

# CAPITAL PUNISHMENT CASE STATUS REPORT

July 7, 2015

## CAPITAL LITIGATION TEAM:

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## INTRODUCTION

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

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## KEY TO COURT ABBREVIATIONS

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

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
<u>NAME:</u>		CROSS, Dayva Michael D.O.B.: September 19, 1959 Race: Caucasian
<u>DATE OF CRIME:</u>		March 6, 1999
<u>PLACE OF CRIME:</u>		King County
<u>BRIEF FACTS:</u>		Dayva Michael Cross pleaded guilty to three counts of aggravated first degree murder for the stabbing deaths of his wife, Anouchka Baldwin, and two stepdaughters, Amanda Baldwin and Salome Holly. The aggravating circumstances were that there was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the person. <i>State v. Cross</i> , King County Cause 99-1-02212-9.
<u>DATE OF GUILTY PLEA:</u>		October 23, 2000
<u>SPECIAL SENTENCING:</u>		May 7, 2001
<u>JUDGMENT AND SENTENCE:</u>		King County Superior Court Cause No. 99-1-02212-9 June 22, 2001
<u>TRIAL JUDGE:</u>		Honorable Joan DuBuque
<u>DEFENSE ATTYS:</u>		Mark Larranaga Richard Warner Seattle, WA
<u>PROSECUTING ATTYS:</u>		Norm Maleng, Prosecuting Attorney Don Raz, Senior Deputy Prosecutor Tim Bradshaw, Deputy Prosecutor King County Courthouse 516 Third Avenue, Suite W554 Seattle, WA 98104-2362 (206) 296-9000
<u>APPELLANT'S ATTYS:</u>		(Direct Appeal, WSSC Cause #71267-1) Todd Maybrown Seattle, WA  Kathryn Ross Mukilteo, WA
<u>PETITIONER'S ATTYS:</u>		(Personal Restraint Petition, WSSC Cause #79761-7; USSC #14-7683) Todd Maybrown Seattle, WA  <b>JAMES LOBSENZ</b> <b>CARNEY BADLEY SPELLMAN, P.S.</b> <b>701 FIFTH AVE, SUITE 3600</b> <b>Seattle, WA 98104</b> <b>(206) 622-8020</b>  (Federal Habeas Corpus, USDC WDC #C14-1092) <b>TODD MAYBROWN</b> <b>ALLEN HANSEN &amp; MAYBROWN</b> <b>600 UNIVERSITY ST., SUITE 3020</b> <b>SEATTLE, WA 98101-4105</b> <b>(206) 447-9681</b>  <b>PETER OFFENBECHER</b> <b>SKELLENGER BENDER, PS</b> <b>1301 5TH AVE, SUITE 3401</b> <b>SEATTLE, WA 98101-2605</b> <b>(206) 623-6501</b>

DATE            CAUSE            ACTION

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**  
**KING COUNTY COURTHOUSE**  
**516 THIRD AVENUE W554**  
**SEATTLE, WA 98101**  
**(206) 296-9650**

(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**

06/29/01	71267-1 WSSC	Notice of Judgment and Sentence
06/22/04	71267-1 WSSC	Oral argument held
03/30/06	71267-1 WSSC	Opinion (affirming conviction and sentence of death). Majority opinion authored by Justice Chambers. Chief Justice Alexander filed a concurring opinion. Justice Madsen, joined by Justices Charles Johnson, Sanders, and Owens, dissented. <i>State v. Cross</i> , 156 Wn.2d 580, 132 P.3d 80 (2006).
04/06/06	71267-1 WSSC	Cost Bill [\$128,781 to be paid to OPD, \$706.18 to King County]
11/06/06	06-6333 USSC	Petition for Writ of Certiorari denied. <i>Cross v. Washington</i> , 549 U.S. 1022, 127 S. Ct. 559, 166 L. Ed. 2d 415 (2006).
11/30/06	71267-1 WSSC	Mandate
12/19/06	71267-1 WSSC	Amended Mandate
01/30/07	99-1-02212-9	Death Warrant (setting execution for February 27, 2007)
01/31/07	79761-7 WSSC	Application for Stay of Execution
02/02/07	79761-7 WSSC	Order Granting Stay of Execution and Appointing Counsel
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

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
		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 <i>Alford</i> plea issues presented. The Court's reasoning will be set forth in its opinion on the merits of the Petitioner's Personal Restraint Petition to be released in due course.)
11/06/09	79761-7 WSSC	Order (Respondent's motion to lift the stay is granted in part and denied in part. The motion is denied with respect to consideration of the legality of Washington's lethal injection protocol. The motion to lift the stay is granted with respect to all other claims. The Respondent's motion for immediate dissemination of discovery is granted in part.)
06/25/10	79761-7 WSSC	Order (The Respondent's motion to compel production is deferred pending further consideration of this court. Within 30 days of this order, the Petitioner shall provide this court with: (1) copies of any disputed documents, which shall be filed under seal, for this court's in camera review; and (2) a brief explaining why said documents should not be disclosed. The Respondent's request to clarify this court's November 10, 2008 order is denied without prejudice to a more specific future motion)
11/08/11	79761-7 WSSC	Order (granting Respondent's motion for permission to file discovery documents and temporarily sealing said documents subject to further order of the Court)
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
11/13/14	C14-1092 WDC	Minute Entry (Petitioner's Habeas Petition due May 29, 2015; Respondent's Answer due August 31, 2015; Petitioner's Reply due December 11, 2015)

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
12/17/14	14-7683 USSC	Petition for Writ of Certiorari and Motion for Leave to Proceed in Forma Pauperis
01/21/15	14-7683 USSC	Brief Amici Curiae of Washington Assoc. of Criminal Defense Lawyers, et al.
01/27/15	14-7683 USSC	Order Extending Time to File Response to Petition (due February 23, 2015)
02/23/15	14-7683 USSC	Brief of Respondent Washington in Opposition
03/04/15	14-7683 USSC	Reply of Petitioner Dayva Cross
03/19/15	79761-7 WSSC	Motion (Stipulation to permit Mr. Cross's counsel to review sealed documents)
03/19/15	71267-1 WSSC	Motion (Stipulation to permit Mr. Cross's counsel to review sealed documents)
03/30/15	14-7683 USSC	Petition for Writ of Certiorari denied. <i>Cross v. Washington</i> , 135 S. Ct. 1701 (2015).
04/02/15	79761-7 WSSC	Order (granting stipulation to permit Mr. Cross's counsel to review sealed documents)
05/19/2015	79761-7 WSSC	Joint Motion to Unseal Records for Limited Purpose of Filing in Federal Court
05/19/2015	71267-1 WSSC	Joint Motion to Unseal Records for Limited Purpose of Filing in Federal Court
05/21/2015	79761-7 WSSC	Order (granting Joint Motion to Unseal Records for Limited Purpose of Filing in Federal Court)
05/21/2015	71267-1 WSSC	Order (granting Joint Motion to Unseal Records for Limited Purpose of Filing in Federal Court)

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



<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
10/11/13	80209-2 WSSC	Mandate (Costs in the amount of \$61.82 shall be awarded to the Respondent, Pierce County Prosecuting Attorney's Office and \$129,243.11 shall be awarded to the Washington State Office of Public Defense, to be paid by Petitioner, Cecil Davis)
11/21/13	97-1-00432-4	Death Penalty 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
11/26/13	89590-2 WSSC	Order (Roger A. Hunko and Paula Olson are appointed as counsel for Cecil E. Davis)
12/06/13	89590-2 WSSC	Defendant's First Motion for Stay Of Execution
12/09/13	89590-2 WSSC	State's Response to First Motion for Stay of Execution
12/12/13	89590-2 WSSC	Order (Defendant's First Motion for Stay of Execution is granted)
09/25/14	89590-2 WSSC	Order (Defendant's motion for extension of deadlines is granted. The Petitioner's personal restraint petition and supplemental briefing shall be served and filed by not later than April 13, 2015. It is further ordered this stay of the execution will automatically terminate on April 14, 2015, if the Petitioner has not filed a personal restraint petition with this Court by April 13, 2015.)
09/26/14	89590-2 WSSC	Answer (Objection to motion for extension of time to file personal restraint petition.)
09/29/14	89590-2 WSSC	Letter (Respondent's objection filed on September 26, 2014, has been placed in the file without further action because on September 25, 2014, the Court entered an order granting the motion for extension of time. This Court's order dated September 25, 2014, only addressed the modification of the schedule for filing of the personal restraint petition and extension of the previously entered stay. The order did not address, nor did it purport to address, the tolling or waiver of any statute of limitations, nor did it address any of the provisions of RCW 10.73. Therefore, the determination not to take further action on the Respondent's objection at this time is without prejudice to the Respondent raising any of the arguments contained in the objection in the Respondent response to the yet to be filed personal restraint petition, if after reviewing the personal restraint petition, the Respondent believes such is warranted.)
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
05/14/15	89590-2 WSSC	Amended Personal Restraint Petition

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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)

<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	

DATE            CAUSE            ACTION

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

**JEFFREY E. ELLIS**  
**LAW OFFICE OF ALSEPT & ELLIS**  
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**LAW OFFICES OF GOMBINER**  
**119 1<sup>ST</sup> AVENUE, SUITE 500**  
**SEATTLE, WA 98104**  
**(206) 621-8777**

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

RESPONDENT'S ATTYS:

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

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

**ROBERT W. FERGUSON, ATTORNEY GENERAL**  
**JOHN J. SAMSON, SENIOR COUNSEL**  
**RONDA D. LARSON, ASSISTANT ATTORNEY GENERAL**  
**CORRECTIONS DIVISION**  
**PO BOX 40116**  
**OLYMPIA, WA 98504-0116**  
**(360) 586-1445**

Gregory J. Rosen, AAG (withdrew 6/6/13)  
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. <i>State v. Elmore</i> , 139 Wn.2d 250, 985 P.2d 289 (1999)
10/02/00	99-9587 USSC	Petition for Writ of Certiorari denied, <i>Elmore v. Washington</i> , 531 U.S. 837, 121 S. Ct. 98, 148 L. Ed. 2d 57 (2000)
10/09/00	64095-8 WSSC	Mandate issued
10/10/00	70233-1 WSSC	Motion for Appointment of Counsel and for Stay of Execution Pursuant to Rules 16.24 and 16.25 of the Rules of Appellate Procedure
10/31/00	95-1-00310-1	Death Warrant (setting execution for November 28, 2000)
11/07/00	70233-1 WSSC	Notation Order (motion for stay of execution is granted)
06/29/01	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

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
		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. <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 Permitting Elmore to File Amended Petition; Order Granting Motion for Stay of Execution
02/22/08	70233-1 WSSC	Order Denying Motion for Reconsideration
03/05/08	70233-1 WSSC	Ruling on Cost Bill (\$245,662.53 to be paid to OPD, \$496.00 to Whatcom County); Certificate of Finality)
04/22/08	C08-0053 WDC	First Amended Petition for Writ of Habeas Corpus
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)
09/03/13	12-99003 9 CIR	Appellant's Opening Brief
10/21/13	12-99003 9 CIR	Appellant's Opening Brief (Corrected)
01/14/14	12-99003 9 CIR	Brief of Respondent-Appellee

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
03/10/14	12-99003 9 CIR	Appellant's Reply Brief
07/22/14	12-99003 9 CIR	Order (Respondent shall file a supplemental brief addressing the two uncertified issues raised in the opening brief by August 28, 2014)
08/21/14	12-99003 9 CIR	Appellee's Supplemental Brief Re Uncertified Issues
09/09/14	12-99003 9 CIR	Appellant's Reply Brief (re: uncertified issues)
09/09/14	12-99003 9 CIR	Oral argument held
03/25/15	C08-0053 WDC	Letter from Attorneys for Petitioner Clark Elmore to the Hon. Ronald B. Leighton re Proposed Clemency Budget and request for authorization of up to 100 attorney hours
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 separation opinion concurring in part and concurring in the result. <i>Elmore v. Sinclair</i> , 781 F.3d 1160, (9th Cir. 2015)
04/03/15	12-99003 9 CIR	Unopposed Motion for Extension of Time to File Petition for Rehearing or Petition for Rehearing with Suggestion for Rehearing En Banc
04/13/15	C08-0053 WDC	CJA 20: Jeffrey Erwin Ellis as to Clark Elmore signed by Judge Ronald B. Leighton; CJA 20: Robert Gombiner appointed as to Clark Elmore signed by Judge Ronald B. Leighton
05/15/15	12-99003 9 CIR	Petition for Panel Rehearing and Petition for Rehearing En Banc
06/08/15	12-99003 9 CIR	<b>Order (Appellee directed to file a response to the Petition for Panel Rehearing and Petition for Rehearing En Banc within 21 days of this Order)</b>
06/12/15	12-99003 9 CIR	<b>Appellant's Motion to File Addendum in 0 Volumes to Motion for Rehearing or Rehearing En Banc</b>
06/16/15	12-99003 9 CIR	<b>Appellee's Response to Motion to File Addendum</b>
06/24/15	12-99003 9 CIR	<b>Appellant's Citation of Supplemental Authorities</b>
06/24/15	12-99003 9 CIR	<b>Order (granting Appellant's Motion for Leave to File Supplement to Motion for Rehearing or Rehearing En Banc. Response due 7/9/15)</b>
07/01/15	12-99003 9 CIR	<b>Appellee's Response to Petition for Panel Rehearing and Petition for Rehearing En Banc</b>

<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) (Federal Habeas Corpus, USDC WDC #C99-0289L, 9 <sup>th</sup> Cir # 09-99021, USSC #12-10321) <b>RITA J. GRIFFITH</b> <b>GRIFFITH &amp; COLE</b> <b>1305 NE 45<sup>TH</sup> STREET, SUITE 205</b> <b>SEATTLE, WA 98105</b> <b>(206) 547-1742</b>  Brian Tsuchida (withdrew on 5/13/08) Seattle, WA  Scott Engelhard (withdrew on 5/1/09) Seattle, WA 98104 <b>TIMOTHY FORD</b> <b>MACDONALD HOAGUE &amp; BAYLESS</b> <b>705 SECOND AVE, SUITE 1500</b> <b>SEATTLE, WA 98104-1745</b> <b>(206) 622-1604</b>  Meredith Rountree (withdrew on 5/1/09) Austin, TX
<u>RESPONDENT'S ATTYS:</u>		(Personal Restraint Petition, Washington Supreme Court #62677-4) Russell Hauge, Prosecuting Attorney Randy Sutton, Deputy Pamela B. Loginsky, Special Deputy Washington Association Of Prosecuting Attorneys

DATE      CAUSE      ACTION

RESPONDENT'S ATTYS:

(Federal Habeas Corpus, USDC WDC #C99-0289L, 9<sup>th</sup> Cir # 09-99021, USSC #12-10321)  
**ROBERT W. FERGUSON, ATTORNEY GENERAL**  
**PAUL D. WEISSER, SENIOR COUNSEL**  
**GREGORY J. ROSEN, ASSISTANT ATTORNEY GENERAL**  
**CORRECTIONS DIVISION**  
**P.O. BOX 40116**  
**OLYMPIA, WA 98504-0116**  
**(360) 586-1445**

DATE      CAUSE      ACTION

08/08/91	58415-0 WSSC	<i>State v. Gentry</i> ; Notice of Appeal
11/09/93	58415-0 WSSC	Oral argument held
01/06/95	58415-0 WSSC	Opinion (affirming conviction and sentence of death). Majority opinion authored by Justice Andersen. Justices Utter, Johnson and Madsen dissented. <i>State v. Gentry</i> , 125 Wn.2d 570, 888 P.2d 1105 (1995)
10/02/95	94-9582 USSC	Petition for Writ of Certiorari denied. <i>Gentry v. Washington</i> , 516 U.S. 843, 116 S. Ct. 131, 133 L. Ed. 2d 79 (1995)
10/05/95	58415-0 WSSC	Mandate issued
11/02/95	88-1-00395-3	Death Warrant (setting execution for December 5, 1995)
11/14/95	58415-0 WSSC	Order staying execution
12/15/95	62677-4 WSSC	Order appointing counsel
02/18/99	62677-4 WSSC	Opinion denying personal restraint petition. Justice Talmadge authored the opinion for the Court. Justice Sanders, joined by Justice Johnson, dissented in part. <i>In re Gentry</i> , 137 Wn.2d 378, 972 P.2d 1250 (1999)
06/30/99	62677-4 WSSC	Order (Petitioner's motion for reconsideration is denied); Order Changing Opinion; Order (Respondent's motion, to dissolve the stay of execution upon issuance of the certificate of finality, is granted)
07/19/99	C99-0289 WDC	Order (staying execution of Jonathan Lee Gentry)
07/21/99	62677-4 WSSC	Certificate of Finality
07/26/99	62677-4 WSSC	Order (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
03/6-9/06	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).

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
09/05/08	C99-0289 WDC	Order on <i>Brady/Napue</i> Claims Regarding Leonard Smith (denying habeas relief); Order Denying Petitioner's Motion for Evidentiary Hearing on Denial of Effective Assistance of Counsel Due to Failure to Investigate
09/15/08	C99-0289 WDC	Order Granting Respondent's Motion for Summary Judgment, Denying Petitioner's Cross-Motion for Summary Judgment, and Order Denying Amended Habeas Petition. <i>Gentry v. Sinclair</i> , 576 F. Supp. 2d 1130 (2008).
03/23/09	C99-0289 WDC	Order Denying Motion for Reconsideration. <i>Gentry v. Sinclair</i> , 609 F. Supp. 2d 1179 (2009).
04/23/09	C99-0289 WDC	Judgment in a Civil Case
04/24/09	C99-0289 WDC	Order Denying Motion to Supplement Motions for Reconsideration; Amended Judgment in a Civil Case
05/22/09	C99-0289 WDC	Order Denying Motion for New Trial or to Amend Judgment
05/26/09	C99-0289 WDC	Notice of Appeal
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)
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]. <i>Gentry v. Sinclair</i> , 132 S. Ct. 453 (2011).
11/17/11	09-99021 9 CIR	Oral argument held
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)
05/15/13	12-10321 USSC	Petition for Writ of Certiorari [re <i>Gentry v. Sinclair</i> ]
06/25/13	86585-0 WSSC	Oral argument held

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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. <i>Gentry v. Sinclair</i> , 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
10/31/13	12-10321 USSC	Petition for Rehearing
11/21/13	88-1-00395-3 89620-8 WSSC	Notice of Discretionary Review
12/02/13	12-10321 USSC	Petition for rehearing denied. <i>Gentry v. Sinclair</i> , 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 <i>Gentry v. Sinclair</i> , 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. <i>In re Gentry</i> , 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	86585-0 WSSC	Petitioner-Appellant's Motion to Supplement Record; Petitioner-Appellant's Motion for Reconsideration
02/12/14	09-99021 9 CIR	Order (motion to recall mandate denied)
03/27/14	86585-0 WSSC	State's Response to Motion for Reconsideration
04/14/14	89620-8 WSSC	Appellant's Brief
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)
05/07/14	86585-0 WSSC	Order Denying Further Reconsideration and Denying Motion to Supplement the Record
05/16/14	86585-0 WSSC	Motion to Continue Stay of Execution of Death Sentence Pending Ruling on Stay in Related Case
05/23/14	86585-0 WSSC	State's Response to Gentry's Motions to Continue or Issue Stay of Execution
05/30/14	86585-0 WSSC	Reply Regarding Motion to Continue Stay of Execution of Death Sentence Pending Ruling on Stay in Related Case

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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)
11/05/14	89620-8 WSSC	Order (Court will retain case for hearing and decision. Justice Gordon McCloud recused; Justice Stephens sat for Justice McCloud)
02/02/15	89620-8 WSSC	Order (appointing Honorable Brad Maxa and Honorable Jill Johanson)
03/10/15	89620-8 WSSC	Oral argument

<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>		(Direct Appeal, WSSC No. 88086-7) <b>NEIL M. FOX</b> <b>LAW OFFICE OF FOX, PLLC</b> <b>2003 WESTERN AVE STE 330</b> <b>SEATTLE, WA 98121-2140</b> <b>(206) 728-5440</b>
		<b>LILA J. SILVERSTEIN</b> <b>WASHINGTON APPELLATE PROJECT</b> <b>1511 3RD AVE STE 701</b> <b>SEATTLE, WA 98101-3647</b> <b>(206) 587-2711</b>
<u>RESPONDENT'S ATTYS:</u>		(Direct Appeal, WSSC No. 88086-7) <b>JOHN MARTIN NEEB, PROSECUTING ATTORNEY</b> <b>KATHLEEN PROCTOR, DEPUTY PROSECUTOR</b> <b>930 TACOMA AVE S, RM 946</b> <b>TACOMA, WA 98402-2171</b> <b>(253) 798-7400</b>

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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)
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.)
03/13/13	88086-7 WSSC	Order (Appellant's motion to transfer record from prior appeal denied)
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.)
12/09/13	88086-7 WSSC	Order (Motion to Join Motion to Complete the Process of Compiling a Full Set of Aggravated Murder Reports Filed in <i>State v. Gregory</i> is granted)
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 to this Case (#71155-1)
04/16/14	88086-7 WSSC	State's Response to Transfer Selected Transcripts from Prior Appeal
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)
10/13/14	88086-7 WSSC	Motion for Permission to File Updated Report on Race and the Death Penalty in Washington
11/17/14	88086-7 WSSC	State's Objection to Motion to Add Updated Report to Record on Review and Motion to Strike Improper Appendices to Appellant's Brief
01/08/15	88086-7 WSSC	Order (granting Motion for Permission to File Updated Report on Race and the Death Penalty in Washington; denying Motion to Strike Improper Appendices to Appellant's Brief)
04/20/15	88086-7 WCCS	Brief of Respondent
05/29/15	88086-7 WSSC	Motion for Extension of Time to File Appellant's Reply Brief
06/03/15	88086-7 WSSC	Order (Appellant's motion for extension of time to file Appellant's reply brief is granted; reply brief due June 30, 2015)

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
06/03/15	88086-7 WSSC	Appellant's Motion for Permission to File Over-length Brief
06/30/15	88086-7 WSSC	Appellant's Reply Brief

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
<u>NAME:</u>		SCHERF, Byron Eugene D.O.B.: August 3, 1958 Race: Caucasian
<u>DATE OF CRIME:</u>		January 29, 2011
<u>PLACE OF CRIME:</u>		Snohomish County
<u>BRIEF FACTS:</u>		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. <i>State v. Scherf</i> , Snohomish County Superior Court Cause No. 11-1-00404-4.
<u>DATE OF CONVICTION:</u>		May 9, 2013
<u>SPECIAL SENTENCING:</u>		May 15, 2013
<u>JUDGMENT AND SENTENCE:</u>		Snohomish County Superior Court Cause No. 11-1-00404-4 May 15, 2013
<u>TRIAL JUDGE:</u>		Honorable George Appel
<u>DEFENSE ATTYS:</u>		Karen Ann Halverson Jon Thomas Scott Everett, WA  James Elliot Lobsenz Seattle, WA
<u>PROSECUTING ATTYS:</u>		Mark Roe, Prosecuting Attorney Edward E. Stemler, Deputy Prosecutor Paul Stern, Deputy Prosecutor 3000 Rockefeller Everett, WA 98201 (425) 388-3333
<u>APPELLANT'S ATTYS:</u>		(Direct Appeal, WSSC No. 88906-6) <b>RITA GRIFFITH</b> <b>ATTORNEY AT LAW</b> <b>4616 25TH AVE NE</b> <b>SEATTLE, WA 98105-4523</b> <b>(206) 547-1742</b>
		<b>MARK LARRANAGA</b> <b>WALSH &amp; LARRANAGA</b> <b>705 2ND AVE STE 501</b> <b>SEATTLE, WA 98104-1715</b> <b>(206) 325-7900</b>
<u>RESPONDENT'S ATTYS:</u>		(Direct Appeal, WSSC No. 88906-6) <b>MARK ROE, PROSECUTING ATTORNEY</b> <b>SETH FINE, DEPUTY PROSECUTING ATTORNEY</b> <b>SNOHOMISH COUNTY COURTHOUSE</b> <b>3000 ROCKEFELLER AVE</b> <b>EVERETT, WA 98201-4060</b> <b>(425) 388-3333</b>

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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); 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; Motion for Waiver of Page Limitation
08/14/14	88906-6 WSSC	Order (Appellant's motion to file an overlength opening brief is granted. The Appellant's overlength opening brief received by this Court on August 6, 2014, is accepted for filing.)
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)
11/03/14	88906-6 WSSC	Appellant's Statement of Additional Authorities
12/11/14	88906-6 WSSC	Motion for Extension of Time to File Respondent's Brief
12/12/14	88906-6 WSSC	Appellant's Objection to Four-Month Extension of Time to File Respondent's Brief
12/15/14	88906-6 WSSC	Appellant's Corrected Objection to Four-Month Extension of Time to File Respondent's Brief
12/16/14	88906-6 WSSC	Order (Respondent's motion granted. Respondent's brief due April 1, 2015)
03/31/15	88906-6 WSSC	Respondent's Motion for Extension of Time to File Brief
04/01/15	88906-6 WSSC	Appellant's Objection to a Further Extension of Time to File Respondent's Brief
04/02/15	88906-6 WSSC	Order (granting Respondent's motion for extension of time to file Respondent's brief to May 1, 2015)
05/01/15	88906-6 WSSC	Motion for Extension of Time to File Respondent's Brief
05/05/15	88906-6 WSSC	Order (granting Respondent's motion for extension of time to file brief; brief due June 1, 2015)
06/01/15	88906-6 WSSC	Brief of Respondent

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
06/03/15	88906-6 WSSC	Appellant's Motion to Set a Date Certain to File Respondent's Brief or Impose Monetary Sanctions
06/05/15	88906-6 WSSC	Motion for Extension of Time to file Respondent's Brief
06/05/15	88906-6 WSSC	Appellant's Objection to Extension of Time to file Respondent's Brief
06/10/15	88906-6 WSSC	Order (Granting appellant's motion to set a date certain to file respondent's brief. Denying appellant's motion to impose monetary sanctions. Granting respondent's motion for extension of time to file respondent's brief. Brief due June 23, 2015)
06/25/15	88906-6 WSSC	Motion for Extension of Time to File Respondent's Brief

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

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
06/01/10	84614-6 WSSC	Judgment and Sentence
06/01/10	84614-6 WSSC	Notice of Appeal; Motion for Order of Indigency and Affidavit in Support of Motion
06/02/10	84614-6 WSSC	Order Authorizing Appeal <i>In Forma Pauperis</i> , Appointment of Counsel and Preparation of Records
06/23/10	84614-6 WSSC	Order (Suzanne Elliott 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)
01/26/15	84614-6 WSSC	Motion by American Civil Liberties Union of Washington for leave to file brief of amicus curiae
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
04/28/15	84614-6 WSSC	Respondent's Statement of Additional Authorities
05/01/15	84614-6 WSSC	Petitioner's Supplemental Authorities
05/04/15	84614-6 WSSC	Petitioner's Second Supplemental Authorities
05/05/15	84614-6 WSSC	Oral argument held
05/20/15	84614-6 WSSC	Appellant's Third Supplemental Authority

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



<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
		post-conviction relief by means of a personal restraint petition? (2) If the answer is yes, is it Woods' desire to proceed <i>pro se</i> in preparing and filing such a petition? (3) If Woods' answer to question two is no, or is a conditional or qualified yes, are his present counsel willing to abide by Woods' instructions regarding issues to be raised in such a petition?)
07/15/02	71780-0 WSSC	Reference Hearing Report (with attached transcript of hearing)
08/12/02	71780-0 WSSC	Additional Reference Hearing Report
06/16/05	71780-0 WSSC	Opinion denying personal restraint petition. Chief Justice Alexander authored the opinion for the Court. Justice Sanders dissented. <i>In re Woods</i> , 154 Wn.2d 400, 114 P.3d 607 (2005)
09/30/05	71780-0 WSSC	Order (denying motion for reconsideration)
10/03/05	71780-0 WSSC	Certificate of Finality
10/14/05	C05-319 EDC	Emergency Order Staying Execution of Dwayne Anthony Woods
07/21/06	C05-319 EDC	Petition for Writ of Habeas Corpus
08/21/08	C05-319 EDC	Order Denying Motion to Expand Record with Documents Re: Johnny Knight
02/05/09	C05-319 EDC	Order Denying Petition, Supplement, and Revised Petition for a Writ of Habeas Corpus; Judgment in a Civil Case
02/10/09	C05-319 EDC	Notice of Appeal
02/12/09	C05-319 EDC	Order (granting stay of execution pending Court's decision regarding certificate of appealability issue; if certificate of appealability is granted, the stay of execution will remain in effect during the pendency of the appeal and until the Court of Appeals issues its mandate)
04/10/09	C05-319 EDC	Order Granting Motion for Certificate of Appealability in Part and Denying in Part
03/04/10	09-99003 9 CIR	Oral argument held
08/10/11	09-99003 9 CIR	Opinion affirming the judgment of the district court. Judge Paez authored the opinion, with Judges Tallman and Smith concurring. <i>Woods v. Sinclair</i> , 655 F.3d 886 (9 <sup>th</sup> Cir. 2011).
09/29/11	09-99003 9 CIR	Order (denying petition for rehearing)
12/19/11	11-7978 USSC	Petition for Writ of Certiorari
01/04/12	96-1-01143-7	Notice of Appearance (Suzanne Elliott & David Zuckerman); Motion for Appointment of Counsel; Motion for DNA Testing
03/26/12	11-7978 USSC	Order (granting petition for writ of certiorari, vacating the judgment, and remanding to the Ninth Circuit for further consideration in light of <i>Martinez v. Ryan</i> .) <i>Woods v. Holbrook</i> , 132 S. Ct. 1819 (2012).
05/17/12	09-99003 9 CIR	Order (parties are ordered to file supplemental briefs addressing the effect of the Supreme Court's ruling in <i>Martinez v. Ryan</i> .)
06/28/12	09-99003 9 CIR	Respondent's Supplemental Brief Re: <i>Martinez v. Ryan</i>

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
06/29/12	09-99003 9 CIR	Supplemental Brief of Petitioner-Appellant Regarding <i>Martinez v. Ryan</i> and <i>Sexton v. Cozner</i>
07/13/12	96-1-01143-7	Court's Memorandum Decision (granting Defendant's motion for DNA testing)
09/06/13	09-99003 9 CIR	Order (parties are directed to simultaneously file supplemental briefs addressing the effect, if any, of <i>Detrich v. Ryan</i> , No. 08-99001)
09/27/13	09-99003 9 CIR	Respondent-Appellee's Supplemental Brief Regarding <i>Detrich v. Ryan</i> ; Supplemental Brief of Petitioner-Appellant Regarding <i>Detrich v. Ryan</i>
10/02/13	09-99003 9 CIR	Motion to Strike Woods' New Exhibit (new declaration by Woods' post-conviction counsel)
10/11/13	09-99003 9 CIR	Petitioner-Appellant's Response to State's Motion to Strike Declaration of Nussbaum
08/25/14	09-99003 9 CIR	Order (Respondent's motion to strike Petitioner's new exhibit is granted)
08/25/14	09-99003 9 CIR	Opinion affirming in part and vacating in part the district court's judgment and remanding for the district court to consider in the first instance whether Woods can show cause and prejudice under <i>Martinez v. Ryan</i> . Judge Paez authored the opinion, with Judge Smith concurring. Judge Tallman concurred in part and dissented in part. <i>Woods v. Sinclair</i> , 764 F.3d 1109 (9th Cir. 2014).
09/08/14	09-99003 9 CIR	Petition for Rehearing En Banc
10/30/14	09-99003 9 CIR	Order (denying petition for rehearing en banc)
01/28/15	14-931 USSC	State's Petition for a Writ of Certiorari; Appendix
03/05/15	14-931 USSC	Brief Amici Curiae of Arizona, et al.
04/03/15	14-931 USSC	Brief of Respondent Dwayne Anthony Woods
04/03/15	14-931 USSC	Respondent's Motion for Leave to Proceed in Forma Pauperis
04/20/15	14-931 USSC	Petitioner Donald Holbrook's Reply
05/18/15	14-931 USSC	Petition for writ of certiorari denied; Respondent's motion for leave to proceed in forma pauperis granted. <i>Holbrook v. Woods</i> , 135 S. Ct. 2311 (2015)
05/20/15	09-99003 9 CIR	Mandate
<b>06/30/15</b>	<b>C05-319 EDC</b>	<b>Stipulated Motion for Extension of Time to File Supplemental Brief</b>
<b>06/30/15</b>	<b>C05-319 EDC</b>	<b>Order (granting unopposed motion for extension of time to file petitioner's supplemental brief)</b>

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
<u>NAME:</u>	YATES, Robert Lee, Jr. D.O.B.: May 27, 1952 Race: White	
<u>DATE OF CRIME:</u>	1997 and 1998	
<u>PLACE OF CRIME:</u>	Pierce County	
<u>BRIEF FACTS:</u>	Robert Lee Yates, Jr. was convicted of two counts of aggravated first degree murder for the murders of Melinda Mercer in 1997 and Connie LaFontaine Ellis in 1998. The aggravating circumstances were: (1) there was more than one victim and the murders were part of a common scheme or plan or the result of a single act of the defendant; (2) the murders were committed in the course of, in furtherance of, or in immediate flight from the crime of Robbery in the First Degree. <i>State v. Yates</i> , Pierce County Cause No. 00-1-03253-8.	
<u>DATE OF CONVICTION:</u>	September 19, 2002	
<u>SPECIAL SENTENCING:</u>	October 3, 2002	
<u>JUDGMENT AND: SENTENCE</u>	Pierce County Superior Court Cause No. 00-1-03253-8 October 9, 2002	
<u>TRIAL JUDGE:</u>	Honorable John McCarthy	
<u>DEFENSE ATTYS:</u>	Roger Hunko Port Orchard, WA	Mary Kay High Tacoma, WA
<u>PROSECUTING ATTYS:</u>	Gerald Horne, Prosecuting Attorney Jerry Costello, Deputy Prosecutor Barbara Corey-Boulet, Deputy Prosecutor 930 Tacoma Avenue South Tacoma, WA 98402 (253) 798-7400	
<u>APPELLANT'S ATTYS:</u>	(Direct Appeal, WSSC No. 73155-1) Gregory Link Thomas Kummerow Nancy Collins WA Appellate Project  Roger Hunko (withdrew 11/04/02) Port Orchard, WA	
<u>PETITIONER'S ATTYS:</u>	(Personal Restraint Petition, WSSC No. 82101-1) Ronald Ness Port Orchard, WA 98366-4604  Jeffrey E. Ellis Portland, Or 97205-3813	Judith Mandel Xi'an Shaanxi Province ZZ 710063  Steve Witchley Seattle, WA 98104

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
		(Federal Habeas Corpus, USDC WDC #C13-0842-RSM)
		<b>JEFFREY E. ELLIS</b>
		<b>OR CAPITAL RESOURCE CTR</b>
		<b>621 SW MORRISON ST, SUITE 1025</b>
		<b>PORTLAND, OR 97205-3813</b>
		<b>(206) 218-7076</b>
		<b>TODD MAYBROWN</b>
		<b>ALLEN, HANSEN &amp; MAYBROWN, P.S.</b>
		<b>600 UNIVERSITY STREET, SUITE 3020</b>
		<b>SEATTLE, WA 98101</b>
		<b>(206) 447-9681</b>

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**  
**CORRECTIONS DIVISION**  
**P.O. 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).
12/24/07	73155-1 WSSC	Order Denying Appellant's Motion for Reconsideration
01/03/08	73155-1 WSSC	Ruling on Cost Bill (Costs in the amount of \$173,254.08 are awarded to the Office of Public Defense and costs in the amount of \$183.56 are awarded to Respondent State of Washington, Pierce County, to be paid by Appellant Yates).
06/23/08	07-10069 USSC	Petition for Writ of Certiorari denied. <i>Yates v. Washington</i> , 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

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
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. <i>In re Yates</i> , 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 Maybrow)
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)
01/29/14	C13-0842 WDC	Response to Petitioner's Motion for Stay and Abeyance
01/30/14	C13-0842 WDC	Reply in Support of Petitioner's Motion for Stay and Abeyance
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)
02/28/14	89792-1 WSSC	Order (On January 16, 2014, the Petitioner's Personal Restraint Petition and Motion and Declaration for Order Authorizing the Defendant to Seek Review at Public Expense were both received. The portion of the motion that seeks a waiver of the filing fee is granted, and the personal restraint petition has been filed. The balance of the relief requested in the motion is denied.)
08/26/14	89792-1 WSSC	Respondent's Brief (re: PRP)
08/29/14	89792-1 WSSC	Supplemental Pleadings (appendices to State's response to PRP)
09/05/14	89792-1 WSSC	Order (State's motion to consider the report of proceedings from prior direct appeal is granted.)
09/22/14	89792-1 WSSC	Petitioner's Motion for Appointment of Counsel
10/20/14	89792-1 WSSC	Petitioner's Motion for Extension to File Reply Brief

<u>DATE</u>	<u>CAUSE</u>	<u>ACTION</u>
10/22/14	89792-1 WSSC	Order (denying Petitioner's motion for appointment of counsel)
10/22/14	89792-1 WSSC	Order (granting Petitioner's motion for extension of time to file reply brief; reply brief due December 26, 2014)
12/23/14	89792-1 WSSC	Petitioner's Reply Brief in Support of Personal Restraint Petition
07/09/15	89792-1 WSSC	<b>Opinion dismissing personal restraint petition as untimely. Justice Owens authored the opinion for a unanimous court. <i>In re Yates</i>, __ Wn.2d __, 2015 WL 4136530 (2015)</b>
07/09/15	C13-0842 WDC	<b>Notice of Decision by Washington Supreme Court re Petition for Writ of Habeas Corpus and Order on Motion to Stay</b>