CAPITAL PUNISHMENT CASE STATUS REPORT

October 10, 2017

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INTRODUCTION

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

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KEY TO COURT ABBREVIATIONS

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

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
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PROSECUTING ATTYS: Norm Maleng, Prosecuting Attorney
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Kathryn Ross, Mukilteo, WA

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Todd Maybrown, Seattle, WA
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(Personal Restraint Petition, WSSC Cause #95018-1)
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(Federal Habeas Corpus, USDC WDC #C14-1092)
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Donald Raz, Deputy
James Whisman, Deputy
Randi J. Austell, Deputy

(Personal Restraint Petition, USSC #14-7683)
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DATE	CAUSE	ACTION
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. *State v. Cross*, 156 Wn.2d 580, 132 P.3d 80 (2006).
11/06/06	06-6333 USSC	Petition for Writ of Certiorari denied. *Cross v. Washington*, 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
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.)
10/24/07	79761-7 WSSC	Placeholder Petition
11/16/07	79761-7 WSSC	Order (Respondent's motion to reconsider is denied. The motion to contact jurors is granted as to both parties, subject to the requirements of RPC 3.5(c). The parties are also directed to specifically inform jurors that they may, but are not required, to speak with representatives of either or both the petitioner and the respondents, and may end the

		interviews at any time. The remaining motions are denied. All further proceedings related to discovery relative to alleged juror misconduct shall be heard by King County Superior Court Judge Joan E. DuBuque, except for any Petitioner requests for additional funding, which shall be considered by this Court)
01/29/08	79761-7 WSSC	Personal Restraint Petition; Brief in Support of Personal Restraint Petition; Declarations of Maria Ferndanda Torres, Jonathan L. Grindlinger, MD, Mark Larranaga, Todd Maybrown, Jeffrey Ellis, David Boerner, Dr. Robert Thompson, James E. Lobsenz, Jeffrey Robinson, Richard Warner.
06/25/09	79761-7 WSSC	Oral argument held
07/08/09	79761-7 WSSC	Order (the Court denies relief based on the *Alford* 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 *Alford* 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. *In re Cross*, 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. *In re Cross*, 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. *Cross v. Washington*, 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
11/25/15	C14-1092 WDC	Notice of Filing Respondent's Submission of State Court Record Pursuant to CR 104(i)(1)
11/30/15	C14-1092 WDC	State Court Record (filed)
04/18/16	C14-1092 WDC	Order Denying Petitioner's Motion for Stay of Proceedings
06/03/16	C14-1092 WDC	Order Denying Petitioner's Motion for Direct Response to Claims and Set New Schedule
06/17/16	C14-1092 WDC	Petitioner's Reply in Support of Second Amended Habeas Corpus Petition; Declaration of Erin Newton

06/25/16	C14-1092 WDC	Respondent's Notice of Filing Supplemental Submission of State Court Record in Paper of Physical Form with the Clerk's Office
06/29/16	C14-1092 WDC	Respondent's Supplemental Submission of State Court Record
08/8/16	C14-1092 WDC	Joint Status Report
08/16/16	C14-1092 WDC	Status Conference Held
08/19/16	C14-1092 WDC	Order setting the following deadlines; (1) Mr. Cross's motion for discovery, expansion of the record, and an evidentiary hearing is due no later than 9/30/2016; (2) Mr. Holbrook's response is due no later than 10/31/2016; and (3) Mr. Cross's reply is due no later than 11/14/2016. Order requiring Respondent to produce transcripts of the state court proceedings at issue for September 8, 2000, February 12, 2001, and March 13, 19, and 20, 2001, and the court reporters original notes underlying the transcripts. If for any reason, Respondent is unable to comply with this order within 30 days, the court ORDERS counsel for Respondent to immediately notify the court and file a declaration stating his reasons for noncompliance.
08/26/16	C14-1092 WDC	Respondent's Submission of State Trial Judge Reports
08/29/16	C14-1092 WDC	Counsel for Respondent's Declaration re: Status of Submission of Transcripts and Court Reporter Notes
11/03/16	C14-1092 WDC	Joint Motion to Continue Deadlines
11/07/16	C14-1092 WDC	Order Granting Joint Motion to Continue Deadlines
12/08/16	C14-1092 WDC	Joint Motion to Continue Deadlines
12/09/16	C14-1092 WDC	Order Granting Joint Motion to Continue Deadlines
03/13/17	C14-1092 WDC	Joint Motion to Continue Deadlines
03/17/17	C14-1092 WDC	Notice of Filing Respondent's Submission of Court Reporter Notes; Notice of Filing of Declaration of Kevin Moll
03/17/17	C14-1092 WDC	Order Granting Joint Motion to Continue Deadlines
03/20/17	C14-1092 WDC	Notice of Filing Supplemental Submission of State Court Records Trial Transcripts
05/17/17	C14-1092 WDC	Joint Motion to Continue Deadlines
05/19/17	C14-1092 WDC	Order Granting Joint Motion to Continue Deadlines
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; Declaration of Peter Offenbecher; Declaration of Todd Maybrown; Declaration of Richard Warner; Declaration of Mark Larranaga**

9/21/17	**95018-1 WSSC**	**Court Letter (The filing fee did not accompany the PRP, nor is there a request to waive filing fee. Petitioner should either submit the filing fee of $250 or serve and file a request for waiver of filing fee by October 20, 2017. In addition, RAP 16. 7(a)(6) provides that when a petition is prepared by the Petitioner's attorney, the Petitioner must file a verification document that substantially complies with the form indicated in that rule. The verification should be served and filed by October 20, 2017. No further action will be taken as to the petition until the filing fee issue has been resolved and the verification by Petitioner has been received. At that time, a due date will be set for the Respondent's answer to the Petition and answering brief.)**

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 (Withdrew 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 (Withdrew 1/15/09) Eric Nielsen, Seattle, WA David Koch, Seattle, WA

PETITIONER'S ATTYS: (Personal Restraint Petition, WSSC #70834-7)
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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

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. *In re Davis*, 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. *State v. Davis,* 175 Wn.2d 287, 290 P.3d 43 (2012).
01/10/13	80209-2 WSSC	Order (motion for reconsideration denied)
10/07/13	12-9685 USSC	Petition for writ of certiorari denied. *Davis v. Washington*, 134 S. Ct. 62 (2013).
10/11/13	80209-2 WSSC	Mandate
11/21/13	97-1-00432-4	Death Warrant (setting execution for December 17, 2013)
11/25/13	89590-2 WSSC	Request For Appointment Of Attorneys Pursuant To RAP 16.25; Motion for Waiver of Filing Fee
12/12/13	89590-2 WSSC	Order (Defendant's First Motion for Stay of Execution is granted)

12/09/14	89590-2 WSSC	Petitioner's Ex Parte Motion for Investigator Funds
01/08/15	89590-2 WSSC	Order (denying Petitioner's Ex Parte Motion for Investigator Funds without prejudice to filing any subsequent RAP 16.27 motion establishing facts that give rise to a substantial reason to believe investigator's service will produce information that would support relief under RAP 16.4(c))
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
05/19/15	89590-2 WSSC	Order (granting Petitioner's Supplemental Brief Modifying Motion for Extension of Deadlines to Include Extension of Statutory Time Limitation and accepting Petitioner's Amended PRP)
08/12/15	89590-2 WSSC	Respondent's Brief
10/12/15	89590-2 WSSC	Petitioner's Reply Brief
12/03/15	89590-2 WSSC	Order (State may file brief on the merits but any such brief is due not later than February 1, 2016)
05/05/16	89590-2 WSSC	Motion for Appointment of Counsel
05/23/16	89590-2 WSSC	Petitioner's Counsel's Answer to Motion for Appointment of Counsel
05/25/16	89590-2 WSSC	State's Motion for Extension of Time to File State's Response
10/07/16	89590-2 WSSC	Petitioner's Motion for Appointment of Counsel
10/18/16	89590-2 WSSC	Petitioner's Counsels' Answer to Motion
02/28/17	89590-2 WSSC	Letter (from petitioner complaining about counsel)
05/18/17	89590-2 WSSC	Order on Motions (denying Petitioner's request for new counsel as moot and rejecting the State's argument regarding the extension of time to file a reply)
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. *In Re Davis*, 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
05/25/17	17-00808 WDC	Notice of Appearance (attorney for Plaintiff Ashwin Cattamanchi)
06/01/17	89590-2 WSSC	Notice of Appearance
06/01/17	89590-2 WSSC	Motion to Extend Time to File a Motion for Reconsideration
06/02/17	17-00808 WDC	Motion for Leave to Proceed In Forma Pauperis
06/05/17	17-00808 WDC	Order (denying motion for leave to proceed In Forma Pauperis)

06/07/17	89590-2 WSSC	State's Objections to Motion for Substitution and for an Extraordinary Extension of Time to File RAP 12.4 Motion for Reconsideration
06/07/17	89590-2 WSSC	Order on Motions (granting Motion for Extension of Time To File Motion for Reconsideration. Any motion for reconsideration should be served and filed by September 5, 2017)
06/07/17	89590-2 WSSC	Motion for Reconsideration
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)
06/22/17	89590-2 WSSC	Order Calling for Response (directing Petitioner to file an answer to Respondent's Motion for Reconsideration by July 7, 2017)
07/06/17	89590-2 WSSC	Answer to State's Motion for Reconsideration
07/13/17	89590-2 WSSC	Letter (from federal defender Michael Filipovic re narrowing the request for review of records maintained by the Supreme Court re Capital Qualifications Committee)
07/14/17	89590-2 WSSC	Letter (response from Court to Michael Filipovic, cc to Kathleen Proctor, Suzanne Elliot, and Michelle Foyer re letter received re narrowing previous request for records pertaining to the qualifications of counsel appointed in capital cases)
07/20/17	89590-2 WSSC	Order on Motions (denying Respondent State of Washington's motion for reconsideration)
07/21/17	89590-2 WSSC	Letter (from federal defender Michael Filipovic regarding his 7/13/17 letter and stating the time period request)
08/09/17	89590-2 WSSC	Email (from Court to Michael Filipovic, cc all counsel, attaching three pdfs containing documents found to be responsive to the July 13, 2017 letter requesting records concerning qualifications of counsel appointed in capital cases)
09/05/17	89590-2 WSSC	Motion for Reconsideration; Motion to Permit Filing a Motion for Reconsideration in Excess of Page Limit
09/08/17	**89590-2 WSSC**	**Motion for Leave to File Amici Curiae Brief of American Civil Liberties Union of Washington and Disability Rights Washington**
09/12/17	**89590-2 WSSC**	**Motion of the Washington Defender Association and Washington Association of Criminal Defense Attorney to File Amicus Brief**
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**
09/19/17	**89590-2 WSSC**	**Motion to Strike Amici Briefs and Appendices**
09/21/17	**89590-2 WSSC**	**Answer to Motion (Answer to State's Motion to Strike Improper Appendices to Petitioner's Motion for Reconsideration and Corresponding Arguments)**

09/21/17	**89590-2 WSSC**	**Order on Motions (The Chief Justice has granted both motions for leave to file amicus memoranda, and the accompanying memoranda have therefore been filed. The Chief Justice further has denied the State's motion to strike. The parties may file answers to the amicus memoranda by not later than October 17, 2017)**
9/21/17	**89590-2 WSSC**	**Order on Motions (Motion To Permit Filing A Motion For Reconsideration In Excess Of Page Limit is granted. The Motion For Reconsideration Of Decision Denying PRP On The Merits And Appendices In Support Thereof has been accepted for filing)**
9/21/17	**89590-2 WSSC**	**Motion for Reconsideration of Decision Denying PRP on the Merits and Appendices in Support Thereof**
9/21/17	**89590-2 WSSC**	**Brief of Amici Curiae in Support of Petitioner submitted by the Washington Defender Association and Washington Association of Criminal Defense Attorneys**
9/21/17	**89590-2 WSSC**	**Amicus Curiae Brief of American Civil Liberties Union of Washington and Disability Rights Washington in Support of Reconsideration**
10/02/17	**89590-2 WSSC**	**Motion for Extension of Time to File a Response to the Amicus Memoranda**
10/03/17	**17-00808 WDC**	**Order (granting in part and denying in part Motion to Stay. Case is administratively closed)**
10/06/17	**17-00808 WDC**	**Notice of Appearance (AAGs John Samson and Mandy Lynn Rose)**

NAME:	ELMORE, Clark Richard (aka James Elmore aka James Lee Dickey) D.O.B.: November 17, 1951 Race: White
DATE OF CRIME:	April 17, 1995
PLACE OF CRIME:	Whatcom County
BRIEF FACTS:	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. *State v. Elmore*, Whatcom County Cause 95-1-00310-1.
DATE OF GUILTY PLEA:	July 6, 1995
SPECIAL SENTENCING:	March 12, 1996
JUDGMENT AND SENTENCE:	Whatcom County Superior Court Cause No. 95-1-00310-1 May 3, 1996
TRIAL JUDGE:	Honorable David Nichols
DEFENSE ATTYS:	John Komorowski Douglas Hyldahl Bellingham, WA
PROSECUTING ATTYS:	David S. McEachran, Prosecuting Attorney Whatcom County Prosecutor's Office Whatcom County Courthouse 311 Grand Avenue Bellingham, WA 98225 (360) 676-6784
APPELLANT'S ATTYS:	(Direct Appeal, Washington Supreme Court #64085-8) Michael P. Iaria, Seattle, WA Meredith Martin Rountree, Austin, TX Rita Griffith, Seattle, WA Charlotte Cassady (Withdrew 03/06/98), Mobile, AL Jon Ostlund (06/17/96), Bellingham, WA
PETITIONER'S ATTYS:	(Personal Restraint Petition, Washington Supreme Court #70233-1) Jeffrey E. Ellis, Seattle, WA Meredith Martin Rountree, Austin, TX

(Federal Habeas Corpus, USDC WDC #C08-0053, 9th Cir #12-99003)

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Olympia, WA

DATE	CAUSE	ACTION
05/13/96	64085-8 WSSC	Notice of Appeal
11/19/98	64085-8 WSSC	Oral argument held
10/07/99	64085-8 WSSC	Opinion affirming conviction and death sentence and granting State's motion to strike Appellant's "Social History". Justice Talmadge authored the opinion for the Court. Justice Sanders dissented. *State v. Elmore*, 139 Wn.2d 250, 985 P.2d 289 (1999)
10/02/00	99-9587 USSC	Petition for Writ of Certiorari denied, *Elmore v. Washington*, 531 U.S. 837, 121 S. Ct. 98, 148 L. Ed. 2d 57 (2000)
10/09/00	64095-8 WSSC	Mandate issued
10/10/00	70233-1 WSSC	Motion for Appointment of Counsel and for Stay of Execution Pursuant to Rules 16.24 and 16.25 of the Rules of Appellate Procedure
10/31/00	95-1-00310-1	Death Warrant (setting execution for November 28, 2000)
11/07/00	70233-1 WSSC	Notation Order (motion for stay of execution is granted)
06/29/01	70233-1 WSSC	Petitioner's Personal Restraint Petition and Brief in Support
09/27/02	70233-1 WSSC	Order (trial court is directed to hold a reference hearing on the issue of whether counsel's failure to consult and call mental health experts in the penalty phase was deficient performance. The court is directed to take evidence on whether counsel's representation in this regard fell below an objective standard of reasonableness based on consideration of all circumstances, including whether any legitimate strategic or tactical reasons supported the decision not to consult and call such experts. The trial court at the conclusion is to enter findings of fact on the issue referred and expedite the process)

06/05/03	70233-1 WSSC	Order (Petitioner has not established facts that give rise to a substantial reason to believe that the renewed motion for appointment of attorney expert and renewed motion for funds to hire an investigator will produce information that would support relief under RAP 16.4(c). The order for the reference hearing does not require the trial court to make a legal conclusion regarding the adequacy of trial counsel's performance. The trial court is directed to find the facts regarding the performance of trial counsel, leaving for this court the determination whether trial counsel's performance was legally adequate. Therefore, no funds are authorized for attorney experts or an investigator. The request to file this order under seal is denied)
01/27/05	70233-1 WSSC	Trial Court Findings of Fact
11/21/07	70233-1 WSSC	Opinion denying personal restraint petition. Justice Madsen authored the opinion for the Court. Justice Sanders dissented. *In re Elmore*, 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 Permitting Elmore to File Amended Petition; Order Granting Motion for Stay of Execution
02/22/08	70233-1 WSSC	Order Denying Motion for Reconsideration
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. *Elmore v. Sinclair*, 781 F.3d 1160 (9th 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). *Elmore v. Sinclair*, 799 F.3d 1238 (9th Cir. 2015)
09/04/15	12-99003 9 CIR	Order (granting Appellant's motion to stay the mandate pending his petition for writ of certiorari)

11/19/15	15-A550 USSC	Application to extend time to file petition for writ of certiorari from December 2, 2015 to January 16, 2016
11/24/15	15-A550 USSC	Application granted (deadline is January 19, 2016)
01/19/16	15-7848 USSC	Petition for a Writ of Certiorari and Motion to Leave to Proceed in Forma Pauperis
02/03/16	15-7848 USSC	Petitioner's Supplemental Brief
02/26/16	15-7848 USSC	Respondent's Response to Petition for a Writ of Certiorari
03/08/16	15-7848 USSC	Petitioner's Reply
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. *Elmore v. Holbrook*, 580 U.S. ____ (2016)
11/03/16	15-7848 USSC	Petition for Rehearing filed
12/05/16	15-7848 USSC	Petition for Rehearing denied. *Elmore v. Holbrook*, 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

NAME: GENTRY, Jonathan Lee
D.O.B.: August 7, 1956
Race: Black

DATE OF CRIME: June 13, 1988
PLACE OF CRIME: Kitsap County

BRIEF FACTS: 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. *State v. Gentry*, Kitsap County Superior Court Cause No. 88-1-00395-3.

DATE OF CONVICTION: June 26, 1991

SPECIAL SENTENCING: July 2, 1991

JUDGMENT AND SENTENCE: Kitsap County Superior Court
Cause No. 88-1-00395-3
July 22, 1991

TRIAL JUDGE: Honorable Terence Hanley

DEFENSE ATTYS: Frederick D. Leatherman, Jr.
Jeffery P. Robinson

PROSECUTING ATTYS: Russell Hauge, Prosecuting Attorney
C. Danny Clem (former Prosecuting Attorney)
Irene K. Asai, Deputy Prosecuting Attorney
Brian T. Moran, Deputy Prosecuting Attorney

APPELLANT'S ATTYS: (Direct Appeal, Washington Supreme Court #58415-0)
Michael P. Iaria, Seattle, WA
Frederick D. Leatherman, Jr., Seattle, WA

PETITIONER'S ATTYS: (Personal Restraint Petition, Washington Supreme Court #62677-4; #92315-9)
(Federal Habeas Corpus, USDC WDC #C99-0289L, 9th Cir # 09-99021, USSC #12-10321)

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Meredith Rountree (withdrew on 5/1/09), Austin, TX

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

RESPONDENT'S ATTYS: (Federal Habeas Corpus, USDC WDC #C99-0289L, 9th Cir # 09-99021, USSC #12-10321)

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DATE	CAUSE	ACTION
08/08/91	58415-0 WSSC	*State v. Gentry*; 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. *State v. Gentry*, 125 Wn.2d 570, 888 P.2d 1105 (1995)
10/02/95	94-9582 USSC	Petition for Writ of Certiorari denied. *Gentry v. Washington*, 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
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. *In re Gentry*, 137 Wn.2d 378, 972 P.2d 1250 (1999)
06/30/99	62677-4 WSSC	Order (Petitioner's motion for reconsideration is denied); Order Changing Opinion; Order (Respondent's motion, to dissolve the stay of execution upon issuance of the certificate of finality, is granted)
07/19/99	C99-0289 WDC	Order (staying execution of Jonathan Lee Gentry)
07/21/99	62677-4 WSSC	Certificate of Finality
07/26/99	62677-4 WSSC	Order (awarding costs in the total amount of $178,869.57)
10/22/99	C99-0289 WDC	Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254
01/24/00	C99-0289 WDC	Respondent's Answer and Memorandum of Authorities
01/24/00	C99-0289 WDC	First Amended Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. §2254
03/09/06	C99-0289 WDC	Evidentiary hearing held
09/04/08	C99-0289 WDC	Order on Petition for Habeas Relief Based on *Brady* and *Napue* Violations (denying habeas relief).

09/05/08	C99-0289 WDC	Order on *Brady/Napue* 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. *Gentry v. Sinclair*, 576 F. Supp. 2d 1130 (2008).
03/23/09	C99-0289 WDC	Order Denying Motion for Reconsideration. *Gentry v. Sinclair*, 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
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. *In re Gentry*, 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)
03/04/11	84039-3 WSSC	Certificate of Finality
04/06/11	88-1-00395-3	Response to Motion for Post-Conviction DNA Testing
05/31/11	10-10814 USSC	Petition for Writ of Certiorari [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]. *Gentry v. Sinclair*, 132 S. Ct. 453 (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. *Gentry v. Sinclair,* 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). *Gentry v. Sinclair*, 705 F.3d 884 (9th Cir. 2013)
05/15/13	12-10321 USSC	Petition for Writ of Certiorari [re *Gentry v. Sinclair*]
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. *Gentry v. Sinclair*, 134 S. Ct. 102 (2013).
10/07/13	C99-0289 WDC	Respondent's Motion to Vacate Stay of Execution

10/09/13	09-99021 9 CIR	Mandate
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
12/02/13	12-10321 USSC	Petition for rehearing denied. *Gentry v. Sinclair*, 134 S. Ct. 726 (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 *Gentry v. Sinclair*, U.S. Supreme Court. No. 12-10321 is denied)
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. *In re Gentry*, 316 P.3d 1020 (2014).
01/28/14	09-99021 9 CIR	Motion to Recall Mandate
02/05/14	C99-0289 WDC	Order Granting Motion to Vacate Stay of Execution
02/12/14	09-99021 9 CIR	Order (motion to recall mandate denied)
04/14/14	89620-8 WSSC	Appellant's Brief
05/05/14	86585-0 WSSC	Order Changing Opinion. *In re Gentry*, 179 Wn.2d 614, 316 P.3d 1020 (2014) (amended opinion)
05/30/14	86585-0 WSSC	Certificate of Finality
06/06/14	86585-0 WSSC	Order (denying motion to continue stay of execution pending ruling on stay in related case)
06/06/14	89620-8 WSSC	Order (granting motion for stay of execution)
06/17/14	89620-8 WSSC	Respondent's Brief; Supplemental Designation of Clerk's Papers
07/14/14	86585-0 WSSC	Ruling on Cost Bill (Costs in the amount of $29,088.84 shall be awarded to the Washington State Office of Public Defense, and costs in the amount of $408.00 shall be awarded to Respondent, Kitsap County Prosecuting Attorney's Office, to be paid by Petitioner, Jonathan Lee Gentry.)
07/25/14	89620-8 WSSC	Appellant's Reply Brief
09/18/14	86585-0 WSSC	Supplemental Judgment (re: ruling on costs)
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. S*tate v. Gentry,* 183 Wn.2d 749, 356 P.3d 714 (2015)

08/27/15	89620-8 WSSC	Cost Bill
09/08/15	89620-8 WSSC	Motion for Stay; Motion for Reconsideration
09/30/15	92315-9 WSSC	Personal Restraint Petition (Fourth); Motion to Waive Filing Fee
10/01/15	92315-9 WSSC	Ruling on Motions (payment for filing fee waived)
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)
10/02/15	89620-8 WSSC	Order (denying Motion to Extend Stay)
10/02/15	92315-9 WSSC	Court Letter (authoring filing of petition without prepayment of filing fee; assigning Supreme Court Cause No. 92315-9; Respondent's response to Personal Restraint Petition and answering brief, if any, due February 1, 2016; Petitioner's reply due 60 days from date of receipt of Respondent's response and answering brief)
10/19/15	89620-8 WSSC	Order Changing Opinion
11/10/15	89620-8 WSSC	Mandate; Ruling on Cost Bill
12/15/15	89620-8 WSSC	Supplement Judgment (costs of $95.71 are taxed in favor of Respondent Kitsap County Prosecuting Attorney's Office; costs of $6,025.88 are taxed in favor of Washington State Office of Public Defense, and against Appellant Jonathan Gentry pursuant to Clerk's Ruling on Costs)
02/03/16	92315-9 WSSC	State's Motion for Extension to File its Response
02/09/16	92315-9 WSSC	Order on Motions (granting State's Motion for Extension of Time to File Response. Due March 16, 2016)
02/24/16	89620-8 WSSC	Notice from Respondent that the Exhibits in Case number 58415-0 were received by this court.
03/16/16	92315-9 WSSC	Answer to Personal Restraint Petition Due
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 *State v. Gregory*, WSSC 88086-7)

NAME: GREGORY, Allen Eugene
D.O.B.: June 9, 1972
Race: Black

DATE OF CRIME: July 27, 1996

PLACE OF CRIME: Pierce County

BRIEF FACTS: 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. *State v. Gregory*, Pierce County Cause No. 98-1-04967-9.

DATE OF CONVICTION: May 15, 2012

SPECIAL SENTENCING: June 13, 2012

JUDGMENT AND SENTENCE: Pierce County Superior Court
Cause No. 98-1-04967-9

TRIAL JUDGE: Honorable Rosanne Buckner

DEFENSE ATTYS: Zenon Olbertz
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Attorneys At Law
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John Neeb, Deputy Prosecuting Attorney
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APPELLANT'S ATTYS: (WSSC No. 88086-7)

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(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

DATE	CAUSE	ACTION
		resentencing in the murder case. Justice Bridge authored the opinion for the Court. Justice Sanders filed a dissenting opinion. *State v. Gregory*, 158 Wn.2d 759, 147 P.3d 1201 (2006)
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
01/04/13	88086-7 WSSC	Order (Neil Fox and Lila Silverstein are appointed as counsel for Gregory.)
09/16/13	88086-7 WSSC	Ruling on Motions (the motion to release sealed transcripts is granted, and copies of the two sealed transcripts (from February 13, 2009 and February 20, 2009) shall be released to counsel for Mr. Gregory, but shall otherwise remain sealed as to the State and anyone else.)
01/09/14	88086-7 WSSC	Order (Motion to Complete the Process of Compiling a Full Set of Aggravated Murder Reports is denied)
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)
08/14/14	88086-7 WSSC	Order (statement in compliance with RCW 10.95.150)
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	Order on Motions (granting motion of Fred T. Korematsu Center for Law and Equality for Permission to File Amicus Curiae Brief in Support of Appellant)
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	Order (granting Motion for Permission to File Amicus Curiae Brief on Behalf of Washington Coalition to Abolish the Death Penalty)
01/08/16	88086-7 WSSC	Brief of Amicus Curiae, Washington Coalition to Abolish the Death Penalty
01/13/16	88086-7 WSSC	Order (granting Motion of 56 Former And Retired Washington State Judges For Leave To File Amicus Brief And Motion To File Overlength Brief)
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

DATE	CAUSE	ACTION
		Women Voters of WA, Murder Victims Families for Reconciliation, Two Law School Professors, WA Association of Criminal Defense Lawyers, and WA Defenders Association
01/19/16	88086-7 WSSC	Letter (clarification and adjustments to counsel for Appellant's oral argument schedule)
01/19/16	88086-7 WSSC	Fifth Statement of Additional Authorities
02/16/16	88086-7 WSSC	Notice of Intent to Withdraw of David Keenan
02/23/16	88086-7 WSSC	Appellant's Seventh Statement of Additional Authorities
02/24/16	88086-7 WSSC	Respondent's Statement of Additional Authorities
02/25/16	88086-7 WSSC	Appellant's Disk with Trial Report Numbers 313-348
02/25/16	88086-7 WSSC	Oral Argument
03/16/16	88086-7 WSSC	Other Order (granting a special hearing before WSSC 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
04/15/16	88086-7 WSSC	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
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**

DATE	CAUSE	ACTION
		Justice determines to accord it in deciding the matter. As previously noted, nothing in my rulings in this matter precludes a motion for the filing of additional briefs under RAP 10.1(h))
09/29/17	**88086-7 WSSC**	**Response to Commissioner's Supplemental Interrogatories**

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
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RESPONDENT'S ATTYS: (Direct Appeal, WSSC No. 88906-6)

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DATE	CAUSE	ACTION
05/15/13	11-1-00404-4	Judgment and Sentence
05/16/13	88906-6 WSSC	Notice for Mandatory Review of Death Sentence Under RCW 10.95.100
05/31/13	88906-6 WSSC	Notice of Appeal
06/03/13	88906-6 WSSC	Notice of Cross-Appeal to the Supreme Court
06/21/13	88906-6 WSSC	Order (Rita Griffith and Mark Larranaga are appointed as counsel)
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
10/08/14	88906-6 WSSC	Order (statement in compliance with RCW 10.95.150)
07/01/15	88906-6 WSSC	Respondent's Brief
07/30/15	88906-6 WSSC	Statement of Additional Grounds for Review
07/30/15	88906-6 WSSC	Court Letter (rejecting petitioner's SAG Reply Brief and related letters)
11/03/15	88906-6 WSSC	Appellant's Reply Brief; Appellant's Motion to File Overlength Reply Brief; Appellant's Motion to Permit Filing of Supplemental Assignment of Error and Supplemental Brief in Support
11/03/15	88906-6 WSSC	Answer to Motion to File Supplemental Brief
11/18/15	88906-6 WSSC	Order (granting Appellant's Motion to File Overlength Reply Brief and Motion to Permit Filing of Supplemental Assignment of Error and Supplemental Brief in Support.)
01/21/16	88906-6 WSSC	Brief of Respondent in Answer to Supplemental Assignment of Error
06/24/16	88906-6 WSSC	Oral Argument Setting
09/15/16	88906-6 WSSC	Letter from Petitioner's Counsel regrading Division of Oral Argument Time
09/26/16	88906-6 WSSC	Letter from Respondent's Counsel regrading Division of Oral Argument Time
09/26/16	88906-6 WSSC	Motion for Amicus Curiae Brief
10/04/16	88906-6 WSSC	Order (granting motion to file amicus curiae brief.)
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

DATE	CAUSE	ACTION
10/24/16	88906-6 WSSC	Respondent's Answer to Amicus Curiae Brief
10/27/16	88906-6 WSSC	Petitioner's Additional Authorities
10/31/16	88906-6 WSSC	Letter from Petitioner's Counsel regarding Time and Issues for Oral Argument
11/01/16	88906-6 WSSC	Letter from Respondent's Counsel regarding Time and Issues for Oral Argument
11/10/16	88906-6 WSSC	Oral Argument scheduled
11/17/16	88906-6 WSSC	Order to Stay (pending final report in *State v. Gregory*, WSSC 88086-7)

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** **DAVID ZUCKERMAN** **ATTORNEYS AT LAW** **705 2ND AVENUE, SUITE 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 HAIROPOULOS BECKER, PROSECUTING ATTORNEY** **KING COUNTY COURTHOUSE** **516 THIRD AVENUE** **SEATTLE, WA 98104** **(206) 296-0100**

DATE	CAUSE	ACTION
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 *In Forma Pauperis*, Appointment of Counsel and Preparation of Records
06/23/10	84614-6 WSSC	Order (Suzanne Elliott and David Zuckerman are appointed as counsel.)
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)
09/29/11	06-1-06563-4	Motion for Access to Juror Information GR 31(j)
10/26/11	84614-6 WSSC	Joint letter response regarding Court's April 29, 2011, remand order. "Motion for Access to Juror Information GR 31(j)" is set for a hearing in the trial court on November 9, 2011. The appellant will send the results to the Supreme Court following the hearing.
11/09/11	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
09/25/14	84614-6 WSSC	Order (statement in compliance with RCW 10.95.150)
02/09/15	84614-6 WSSC	Order (granting motion to file an amicus curiae brief on behalf of the American Civil Liberties Union of Washington)
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
07/08/15	84614-6 WSSC	Respondent's Additional Authorities
12/15/15	84614-6 WSSC	Respondent's Second Statement of Additional Authorities
12/15/15	84614-6 WSSC	Petitioner's Fifth Supplemental Authority
09/29/17	**84614-6 WSSC**	**Motion to Withdraw as Counsel for Appellant**

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 Port Orchard, WA Mary Kay High 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 Port Orchard, WA Judith Mandel Xi'an Shaanxi Province ZZ 710063 Jeffrey E. Ellis Portland, OR Steve Witchley Seattle, WA

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

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RESPONDENT'S ATTYS:

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

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

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

ROBERT W. FERGUSON, ATTORNEY GENERAL
PAUL D. WEISSER, SENIOR COUNSEL
MANDY LYNN ROSE, ASSISTANT ATTORNEY GENERAL
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P.O. BOX 40116
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(360) 586-1445

DATE	CAUSE	ACTION
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. *State v. Yates,* 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. *Yates v. Washington*, 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)
09/10/08	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

08/03/09	82101-1 WSSC	Amended Personal Restraint Petition and Supporting Brief
11/10/10	82101-1 WSSC	Order (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.)
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. *In re Yates*, 177 Wn.2d 1, 296 P.3d 872 (2013).
05/06/13	82101-1 WSSC	Order (motion for reconsideration denied; motion to strike improper appendices denied)
05/10/13	82101-1 WSSC	Certificate of Finality ($240,158.53 to be paid to OPD, $1,104.69 to Pierce County)
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]
01/27/14	C13-0842 WDC	Respondent's Submission of State Court Record Pursuant to CR 104(i)(1)
01/31/14	C13-0842 WDC	Verification by Robert Yates
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. *In re Yates*, 183 Wn.2d 572, 353 P.3d 1283 (2015)
07/15/15	89792-1 WSSC	Cost Bill
08/04/15	89792-1 WSSC	Certificate of Finality
08/14/15	89792-1 WSSC	Ruling on Cost Bill
08/13/15	C13-0842 WDC	Order Lifting Stay of Proceedings
08/28/15	C13-0842 WDC	Notice of Filing Respondent's Supplemental Submission of State Court Record Pursuant to CR 104(i)(1)
09/24/15	89792-1 WSSC	Supplemental Judgment (Costs of $542.00 are taxed in favor of Respondents; cost of $7.04 are taxed in favor of Washington State Office of Public Defense and against Petitioner)
09/11/15	C13-0842 WDC	State Court Record (Volume XXXI filed by Respondent)

10/06/15	C13-0842 WDC	Minute Entry (Respondent's answer to petition due January 25, 2016; Petitioner's reply to answer due April 25, 2016)
01/19/16	C13-0842 WDC	Minute Order (granting Respondent's unopposed motion for extension of time to Answer the Petition. Response due March 10, 2016)
03/10/16	C13-0842 WDC	Respondent's Response to Petition for Writ of Habeas Corpus
06/03/16	C13-0842 WDC	Petitioner's Unopposed Motion for Extension of Time to File Reply
06/03/16	C13-0842 WDC	Order Granting Petitioner's Motion for Extension of Time to File Reply (Reply due 07/7/16)
07/07/16	C13-0842 WDC	Petitioner's Reply as to Claim 3; Motion for Discovery and to Expand the Record as to Claims 4, 9 and 14; Motion for Evidentiary Hearing as to Claims 1, 2, 6, 10, and 15; Motion to Extend Time to File Reply on Claims 5, 7, 8, and 11-13 and to Set a Status Conference
07/18/16	C13-0842 WDC	Respondent's Response to Motion to Extend Time to File Reply; Respondent's Response to Motion for Discovery and to Expand the Record; Respondent's Unopposed Motion for Extension of Time to Respond to Petitioner's Motion for Evidentiary Hearing
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
07/20/16	C13-0842 WDC	Status Conference Set for August 9, 2016 at 10:00am
07/20/16	C13-0842 WDC	Petitioner's Reply to Motion for Discovery and to Expand the Record
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)
08/04/16	C13-0842 WDC	Petitioner's Motion for Reconsideration re: Order on Motion for Discovery
08/09/16	C13-0842 WDC	Status Conference Held
08/19/16	C13-0842 WDC	Order Denying Motion for Reconsideration
08/19/16	C13-0842 WDC	Respondent's Response to Motion for Evidentiary Hearing
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
11/09/16	C13-0842 WDC	Minute Order (setting Evidentiary Hearing for 3/6-8/2017)
11/16/16	C13-0842 WDC	Agreed Order re Prehearing Discovery
11/29/16	C13-0842 WDC	Order (granting Motion for Protective Order)
01/09/17	C13-0842 WDC	Order Granting Agreed Motion Re: Service of Subpoenas

02/14/17	C13-0842 WDC	Status Conference Held
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
03/14/17	C13-0842 WDC	Notice of Filing of Official Transcript of Evidentiary Hearing
05/15/17	C13-0842 WDC	Petitioner's Motion to Authorize Reliance on Evidence Presented at Evidentiary Hearing
05/26/17	C13-0842 WDC	Respondent's Response to Petitioner's Motion to Authorize Reliance on Evidence
05/30/17	C13-0842 WDC	Order granting Petitioner's Motion to Authorize Reliance on Evidence
06/07/17	C13-0842 WDC	Response by Petitioner (re: Order on Motion for Miscellaneous Relief Joint Proposed Briefing Schedule)
06/08/17	C13-0842 WDC	Minute Order (Petitioner shall filed a consolidated brief on the merits no later than July 24, 2017. Respondent shall filed a response no later than September 11, 2017. Petitioner may file a reply no later than September 25, 2017. Petition for Writ of Habeas Corpus renoted for Court's consideration on September 25, 2017.
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**