDC	Petitioner's Response to Order to Show Cause
02/26/18	C13-0842 WDC	Respondent's Response to Order to Show Cause
03/09/18	C13-0842 WDC	Minute Order (re Order to Show Cause (given State of Washington has not signed into law any change in the State's death penalty statute and procedures, this Court will continue to consider Petitioner's habeas petition in due course))
05/25/18	C13-0842 WDC	Order Granting Petitioner's Request for Stay and Abeyance (the federal habeas proceeding is stayed during the pending of Yates' current state-court challenge to the validity of his convictions in Spokane County Superior Court Cause No. 00-1-01153-0, which are at issue in Claim 3 of Yates' habeas petition. Following the conclusion of the state-court proceedings, Petitioner shall, within 30 days, bring a motion to lift this stay)
10/12/18	C13-0842 WDC	Minute Order (directing parties to file a Joint Status Report by October 26, 2018)
10/25/18	C13-0842 WDC	Status Report (filed by Petitioner)
10/26/18	C13-0842 WDC	Status Report (filed by Respondent)