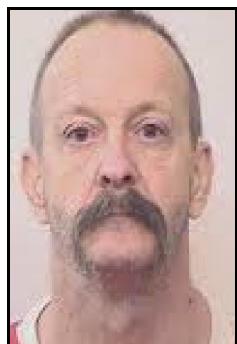
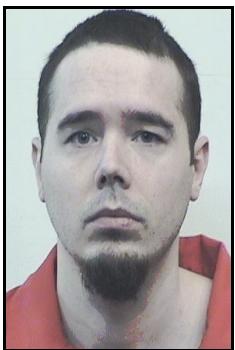
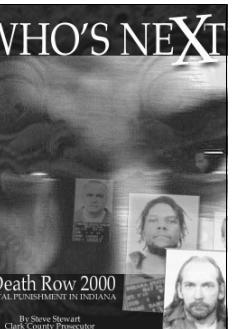
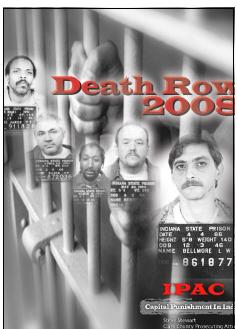


# *Death Row 2022*

## *The Death Penalty and LWOP in Indiana*



# IPAC

Indiana Prosecuting Attorneys Council

Steve Stewart  
Clark County Deputy  
Prosecuting Attorney  
January 1, 2022

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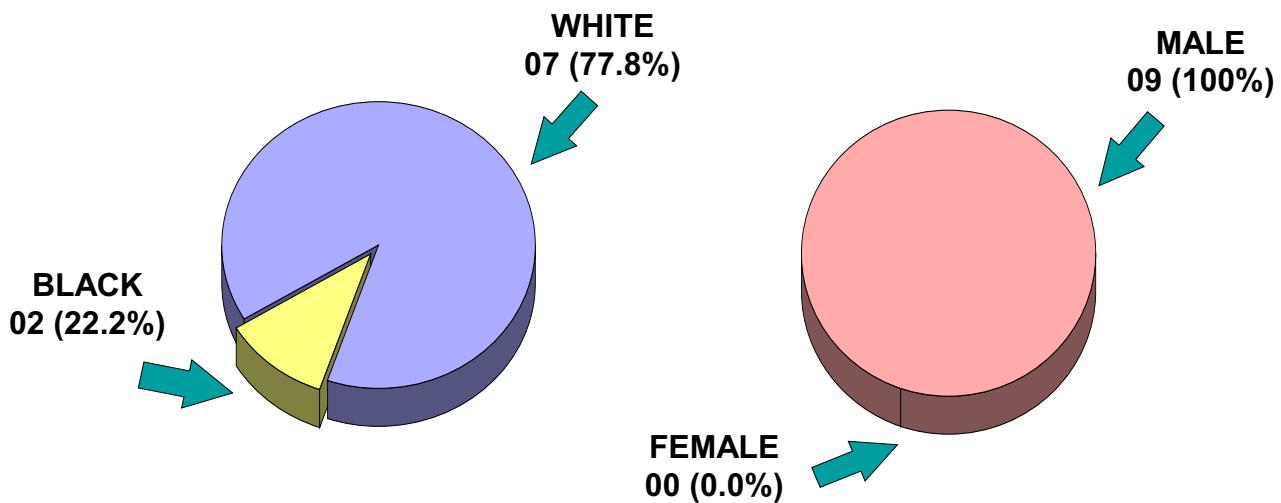
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# The Death Penalty

In Indiana

On Indiana Death Row as of January 1, 2022 = 9

Of 9 inmates now on Indiana Death Row:



\* Includes Gibson twice, with two separate death sentences

**CURRENT DEATH ROW AS OF JANUARY 1, 2022**  
**BY LENGTH OF TIME ON DEATH ROW AWAITING EXECUTION**

<b><u>Inmate</u></b>	<b><u>County</u></b>	<b><u>Sentencing Date</u></b>	<b><u>Length</u></b>
1. Eric D. Holmes *	Marion	03-26-1993	28 yr, 281 d
2. Joseph E. Corcoran	Allen	08-26-1999	22 yr, 127 d
3. Michael D. Overstreet *	Johnson	07-31-2000	21 yr, 154 d
4. Benjamin Ritchie	Marion	10-15-2002	19 yr, 047 d
5. Roy Lee Ward	Clay (Spencer)	06-08-2007	14 yr, 207 d
6. Kevin Charles Isom	Lake	03-08-2013	08 yr, 299 d
7. Jeffrey Alan Weisheit	Clark (Vanderburgh)	07-11-2013	08 yr, 173 d
8. William Clyde Gibson III	Floyd	11-26-2013	08 yr, 035 d
9. William Clyde Gibson III	Floyd	04-15-2014	07 yr, 260 d

\* Overstreet have been adjudged currently "not competent to be executed."

\* Holmes has been adjudged currently "incompetent" for further habeas proceedings.

- ◆ There have been no Indiana death sentences since April 15, 2014. (Gibson).
- ◆ Only 4 Indiana trials have resulted in a death sentence since January 25, 2008.
- ◆ No Indiana death row inmates have been executed since December 11, 2009. (Wrinkles)
- ◆ In the last 7 years, Indiana Prosecutors have filed a Request for a Death Sentence only 7 times: 3 resulted in LWOP, 1 resulted in a 300 year sentence, and 3 are still pending.
- ◆ Since 2013, only 14 death penalty requests have been filed, and only 3 remain pending in the trial court. (10 have resulted in LWOP sentences and 1 has resulted in a 300 year sentence).

**Youngest NOW on Indiana Death Row:** Benjamin Ritchie (41 years, 224 days)

**Youngest on Indiana Death Row SINCE 1977:** Paula Cooper (16 years, 320 days)

**Oldest NOW on Indiana Death Row:** William Clyde Gibson III (64 years, 82 days)

**Oldest on Indiana Death Row SINCE 1977:** Richard D. Moore (75 years, 203 days)

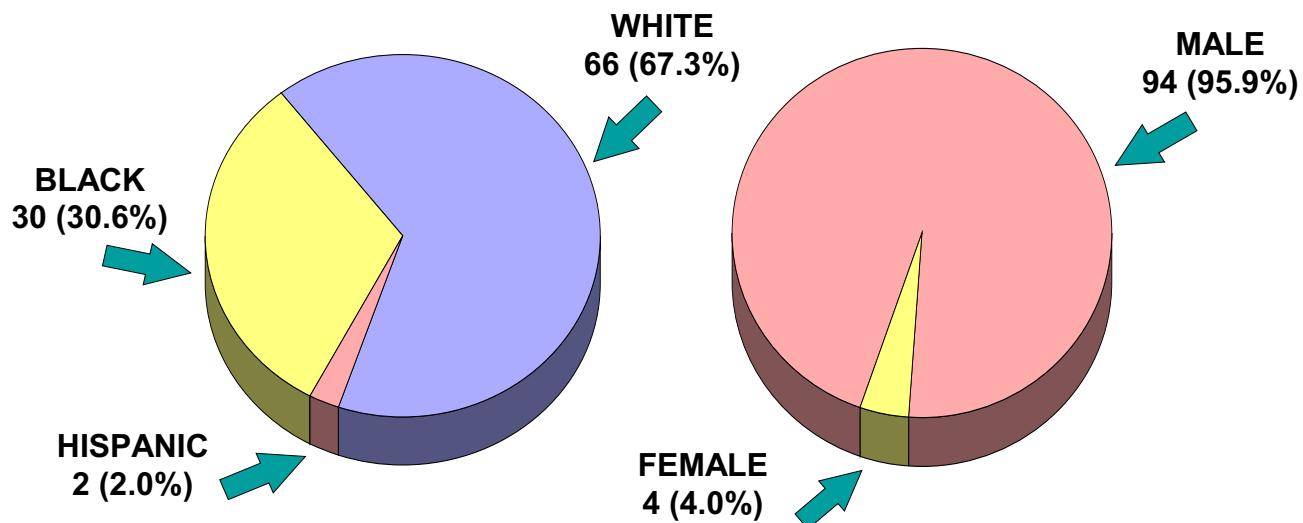
**Longest NOW on Indiana Death Row:** Eric D. Holmes (28 years, 281 days)

**Longest on Indiana Death Row SINCE 1977:** Eric D. Holmes (28 years, 281 days)

## On Indiana Death Row Since 1977 = 98

(Includes Christopher Peterson and William Clyde Gibson III twice, with two separate death sentences; includes each of those ten inmates resentenced to death again after remand only once)

Of 98 inmates on Indiana Death Row since 1977:

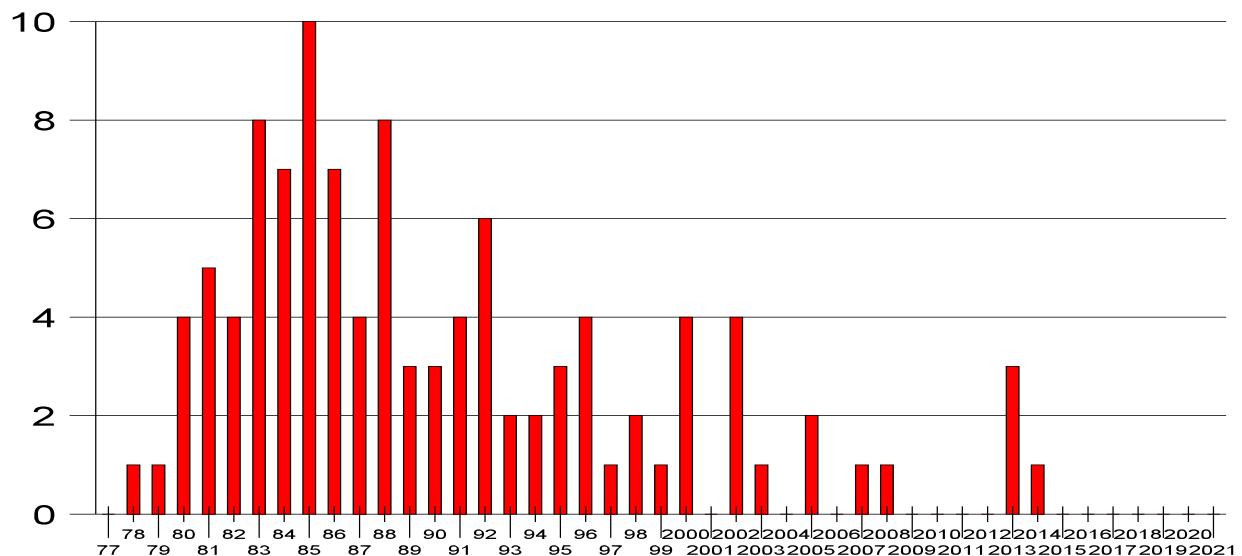


### Multiple Murders

- 4 Steven T. Judy
- 4 Donald R. Wallace
- 4 Joseph E. Corcoran
- 3 Kevin C. Isom
- 3 Daniel Ray Wilkes
- 3 Wayne D. Kubsch
- 3 Dennis Ray Roark
- 3 Arthur Paul Baird
- 3 Joseph Trueblood
- 3 Richard D. Moore
- 3 Matthew Wrinkles
- 3 Edward E. Williams
- 3 Kevin Conner

- 3 James P. Harrison
- 3 Phillip A. Stroud
- 3 John Stephenson
- 3 David Hollis
- 3 Walter L. Dye
- 3 Paul M. McManus
- 2 Frederick M. Baer
- 2 Charles E. Barker
- 2 Marvin Bieghler
- 2 William Benirschke
- 2 Frank R. Davis
- 2 Richard Dillon
- 2 D.H. Fleenor
- 2 Eric Holmes
- 2 Kevin Lee Hough
- 2 James Lowery
- 2 Phillip McCollum
- 2 Christopher Peterson
- 2 Christopher Peterson
- 2 Larry Potts
- 2 Vincent Prowell
- 2 Charles E. Roche
- 2 Gregory Rouster
- 2 Jay R. Thompson
- 2 Jerry K. Thompson
- 2 Johnny Townsend
- 2 Jeffrey Weisheit
- 2 Darnell Williams

## INDIANA DEATH SENTENCES YEAR BY YEAR (1977-2021)



## INDIANA DEATH SENTENCES YEAR BY YEAR (1977-2021)

1977 = 0	1992 = 6	2007 = 1
1978 = 2	1993 = 2	2008 = 1
1979 = 1	1994 = 2	2009 = 0
1980 = 4	1995 = 3	2010 = 0
1981 = 5	1996 = 4	2011 = 0
1982 = 4	1997 = 1	2012 = 0
1983 = 8	1998 = 2	2013 = 3
1984 = 7	1999 = 1	2014 = 1
1985 = 10	2000 = 4	2015 = 0
1986 = 7	2001 = 0	2016 = 0
1987 = 4	2002 = 4	2017 = 0
1988 = 8	2003 = 1	2018 = 0
1989 = 3	2004 = 0	2019 = 0
1990 = 3	2005 = 5	2020 = 0
1991 = 4	2006 = 0	2021 = 0

## VICTIMS

The 98 Defendants sentenced to death since 1977 have accounted for 160 murders for which they were convicted at the same trial they received a Death Sentence. (Includes victims on each of two separate capital murders by Christopher Peterson and William Clyde Gibson; includes victims of those ten inmates resentenced to death again after remand only once; includes co-defendant victims twice; does not include victims in the cases of Larry Hicks and Charles Smith.)

<b>Age</b>		<b>Race</b>		<b>Gender</b>	
00 - 09	22	White	132 (82.5%)	Male	83 (51.9%)
10 - 19	21	Black	24 (15.0%)	Female	77 (48.1%)
20 - 29	32	Hispanic	03 (01.9%)		
30 - 39	26	Indian	01 (00.6%)		
40 - 49	21				
50 - 59	09				
60 - 69	15	Average Age of Victim = 35.2 years			
70 - 79	09				
80+	05				

Youngest Victims = Elizabeth Waggoner (4 months) murdered by Dennis Ray Roark;  
 Dennis Waggoner (20 months) murdered by Dennis Ray Roark;  
 Ashlyn Bowsher (17 months) murdered by Joseph L. Trueblood;  
 Jordan Hammore (21 months) murdered by James P. Harrison.  
 Shelby McManus (23 months) murdered by Paul M. McManus.

Oldest Victims = Ruby Hutsler (82 years) murdered by Gregory S. Johnson;  
 Francisco Alarcon (82 years) murdered by Reynaldo Rondon & Eladio Martinez-Chavez;  
 Mark Thompson (80 years) murdered by James Lowery;  
 Gertrude Thompson (80 years) murdered by James Lowery.

<b>Victim Relationship to Defendant</b>		<b>Method of Murder</b>	
Family	42	87	Shooting w/firearm (49.2%)
Wife / Girlfriend / Ex (12)		41	Stabbing (23.2%)
Husband / Boyfriend / Ex (2)		25	Strangling (14.1%)
Mother / Step, Foster Mother (3)		11	Bludgeoning (06.2%)
Father / Step, Foster Father (3)			
Child / Stepchild (8)			
Other (14)			
Friend / Acquaintance	39	03	Stomping (1.7%)
Employer / Co-worker	06	03	Drowning (1.7%)
Neighbor	05	03	Fire Burning (1.7%)
Police	10	03	Smoke Inhalation (1.7%)
Stranger	58	01	Superglue (0.6%)

\* Some murders may have uncertain or multiple causes of death.

Of the 108 cases resulting in a death sentence since 1977: 30 different counties have filed Murder charges seeking a Death Sentence, 62 counties have not. 33 counties have conducted Death Penalty Sentencing Hearings, 59 counties have not.

## MOST ACTIVE COUNTIES

<u>By Filings:</u>	<b>Lake (22):</b> Averhart, Benirschke, Brewer, Brown, Coleman, Cooper, Hicks, Hollis, Isom, Landress, Lockhart, Matinez, McCollum, Peterson, Potts, Roark, Roche, Rondon, Rouster, Townsend, Vandiver, D.Williams, E.Williams; <b>Marion (21):</b> Allen, Barker, Burris, Conner, Daniels, G. Davis, Dye, Evans, Games, Harris, Holmes, Huffman, Moore, Patton, Resnover, Ritchie, T.Smith, J.K. Thompson, Timberlake, Underwood, Van Cleave; <b>Vanderburgh (7):</b> Canaan, McManus, Prowell, Schiro, Wallace, Weisheit, Wilkes, Wrinkles; <b>Allen (4):</b> Corcoran, Hough, T.Lowery, C.Smith; <b>Madison (4):</b> Baer, Johnson, Saylor, Wisehart; <b>St.Joseph (3):</b> Matheney; Kubsch, Stroud; <b>Morgan (3):</b> Pruitt, Bellmore, Judy; <b>Floyd (3):</b> Ingle, Gibson, Gibson; <b>Tippecanoe (2):</b> J.Lowery, Trueblood; <b>Pike (2):</b> Dillon, J.R.Thompson; <b>LaPorte (2):</b> F.Davis, James; <b>Porter (2):</b> Miller, Peterson; <b>Dearborn (2):</b> Jackson, Kennedy; <b>Putnam (2):</b> Minnick, Stevens; <b>Boone (1):</b> Bivins; <b>Clark (1):</b> Boyd; <b>DeKalb (1):</b> Woods; <b>Delaware (1):</b> Lambert; <b>Hancock (1):</b> Castor; <b>Howard (1):</b> Bieghler; <b>Jefferson (1):</b> Fleenor; <b>Johnson (1):</b> Overstreet; <b>Marshall (1):</b> L.Williams; <b>Montgomery (1):</b> Baird; <b>Noble (1):</b> Spranger; <b>Orange (1):</b> Thacker; <b>Posey (1):</b> Harrison; <b>Spencer (1):</b> Ward; <b>Sullivan (1):</b> R.Smith; <b>Vigo (1):</b> Benefiel; <b>Warrick (1):</b> Stephenson.
<u>By Trials:</u>	<b>Lake (23):</b> Benirschke, Brewer, Brown, Coleman, Cooper, Hicks, Hollis, Landress, Lockhart, Matheny, Martinez, McCollum, Peterson, Potts, Roark, Roark, Roche, Rondon, Rouster, Townsend, Vandiver, D.Williams, E.Williams; <b>Marion (22):</b> Allen, Barker, Burris, Burris, Conner, Daniels, G. Davis, Dye, Evans, Games, Harris, Holmes, Huffman, Patton, Resnover, Ritchie, T.Smith, J.K.Thompson, J.K.Thompson, Timberlake, Underwood, Van Cleave; <b>Allen (6):</b> Averhart, Averhart, Corcoran, Hough, T.Lowery, C.Smith; <b>Boone (4):</b> Bivins, J.Lowery, Moore, Woods; <b>Vanderburgh (4):</b> Canaan, McManus, Prowell, Wrinkles; <b>Madison (4):</b> Baer, Johnson, Saylor, Wisehart; <b>Clark (3):</b> Boyd, Weisheit, Wilkes; <b>Floyd (3):</b> Gibson, Gibson, Ingle; <b>Porter (3):</b> James, Miller, Peterson; <b>St. Joseph (3):</b> Kubsch, Kubsch, Stroud; <b>Clay (2):</b> Minnick, Ward; <b>Decatur (2):</b> Kennedy, Kennedy; <b>Johnson (2):</b> Fleenor; Overstreet; <b>Morgan (2):</b> Bellmore, Judy; <b>Tippecanoe (2):</b> Stevens, Trueblood; <b>Vigo (2):</b> Benefiel, Wallace;; <b>Wayne (2):</b> Castor, Spranger <b>Brown (1):</b> Schiro; <b>Dearborn (1):</b> Pruitt; <b>Delaware (1):</b> Lambert; <b>Dubois (1):</b> Thacker; <b>Franklin (1):</b> Jackson; <b>Hamilton (1):</b> Moore; <b>Harrison (1):</b> J.R. Thompson; <b>Hendricks (1):</b> J.Lowery; <b>Howard (1):</b> Bieghler; <b>Knox (1):</b> Dillon; <b>LaPorte (1):</b> L.Williams; <b>Lawrence (1):</b> Minnick; <b>Marshall (1):</b> F.Davis; <b>Montgomery (1):</b> Baird; <b>Posey (1):</b> Harrison; <b>Spencer (1):</b> Ward; <b>Sullivan (1):</b> R.Smith; <b>Warrick (1):</b> Stephenson.

## CHANGE OF VENUE

28 of 108 trials resulting in a death sentence since 1977 have been venued outside the county of filing. Of the 44 cases originally filed in Marion and Lake Counties which resulted in a death sentence, only Averhart (twice) and Moore (twice) have had their cases venued to another county. Excluding the 44 cases which were originally filed in Marion and Lake Counties, 25 of 64 were venued to another county. Short of a change of venue, recent legislative and rule changes have allowed trial courts to obtain jurors from another county and transport them to the county of filing for trial. The above figures do not take into account this recent procedure.

On June 30, 2004 the Indiana Supreme Court reversed the murder conviction and death sentence of Roy Lee Ward on the grounds of failure to change venue or to obtain jurors from another county pursuant to IC 35-36-6-11, in the face of extensive pretrial publicity and community bias in Spencer County. It is thought to be the only such reversal in the state's history. On June 8, 2007, Ward was resentenced to death by a Special Judge following a Sentencing Hearing in Vanderburgh County and a recommendation of death by a jury selected from Clay County. Ward v. State, 810 N.E.2d 1042 (Ind. June 30, 2004).

## **DEATH SENTENCES AFTER GUILTY PLEA TO MURDER**

Ward	Judge Pigman (Clay)	06-08-2007
Moore	Judge Detamore (Boone)	01-12-2000
R. Smith	Judge Pierson (Sullivan)	07-12-1996
Prowell	Judge Young (Vanderburgh)	05-05-1994
Trueblood	Judge Melichar (Tippecanoe)	04-13-1990
Cooper	Judge Kimbrough (Lake)	07-11-1986
Patton	Judge Alsip (Marion)	07-20-1984
Harris (GBMI)	Judge Tranberg (Marion)	02-10-1984
Frank Davis	Judge Cook (Marshall)	01-25-1984
Van Cleave	Judge Gifford (Marion)	05-27-1983
Hollis	Judge Clement (Lake)	11-12-1982
Moore	Judge Barr (Hamilton)	10-25-1980

\* Only Ward remains on Death Row. Moore died of natural causes on 12-24-06. R. Smith pled guilty pursuant to a plea agreement which required a sentence of death and was executed on 01-29-98. Trueblood was executed on 06-13-03. Hollis committed suicide 02-19-84.

## **DEATH SENTENCES FROM JUDGE OVERRIDE OF JURY**

Saylor	Judge Newman (Madison)	02-17-1994
Roark	Judge Clement (Lake)	10-29-1992
Peterson	Judge Clement (Lake)	06-05-1992
Kennedy	Judge Westhafer (Decatur)	04-28-1992
Jackson	Judge Stewart (Franklin)	06-07-1988
Kennedy	Judge Westhafer (Decatur)	03-21-1988
Minnick	Judge Chezem (Lawrence)	09-18-1985
Martinez-Chavez	Judge Letsinger (Lake)	05-15-1985
Thompson	Judge Miller (Harrison)	03-18-1983
Schiro	Judge Rosen (Brown)	10-02-1981

\* None remain on Death Row. As of July 1, 2002, IC 35-50-2-9 requires the Court to sentence the Defendant "accordingly" following a jury verdict.

## **DEATH SENTENCES AFTER HUNG JURY IN DEATH PHASE**

Wilkes	Judge Heldt (Clark/Vanderburgh)	01-25-2008
Edward Williams	Judge Letsinger (Lake)	03-02-1993
Holmes	Judge Emkes (Marion)	03-26-1993
Burris	Judge Gifford (Marion)	11-22-1991
Roche	Judge Clement (Lake)	11-30-1990
Greagre Davis	Judge Jones (Marion)	10-26-1984
Hicks	Judge Kimbrough (Lake)	09-01-1978

\*Only Holmes remains on Death Row. Burris was executed on 11-20-97. Roche committed suicide 01-10-06.

## SENTENCED TO DEATH AGAIN AFTER REMAND

	<u>First Death Sentence</u>	(reversed)	<u>Again After Remand</u>
Ward	12-18-2002	(810 N.E.2d 1042)	06-08-2007
Kubsch	08-28-2000	(784 N.E.2d 905)	04-18-2005
J.K. Thompson	05-25-1996	(690 N.E.2d 224)	09-29-2000
Moore	05-15-1995	(678 N.E.2d 1258)	01-13-2000
Averhart	05-08-1982	(614 N.E.2d 924)	03-18-1996
Roark	10-17-1989	(573 N.E.2d 881)	10-29-1992
Kennedy	03-21-1988	(578 N.E.2d 633)	04-28-1992
Burris	02-20-1981	(558 N.E.2d 1067)	11-22-1991
Minnick	05-22-1982	(467 N.E.2d 754)	09-18-1985
Jim Lowery	07-11-1980	(434 N.E.2d 868)	01-17-1983

\* Only Ward remains on Death Row. Burris was executed on 11-20-97. Lowery was executed on 06-27-2001. J.K. Thompson was killed on Death Row 10-27-02. Moore died of natural causes on 12-24-06.

## JOINT DEATH PENALTY TRIALS

<u>Defendants</u>	<u>County</u>	<u>Judge</u>	<u>Sentencing Date</u>
Roche / Nicksich	Lake	Judge James L. Clement	11-30-1990
Rouster / D.Williams	Lake	Judge James E. Letsinger	03-23-1987
Huffman / Underwood	Marion	Judge Thomas E. Alsip	08-23-1985
Martinez-Chavez / Rondon	Lake	Judge James E. Letsinger	05-10-1985
McCollum / Townsend	Lake	Judge Richard W. Maroc	03-08-1985
Averhart / Hudson / North	Lake	Judge Alfred W. Moellering	05-25-1982
Resnover / T.Smith	Marion	Judge Jeffrey V. Boles	07-23-1981

\* None remain on Death Row. Gregory Resnover was executed on 12-08-94. T.Smith was executed on 07-18-96.

Of the 108 total cases since 1977 where a death sentence was handed down:

## MOST ACTIVE TRIAL JUDGES

- |   |  |
|---|--|
| 7 - Judge James L. Clement (Lake)<br>(Benirschke, Brewer, Peterson, Roark, Roark,<br>Roche, Hollis)                     | 3 - Judge Thomas Newman (Madison)<br>(Saylor, Wisehart, Johnson) |
| 6 - Judge James Letsinger (Lake)<br>(Lockhart, Martinez/Rondon, Matheney,<br>Rouster/D.Williams, Vandiver, E. Williams) | 2 - Judge Thomas E. Alsip<br>(Marion)(Huffman/Underwood, Patton) |
| 5 - Judge Patricia J. Gifford (Marion)<br>(Daniels, Dye, Ritchie, Van Cleave, Burris)                                   | 2 - Judge Richard J. Conroy<br>(Lake)(Landress, Potts)           |
| 4 - Judge John R. Barney (Marion)<br>(Allen, Barker, Evans, J.K. Thompson)  | 2 - Judge Cynthia S. Emkes (Johnson)<br>(Holmes, Overstreet)     |
| 4 - Judge Alfred W. Moellering (Allen)<br>(Averhart/Hudson/North, T. Lowery, C.Smith,<br>Timberlake)                    | 2 - Judge James Kimbrough (Lake)<br>(Cooper, Hicks)              |
| 4 - Judge John W. Tranberg (Marion)<br>(Burris, Conner, Games, Harris)  | 2 - Judge Thomas Milligan (Montgomery)<br>(Baird, Bivins)        |
| 3 - Judge Jeffrey V. Boles (Hendricks)<br>(Judy, Resnover/T.Smith, J.Lowery)  | 2 - Judge Thomas W. Webber (Porter)<br>(James, Peterson)         |
| 3 - Judge Richard W. Maroc (Lake)<br>(Brown, McCollum/Townsend, Coleman)  | 2 - Judge John A. Westhafer (Decatur)<br>(Kennedy, Kennedy)      |
|   | 2 - Judge Richard L. Young (Vanderburgh)<br>(Prowell, Wrinkles)  |
|   | 2 - Judge Carl A. Heldt (Vanderburgh)<br>(McManus, Wilkes)       |
|   | 2 - Judge Susan L. Orth (Floyd)<br>(Gibson, Gibson)              |

## TRIAL JUDGE INDEX

Allen County Superior Court  
Judge Alfred W. Moellering  
(Averhart/Hudson/North, T. Lowery, C.Smith,  
Timberlake)

Allen County Superior Court  
Judge Kenneth R. Scheibenberger (Averhart)

Allen County Superior Court  
Judge Frances C. Gull (Corcoran)

Boone County Superior Court  
Judge Donald R. Peyton (Woods)

Boone County Superior Court  
Judge James R. Detamore (Moore)

Boone County Superior Court  
Judge Paul H. Johnson, Jr. (J.Lowery)

Brown County Circuit Court  
Judge Samuel R. Rosen (Schiro)

Clark County Circuit Court  
Judge Clifford H. Maschmeyer (Boyd)

Clark County Circuit Court  
Judge Daniel E. Moore (Weisheit)

Clay County Circuit Court  
Judge Ernest E. Yelton (Minnick)

Dearborn County Circuit Court  
Judge James D. Humphrey (Pruitt)

Decatur County Circuit Court  
Judge John A. Westhafer (Kennedy, Kennedy)

Delaware County Superior Court  
Judge Robert L. Barnet, Jr. (Lambert)

Dubois County Circuit Court  
Judge Hugo C. Songer (Thacker)

Floyd County Superior Court  
Judge Richard G. Striegel (Ingle)

Floyd County Superior Court  
Judge Susan L. Orth (Gibson, Gibson)

Franklin County Circuit Court  
Judge Eugene A. Stewart (Jackson)

Hamilton County Superior Court  
Judge Jerry M. Barr (Moore)

Harrison County Circuit Court  
Judge Scott T. Miller (JayThompson)

Hendricks County Circuit Court  
Judge Jeffrey V. Boles  
(Judy, Resnover/T.Smith, J.Lowery)

Howard County Superior Court  
Judge Dennis H. Parry (Bieghler)

Johnson County Circuit Court  
Judge Larry J. McKinney (Fleenor)

Johnson County Superior Court  
Judge Cynthia S. Emkes (Holmes, Overstreet)  
Knox County Superior Court  
Judge Edward C. Theobald (Dillon)  
Lake County Superior Court  
Judge James L. Clement  
(Benirschke, Brewer, Hollis, Peterson, Roark,  
Roark, Roche)  
Lake County Superior Court  
Judge James E. Letsinger  
(Lockhart, Martinez/Rondon, Matheney,  
Rouster/D.Williams, Vandiver, E. Williams)  
Lake County Superior Court  
Judge James C. Kimbrough (Cooper, Hicks)  
Lake County Superior Court  
Judge Richard J. Conroy (Landress, Potts)  
Lake County Superior Court  
Judge Richard W. Maroc  
(Brown, McCollum/Townsend, Coleman)  
Lake County Superior Court  
Judge Thomas Stefaniak, Jr. (Isom)  
LaPorte County Circuit Court  
Judge Robert S. Gettinger (L.Williams)  
Lawrence County Circuit Court  
Judge Linda Chezem (Minnick)  
Madison County Superior Court  
Judge Thomas Newman, Jr.  
(Saylor, Wisehart, Johnson)  
Madison County Superior Court #1  
Judge Fredrick Spencer (Baer)  
Marion County Superior Court  
Judge Patricia J. Gifford  
(Daniels, Dye, Ritchie, Van Cleave, Burris)  
Marion County Superior Court  
Judge John R. Barney, Jr.  
(Allen, Barker, Evans, J.K. Thompson)  
Marion County Superior Court  
Judge John W. Tranberg  
(Burris, Conner, Games, Harris)  
Marion County Superior Court  
Judge Roy F. Jones (G. Davis)  
Marion County Superior Court  
Judge Tonya Walton Pratt (J.K. Thompson)  
Marion County Superior Court  
Judge Thomas E. Alsip  
(Huffman/Underwood, Patton)

Marshall County Circuit Court  
Judge Michael D. Cook (F. Davis)  
Montgomery County Circuit Court  
Judge Thomas K. Milligan (Baird, Bivins)  
Morgan County Circuit Court  
Judge James E. Harris (Bellmore)  
Porter County Superior Court  
Judge Roger V. Bradford (Miller)  
Porter County Superior Court  
Judge Thomas W. Webber (James, Peterson)  
Posey County Circuit Court  
Judge James M. Redwine (Harrison)  
Spencer County Circuit Court  
Judge Wayne Roell (Ward)  
St. Joseph County Superior Court  
Judge Jerome Frese (Kubsch)  
St. Joseph County Superior Court  
Judge William T. Means (Stroud)  
St. Joseph County Superior Court  
Judge William H. Albright (Kubsch)  
Sullivan County Circuit Court  
Judge P. J. Pierson (R.Smith)  
Tippecanoe County Superior Court  
Judge George J. Heid (Stevens)  
Tippecanoe County Circuit Court  
Judge Ronald E. Melichar (Trueblood)  
Vanderburgh County Circuit Court  
Judge Richard L. Young (Prowell, Wrinkles)  
Vanderburgh County Circuit Court  
Judge William H. Miller (Canaan)  
Vanderburgh County Circuit Court  
Judge Carl A. Heldt (McManus, Wilkes)  
Vanderburgh County Circuit Court  
Judge Robert J. Pigman (Ward)  
Vigo County Circuit Court  
Judge Hugh D. McQuillan (Wallace)  
Vigo County Superior Court  
Judge Michael H. Eldred (Benefiel)  
Warrick County Superior Court  
Judge Edward A. Campbell (Stephenson)  
Wayne County Superior Court  
Judge Robert L. Reinke (Castor)  
Wayne County Circuit Court  
Judge Wayne C. Puckett (Spranger)  
Whitley County Circuit Court  
Judge Edward J. Meyers (Hough)

## MOST ACTIVE TRIAL PROSECUTORS

(Includes all trial prosecutors in all 108 guilty pleas or trials that resulted in a Death Sentence in Indiana since 1977. No distinction is made between lead counsel and second chair. Note joint trials. Does not include death penalty guilty pleas or trials that resulted in a sentence less than death.)

- |   |  |
|---|--|
| 8 - Thomas W. Vanes<br>(Benirschke, Rouster/D. Williams, Hollis, Coleman,<br>Lockhart, Brown, Brewer, Vandiver) | 4 - Stanley M. Levco<br>(McManus, Wallace, Wilkes, Wrinkles) |
| 7 - David E. Cook<br>(Games, Patton, Resnover/T. Smith, Van Cleave,<br>G.Davis, Huffman/Underwood, Conner)      | 3 - William F. Lawler, Jr.<br>(Wisehart, Saylor, Johnson)    |
| 5 - John V. Commons<br>(Moore, Timberlake, Allen, JKThompson, Conner)   | 3 - Delbert H. Brewer<br>(Stevens, Minnick, Minnick)         |
| 4 - J. Gregory Garrison<br>(Castor, Moore, Resnover/T. Smith, Burris)   | 3 - John H. Meyers, IV<br>(J.Lowery, Trueblood, J.Lowery)    |
| 4 - John J. Burke<br>(Roark, E.Williams, Landress, Roark)   | 3 - Scott C. Newman<br>(Ritchie, Timberlake, Dye)            |
|   | 3 - Lawrence O. Sells<br>(Barker, JKThompson, JKThompson)    |

## TRIAL PROSECUTOR INDEX

- |  |  |
|--|--|
| Phillip I. Adler (Benefiel)  | John G. Evon (Peterson)                    |
| Merritt K. Alcorn (Fleenor)  | Donita F.M. Farr (Wilkes)                  |
| Jeffrey L. Arnold (Lambert)  | Stanley O. Faith (Ingle)                   |
| Jerry A. Atkinson (Schiro)   | Thomas W. Farlow (Allen)                   |
| John W. Barce (J.Lowery)   | Anne M. Flannelly (Stevens)                |
| Jerry J. Bean (Trueblood)  | Gregory L. Fumarolo (C.Smith)              |
| Charles L. Berger (Weisheit)   | J. Gregory Garrison                        |
| Craig V. Braje (F.Davis)   | (Castor, Moore, Resnover/T. Smith, Burris) |
| Delbert H. Brewer<br>(Stevens, Minnick, Minnick)   | Robert W. Gevers II (Corcoran)             |
| John J. Burke<br>(Roark, E.Williams, Landress, Roark)  | Wilmer E. Goering II (Fleenor)             |
| Kathleen Burns (Rouster/D. Williams)   | Stephen Goldsmith (Evans)                  |
| Sheila A. Carlisle (Moore)   | G. Thomas Gray (Judy)                      |
| Paul R. Cherry (Woods)   | Michael M. Greener (Hicks)                 |
| Robert L. Collins (Ingle)  | Trent Van Haften (Harrison)                |
| Susan Collins (Overhart)   | Lance D. Hamner (Overstreet)               |
| John V. Commons<br>(Moore, Timberlake, Allen, JKThompson, Conner)                                      | Joel D. Hand (Ritchie)                     |
| Michael T. Conway (Harris)   | James P. Hayes (L.Williams)                |
| David E. Cook<br>(Games, Patton, Resnover/T. Smith, Conner,<br>Van Cleave, G.Davis, Huffman/Underwood) | Keith A. Henderson (Gibson, Gibson)        |
| Richard Cook (Coleman)   | William F. Herrbach (James)                |
| Bradley D. Cooper (Overstreet)   | Marilyn E. Hrnjak (Hicks)                  |
| Todd A. Corne (Stephenson)   | Ralph R. Huff (L.Williams)                 |
| Jane Spencer Craney (Bellmore)   | James D. Humphrey (Jackson, Kennedy)       |
| John F. Crawford Jr. (Martinez-Chavez/Rondon)  | Steven A. Hunt (McManus)                   |
| Rodney J. Cummings (Baer)  | Terry E. Iacoli (Pruitt)                   |
| J. A. Cummins (Lambert)  | Thomas L. Jackson (McCollum/Townsend)      |
| Joseph L. Curosh, Jr. (Roche/Nicksich, Potts)  | Jerome F. Jacobi (Boyd)                    |
| Jon A. Dartt (Ward, Ward)  | Michelle Jatkiewicz (Isom)                 |
| James H. Douglas (Peterson, Miller)  | Brian F. Jennings (G.Davis)                |
| Scott H. Duerring (Kubsch, Kubsch)   | Carole J. Johnson (Burris)                 |
| Darrell F. Ellis (Thacker)   | Fred R. Jones (L.Williams)                 |
| Marcus C. Emery (Daniels)  | Peter Katic (Brewer)                       |
|  | Ora A. Kincaid III (Woods)                 |
|  | John D. Krisor (Matheney)                  |
|  | Joan Kuoros (Lockhart)                     |
|  | G. David Laur (Spranger)                   |
|  | William F. Lawler, Jr.                     |

(Wisehart, Saylor, Johnson)  
Christian M. Lenn (Canaan)  
Mary Margaret Lloyd (Wrinkles)  
Stanley M. Levco  
(McManus, Wallace, Wilkes, Wrinkles)  
Peggy O. Lohorn (Baird)  
Robert E. Love (Hough)  
Robert J. Lowe (Stevens)  
John M. Maciejczyk (Stroud)  
Tina L. Mann (Overstreet)  
Mark S. Massa (JKThompson)  
Michael J. McAlexander (T.Lowery)  
Rebecca S. McClure (Bivins)  
Jerry J. McGaughey (Dillon, JayThompson)  
John M. McGrath (Averhart/Hudson/North)  
James W. Mcnew  
(Cooper, Averhart/Hudson/North)  
Keith A. Meyer (Stephenson)  
John H. Meyers, IV  
(J.Lowery, Trueblood, J.Lowery)  
Michael Miller (Kennedy)  
David S. Milton (Holmes)  
Fritz D. Modesitt (Minnick)  
Kimberley Kelley Mohr (Harrison)  
Timothy M. Morrison (Evans, Harris)  
Charles J. Myers (Bieghler)  
Scott C. Newman  
(Ritchie, Timberlake, Dye)  
Brett J. Niemeier (Prowell)  
Kathleen M. O'Halloran  
(McCollum/Townsend, Brown)  
Stephen A. Oliver (Judy)  
James J. Olszewski (Peterson)

Susan L. Orth (Ingle)  
Steven L. Owen (Gibson, Gibson)  
Jonathan J. Parkhurst (Prowell)  
Bruce E. Petit (Bivins)  
Robert J. Pigman (Canaan, Wallace)  
Brian G. Poindexter (Barker)  
James P. Posey (C.Smith)  
David L. Puckett (Baer)  
Richard W. Reed (Lambert)  
Gwen R. Rinkenberger (Peterson, Miller)  
Jack R. Robinson (Ward)  
Richard J. Rudman (J.Lowery)  
Richard L. Russell (Bieghler)  
Frank E. Schaffer (Kubsch)  
Stephanie J. Schankerman (Dye)  
Gary J. Schutte (Weisheit)  
Lawrence O. Sells  
(Barker, JKThompson, JKThompson)  
Peter Shakula (Averhart)  
Robert C. Shook (Fleenor)  
Stephen M. Sims (Hough, T.Lowery)  
Terry K. Snow (Castor)  
Steven P. Sonnega (Pruitt)  
Robert E. Springer (R.Smith)  
Ralph W. Staples, Jr. (Peterson)  
Wayne E. Steele (Baird)  
Steven D. Stewart (Boyd)  
Mark K. Sullivan (Dillon)  
Robert P. Thomas (Allen, Huffman/Underwood)  
John D. Tinder (Burris, Moore)  
Barbara J. Trathen (Dye, Burris)  
Michael J. Tuszynski (Stroud)  
David Urbanski (Isom)  
Thomas W. Vanes  
(Benirschke, Rouster/D. Williams, Hollis,  
Coleman, Lockhart, Brown, Brewer, Vandiver)  
Dale P. Webster (Dillon)  
Joel V. Williams (Kubsch)  
Cynthia L. Winkler (Ingle)  
Thomas J. Young (Daniels)

## MOST ACTIVE TRIAL DEFENSE ATTORNEYS

(Includes all defense attorneys in all 108 guilty pleas or trials that resulted in a Death Sentence in Indiana since 1977. No distinction is made between lead counsel and second chair. Does not include death penalty guilty pleas or trials that resulted in a sentence less than death.)

- |   |   |
|---|---|
| 4 - Kevin B. Relphorde<br>(Potts, Cooper, Landress, Roark)  | 3 - Daniel L. Toomey<br>(McCollum, Brown, Townsend)         |
| 3 - Jeffrey A. Baldwin<br>(Overstreet, Stevens, JKThompson) | 3 - Alex R. Voils, Jr.<br>(Barker, Evans, Allen)            |
| 3 - Cornell Collins<br>(McCollum, Coleman, Townsend)        | 3 - Dennis A. Vowels<br>(Stephenson, Wrinkles, Prowell)     |
| 3 - Noah L. Holcomb<br>(Rouster, Roche, Roark)              | 3 - I. Alexander Woloshansky<br>(Peterson, Peterson, Roark) |
| 3 - Robert L. Lewis<br>(Martinez-Chavez, Lockhart, Rouster) | 3 - Herbert I. Shaps (Vandiver, Hollis, Isom)               |

## TRIAL DEFENSE ATTORNEY INDEX

- |  |  |
|--|--|
| Andrew Adams (Gibson)                                | Beverly Harris (Canaan)                              |
| Robert F. Alden(Holmes)                              | Grant Hawkins (Games, Van Cleave)                    |
| Thomas E. Alsip (Burris, Resnover)                   | David Hennessy (JKThompson)                          |
| Ronald V. Aungst (Miller)                            | Gregory H. Hofer (F.Davis)                           |
| Jeffrey A. Baldwin (Overstreet, Stevens, JKThompson) | Noah L. Holcomb (Rouster, Roche, Roark)              |
| Arnold P. Baratz (Timberlake, Holmes, Patton)        | Eugene C. Hollander (Underwood)                      |
| Patrick Biggs (Ingle, Gibson, Gibson)                | Jere L. Humphrey (L.Williams)                        |
| Scott A. Blazey (Ward)                               | R. Mark Inman (Burris)                               |
| Timothy Bookwalter (G.Davis)                         | William Janes (James)                                |
| Hamilton Carmouche (McCollum, Townsend)              | Jerry T. Jarrett (Peterson, Peterson)                |
| Mitchell P. Chabraja (Saylor)                        | Douglas E. Johnston (Woods)                          |
| Eric O. Clark (Rondon)                               | Michael C. Keating (Schiro)                          |
| Joseph Cleary (JKThompson)                           | Robert S. Kentner (Miller)                           |
| Robert V. Clutter (Stevens, JKThompson)              | J. Richard Kiefer (Kennedy)                          |
| Cornell Collins (McCollum, Coleman, Townsend)        | Scott L. King (Matheney, Potts)                      |
| Larry D. Combs (Fleenor)                             | James F. Korpal (Stroud, Kubsch)                     |
| Bruce S. Cowan (Hough)                               | Eric K. Koselke (Moore)                              |
| John F. Crawford (Ritchie, Dye)                      | Michelle M. Fennessy-Kraus (Averhart)                |
| Michael J. Danks (Prowell, Wrinkles)                 | Steven B. Lazinsky (Conner)                          |
| William Davis (Benirschke)                           | Charles F. Leonard (T.Lowery)                        |
| Kimberly Devane (Dye)                                | Robert L. Lewis (Martinez-Chavez, Lockhart, Rouster) |
| Gerald Dewester (Huffman)                            | Kevin L. Likes (Averhart)                            |
| Timothy R. Dodd (Jay Thompson)                       | Jeffrey A. Lockwood (Baer, Saylor)                   |
| Joseph K. Etling (R.Smith)                           | S. Anthony Long (Stephenson)                         |
| Michael Fisher (Burris)                              | Darnail Lyles (Lockhart, D.Williams)                 |
| Michael T. Forsee (Boyd )                            | Alphonso Manns (Thacker)                             |
| James T. Frank (Brewer)                              | Albert E. Marshall (Brown, Landress)                 |
| Jimmy E. Fulcher (Dillon)                            | David L. Martenet (Evans)                            |
| Christopher B. Gambill (Benefiel)                    | Brian J. May (Kubsch)                                |
| Douglas A. Garner (Pruitt)                           | Mark D. Maynard (Lambert, Castor)                    |
| Lawrence D. Giddings (J.Lowery, J.Lowery)            | Michael J. McDaniel (Ingle, Weisheit)                |
| Wilmer E. Goering (Moore)                            | Kevin P. McGoff (Kennedy, Bellmore)                  |
| Glenn A. Grampp (McManus)                            | Casey McCloskey (Isom)                               |
| Michael D. Gross (Bivins)                            | Kevin M. McShane (Ritchie, Hicks)                    |
| Willie Harris (Lockhart)                             | Ronald E. McShurley (Lambert)                        |
| Steven L. Harris (Judy)                              | Rick Mendes (Conner)                                 |

Garry Miracle (Wisehart, Johnson)  
Patrick Murphy (Castor)  
Woodrow S. Nasser (Minnick, Minnick)  
John S. Nimmo (Corcoran)  
Peter D. Nugent (Overstreet)  
Thomas O'Brien (Trueblood)  
Ellen O'Connor (Timberlake)  
Michael O'Reilly (Trueblood)  
Stephen H. Owens (Weisheit)  
Donald W. Pagos (James)  
Donald R. Peyton (J.Lowery)  
Richard R. Plath (T.Smith)  
Carolyn W. Rader (Dye, Barker)  
Lonnie Randolph (Coleman)  
Charles Gregory Read (Boyd)  
Kevin B. Relphorde (Potts, Cooper, Landress, Roark)  
Charles C. Rhetts (Woods)  
Ronald Richmer (Jackson)  
Terrance W. Richmond (Jackson, Spranger)  
Steven E. Ripstra (Ingle, Thacker, Ward)  
Merle B. Rose (Daniels)  
Mitchell Rothman (McManus)  
Nathaniel Ruff (D.Williams)  
David R. Schneider (D.Williams)  
Kurt Schnepper (Wilkes)  
David Schneider (Averhart)  
Philip R. Skodinski (Kubsch)  
Charles Scruggs (Bieghler)  
David B. Sexton (Allen)  
Herbert I. Shaps (Vandiver, Hollis)  
Harry A. Siamas (Baird)  
Philip Skodinski (Stroud, Kubsch)

William G. Smock (Wallace, R.Smith)  
Bruce R. Snyder (Hough)  
Barry L. Standley (Canaan)  
Nile Stanton (Hicks)  
George A. Strieb (Gibson)  
Thomas M. Swain (Harrison)  
Ronald Tedrow (Bellmore)  
Mark A. Thoma (Corcoran)  
Ted R. Todd (Fleenor)  
Daniel L. Toomey (McCollum, Brown, Townsend)  
Barrie C. Tremper (T.Lowery)  
L. Craig Turner (Burris, Harris)  
William Vanderpol Jr. (Pruitt)  
J. Robert Vegter (Hicks)  
Alex R. Voils, Jr. (Barker, Evans, Allen)  
Dennis A. Vowels (Stephenson, Wrinkles, Prowell)  
Ronald Warrum (Harrison)  
Robert C. Way (Spranger)  
Daniel L. Weber (Benefiel)  
Craig O. Wellnitz (Underwood)  
Allen F. Wharry (Woods, Bivins )  
George Wilder (Trueblood)  
Barbara Williams (Wilkes)  
Bryan R. Williams (Baer)  
Barbara Coyle Williams (Ward)  
Theodore D. Wilson (C.Smith)  
Neil Wiseman (Kubsch)  
I. Alexander Woloshansky (Peterson, Peterson, Roark)  
John C. Wood (Bieghler)  
William F. Wurster (Daniels)  
Linda Meier Youngcourt (Moore, Ward)

## **INDIANA DEPUTY ATTORNEYS GENERAL - DIRECT APPEAL ATTORNEY INDEX**

Index includes all appellate attorneys representing the State of Indiana on direct appeals only, as recognized by the Indiana Supreme Court as attorney of record in the published opinion. No distinction is made between lead counsel and second chair. Does not include Amicus Curiae counsel. Note joint appeals: McCollum / Townsend, Rouster / D. Williams. Does not include appeals following death penalty trials that resulted in a sentence less than death.

### **INDIANA ATTORNEY GENERAL (1977 - 2021)**

Theodore L. Sendak	Republican	1969 - 1980
Linley E. Pearson	Republican	1981 - 1992
Pamela Carter	Democrat	1993 - 1996
Jeff Modisett	Democrat	1997 - 1999
Karen Freeman-Wilson	Democrat	2000 - 2000
Steve Carter	Republican	2001 - 2008
Gregory F. Zoeller	Republican	2009 - 2017
Curtis Theophilus Hill	Republican	2017 - 2021
Todd Rokita	Republican	2021 - present

#### **Linley E. Pearson 01-12-81 to 01-11-93**

Joseph N. Stephenson

(Averhart, Bieghler, Boyd, Brown, Burris, Canaan, F.Davis, G.Davis, Harris, Huffman, T.Lowery, Martinez, Townsend, Minnick, Minnick, Moore, Patton, Resnover, Rondon, Schiro, T.Smith, Spranger, Townsend, Underwood, Van Cleave, Vandiver, Wallace, Wisehart)

Arthur Thaddeus Perry

(Azania, Baird, Bellmore, Benefiel, Benirschke, Castor, Coleman, Conner, Daniels, Evans, Evans, Hough, Jackson, Kennedy, Landress, Lockhart, Matheney, Miller, Potts, Roark, Roche, Rouster, Trueblood, D.Williams)

Michael Gene Worden

(Thompson, Cooper, Judy, J.Lowery, J.Lowery)

Palmer K. Ward

(Brewer, Daniels, Dillon, L.Williams)

Cheryl L. Greiner (Thacker, Woods)

Louis E. Ransdell (Fleenor, Games)

Gary Damon Secrest (Johnson)

Theodore E. Hansen (C.Smith)

Charles D. Rodgers (Judy)

Thomas D. Quigley (Brewer)

#### **Pamela Carter 01-11-93 to 01-13-97**

Arthur Thaddeus Perry

(Harrison, Holmes, James, Kennedy, Lambert, Peterson-Lake, Ben-Yisrayl-Porter, Prowell, Roark, Timberlake, E.Williams, Bivins, Burris)

James D. Dimitri (Wrinkles)

#### **Jeff Modisett 01-13-97 to 02-21-00**

Arthur Thaddeus Perry

(J.Thompson, Allen, Barker, Saylor, R.Smith)

Janet Brown Mallett (Dye)

Andrew L. Hedges (Ingle)

Michael A. Hurst (Stephenson)

Geoff Davis (Stevens)

#### **Karen Freeman-Wilson 02-21-00 to 01-08-01**

Priscilla J. Fossum (Corcoran)

#### **Steve Carter 01-08-01 to 01-12-09**

James B. Martin (Kubsch, Stroud, Ward)

Scott A. Kreider (McManus)

Thomas D. Perkins (Moore)

Timothy W. Beam (Overstreet)

Andrew A. Kobe (Pruitt)

Stephen R. Creason (Ritchie)

Henry A. Flores, Jr. (Gibson)

#### **Gregory F. Zoeller 01-12-09 to 01-09-17**

James B. Martin (Ward, Weisheit)

Stephen R. Creason (Wilkes)

Andrew A. Kobe (Gibson, Gibson)

Henry A. Flores Jr. (Gibson)

Kelly A. Miklos (Isom)

#### **Curtis T. Hill 01-09-17 to 01-11-21**

#### **Todd Rokita 01-11-21 - present**

## DIRECT APPEAL - DEFENSE ATTORNEY INDEX

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Laurie A. Baiden (Schiro)	Gregory H. Hofer (F.Davis)
Jeffrey A. Baldwin (Stevens)	James G. Holland (Burris)
Jeffrey Baldwin (Overstreet)	Jere I. Humphrey (F.Davis, L.Williams)
Arnold P. Baratz (Holmes)	Charles R. Hyde (Castor)
Mark Bates (Isom)	Mark Inman (Burris)
Daniel L. Bella (Lockhart, Rouster/D.Williams)	William Janes (James)
William H. Bender (Harrison)	Richard Kammen (Daniels, Holmes, Van Cleave)
John C. Bohdan (Corcoran)	Michael C. Keating (Prowell, Schiro, Wrinkles)
Stephen C. Bower (Averhart)	J. Richard Kiefer (Kennedy, Kennedy)
John P. Brinson (McManus)	Scott L. King (Matheney, Rouster/D.Williams)
Susan D. Burke (Barker)	Eric K. Koselke (Moore, Stroud)
William Byer, Jr. (Johnson)	Dennis R. Kramer (Brewer)
Mitchell P. Chabraja (Saylor)	Charles F. Leonard (T.Lowery)
J. Murray Clark (G.Davis)	Kevin L. Likes (Azania)
Joseph M. Cleary (J.Thompson)	Jeffrey A. Lockwood (Saylor)
John D. Clouse (Schiro)	Rhonda Long-Sharp (Kubsch)
Robert V. Clutter (J.Thompson)	Darnail Lyles (E.Williams)
Michael T. Conway (Harris)	Howard B. Lytton, Jr. (Dillon)
Bruce S. Cowan (Hough)	Alphonso Manns (Thacker)
Michael J. Danks (Wrinkles)	Albert Marshall (Potts, Roark)
William Van Der Pol Jr. (Pruitt)	John E. Martin (Miller)
Keith A. Dilworth (Castor)	Mark D. Maynard (Lambert)
Timothy R. Dodd (McManus, J.R.Thompson)	Michael J. McDaniel (Ingle)
Daniel Dovenbarger (Van Cleave)	Kevin P. McGoff (Kennedy, Kennedy)
Janet S. Dowling (Stephenson)	Kevin McShane (Ritchie)
Dawn D. Duffy (Resnover)	Ronald E. McShurley (Lambert)
Thomas A. Dysert (Weisheit)	Judith G. Menadue (Timberlake)
Joseph K. Etling (R.Smith)	P. Stephen Miller (Corcoran)
Michelle Fennessy-Kraus (Azania)	Garry W. Miracle (Wisehart)
James T. Flanigan (Holmes)	Woodrow S. Nasser (Minnick, Minnick)
Hector L. Flores (Martinez)	David H. Nicholls (McCollum/Townsend)
Michael T. Forsee (Boyd)	Michael J. O'Reilly (Trueblood)
Monica Foster (Huffman, Kubsch)	Thomas J. O'Brien (Trueblood)
David P. Freund (Baird, J.Lowery, Fleenor, Vandiver, Bivins, Woods)	Donald W. Pagos (James)
Bruce M. Frey (Bieghler)	Laura Paul (Gibson, Gibson)
Christopher B. Gambill (Benefiel)	Ellen S. Podgor (McCollum/Townsend)
Gary S. Germann (Ben-Yisrayl-Porter)	John Proffitt (Moore)
Lawrence D. Giddings (J.Lowery)	Carolyn W. Rader (Barker)
Marce Gonzalez, Jr. (Benirschke, Roark)	Susan D. Rayl (Holmes)
William Wayne Gooden (Wilkes)	Charles G. Read (Boyd)
John Andrew Goodridge ((Wilkes)	Terrance W. Richmond (Jackson, Rondon, Springer)
Jill E. Greuling (Huffman)	Steven E. Ripstra (Dillon, Gibson, Gibson, Ward, Ward, Weisheit)
Teresa D. Harper (Dye, Pruitt, Overstreet)	Nathanial Ruff (Rouster)
Beverly K. Harris (Canaan)	
Stephen L. Harris (Judy)	

George K. Shields (Games)  
Mark Small (Ritchie)  
Allen N. Smith, Jr. (Underwood)  
William G. Smock (R.Smith, Wallace)  
Bruce R. Snyder (Hough)  
Theodore M. Sosin (Evans, Evans)  
Barry L. Standley (Canaan)  
James F. Stanton  
    (Coleman, Landress, Peterson, Townsend)  
Janice L. Stevens (Moore)  
Charles E. Stewart, Jr. (Roche, E.Williams)  
Victor L. Streib (Cooper)  
Kenneth M. Stroud (Judy, Harris, Moore)  
Daniel L. Toomey (Brown)

William L. Touchette (Cooper)  
Barrie C. Tremper (T.Lowery, C.Smith)  
L. Craig Turner (Conner, Harris, Patton)  
M.E. Tuke (Baird, Martinez)  
Alex R. Voils, Jr. (G.Davis)  
Dennis A. Vowels (Prowell)  
Richard A. Waples (Daniels)  
Daniel L. Weber (Benefiel)  
Brent L. Westerfeld  
    (Allen, Bellmore, Stephenson, Stevens, Stroud)  
Stephen P. Wolfe (T.Smith)  
I. Alexander Woloshansky (O.Ben-Yisrayl)  
Lorinda Meier Youngcourt (Moore, Ward, Ward)

## **INDIANA DEPUTY ATTORNEYS GENERAL - PCR APPEAL ATTORNEY INDEX**

Index includes all appellate attorneys representing the State of Indiana on appeal from the grant or denial of PCR, as recognized by the Indiana Supreme Court as attorney of record in the published opinion. No distinction is made between lead counsel and second chair. Does not include Amicus Curiae counsel. Does not include PCR appeals following death penalty trials that resulted in a sentence less than death.

### **INDIANA ATTORNEYS GENERAL (1977 - 2021)**

Theodore L. Sendak	Republican	1969 - 1980
Linley E. Pearson	Republican	1981 - 1992
Pamela Carter	Democrat	1993 - 1996
Jeff Modisett	Democrat	1997 - 1999
Karen Freeman-Wilson	Democrat	2000 - 2000
Steve Carter	Republican	2001 - 2008
Steve Carter	Republican	2001 - 2008
Gregory F. Zoeller	Republican	2009 - 2017
Curtis Theophilus Hill	Republican	2017 - 2021
Todd Rokita	Republican	2021 - present

#### **Linley E. Pearson 01-12-81 to 01-11-93**

Joseph N. Stevenson  
(Benefiel, Brewer, Burris, Daniels, Resnover,  
Schiro, Schiro, C.Smith, T.Smith, Spranger,  
L.Williams)  
Arthur Thaddeus Perry  
(Averhart, J.Lowery, Resnover, Wallace,  
Wallace)  
Louis E. Ransdell (Fleenor)

#### **Pamela Carter 01-11-93 to 01-13-97**

Arthur Thaddeus Perry  
(Baird, Canaan, Hames, Hough, Huffman,  
Minnick, Moore, Rondon, T.Smith)  
Geoff Davis (Van Cleave)  
James A. Joven (Wisehart)  
Preston W. Black (Conner)  
Dana Childress-Jones (Schiro)  
Meredith J. Mann (Daniels)  
Geoff Davis (Johnson)

#### **Jeff Modisett 01-13-97 to 02-21-00**

Arthur Thaddeus Perry  
(Benefiel, Matheney, Miller, Roche, Rouster,  
Trueblood, D.Williams)  
Christopher L. LaFuse (Brown, Coleman, Coleman)  
Priscilla J. Fossum (Harrison, Lambert)  
Michael A. Hurst (Holmes)  
James D. Dimitri (Ben-Yisrayl)  
Andrew L. Hedges (Bivins)  
Rosemary L. Borek (E.Williams)  
James D. Dimitri (Woods)

#### **Karen Freeman-Wilson 02-21-00 to 01-08-01**

Arthur Thaddeus Perry  
(Daniels, Ben-Yisrayl, Saylor, Saylor)  
Stephen R. Creason (Saylor)  
Andrew L. Hedges (Stevens)  
Priscilla J. Fossum (Allen, Timberlake)  
James B. Martin (Timberlake)  
Thomas D. Perkins (Prowell, Wrinkles)

#### **Steve Carter 01-08-01 to 01-12-09**

James B. Martin (Overstreet, Stephenson)  
Arthur Thaddeus Perry (Ben-Yisrayl)  
Christopher L. Lafuse (Averhart)  
Stephen R. Creason (Corcoran, Ritchie)  
Timothy W. Beam (Dye)

#### **Gregory F. Zoeller 01-12-09 to 01-09-17**

James B. Martin (Ward)

#### **Curtis T. Hill 01-09-17 to 01-11-21**

Tyler G. Banks (Gibson, Weisheit)  
Andrew A. Kobe (Gibson)  
Kelly A. Loy (Gibson, Weisheit)  
Denise A. Robinson (Gibson)

#### **Todd Rokita 01-11-21 - present**

Andrew A. Kobe (Isom)  
Tyler G. Banks (Isom)

## PCR APPEAL - DEFENSE ATTORNEY INDEX

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- Kenneth L. Bird (Bieghler, Roche, VanCleave)  
Barbara S. Blackman (Dye, Prowell, Stevens)  
Valerie K. Boots (Averhart)  
Anne Murray Burgess (Weisheit)  
Thomas M. Carusillo (Rondon)  
Kathleen Cleary  
(Allen, Coleman, Coleman, Conner, Dye, Isom,  
Holmes, Lambert, Overstreet, Pruitt, Ritchie,  
Trueblood, VanCleave, Weisheit)  
Jesse A. Cook (Azania, Baird)  
Michael E. Deutsch (Azania)  
Marie F. Donnelly (Benefiel, Games, Roche)  
David L. Doughten (Hough)  
Janet S. Dowling (Bivins, Brown, Wisehart)  
Mark A. Earnest (Daniels, Daniels)  
Deidre R. Eltzroth (Gibson)  
Michelle Fennessy (Johnson)  
Monica Foster (Averhart, Huffman, J.Lowery, Schiro)  
Alan M. Freedman (Rouster)  
William Goodman (Azania)  
Glenn A. Grampp (Canaan)  
Joanna Green  
(Allen, Ben-Yisrayl, Benefiel, Gibson, Harrison,  
Holmes, Moore, Miller, Wrinkles)  
Danielle L. Gregory (Allen, E.Williams)  
Frances Watson Hardy (Schiro)  
Teresa D. Harper (C.Smith)  
Emily Mills Hawk  
(Ben-Yisrayl, Ben-Yisrayl, Saylor, Saylor)  
Carol R. Heise (Rouster)  
Margaret Hills (Wallace)  
Thomas C. Hinesley  
(Conner, Harrison, Lambert, Moore, Overstreet,  
Pruitt, Saylor, Saylor, Stephenson, Stevens,  
VanCleave, Ward, Wisehart)  
Chris Hitz-Bradley (Trueblood)  
Linda K. Hughes (Holmes, Wrinkles)  
Michael C. Keating Canaan)  
Eric K. Koselke (Daniels, Timberlake)  
Robert E. Lancaster  
(Coleman, Coleman, Harrison, E.Williams)  
Paul Levy (Brewer, L.Williams, Resnover)  
Joe Keith Lewis (Woods)  
Kevin L. Likes (Hough)  
Rhonda Long-Sharp (Averhart, Schiro, C.Smith)  
Lisa Malmer (Canaan)  
Joanna McFadden (Corcoran)
- Kevin P. McGoff (Minnick, Resnover)  
Judith G. Menadue  
(Daniels, Rondon, T.Smith, Wallace)  
J. Jeffreys Merryman, Jr. (Matheney, Wisehart)  
Ken Murray (Brown)  
Ann M. Pfarr (Miller, D.Williams)  
John Pinnow (Weisheit)  
John J. Ray (Wallace)  
Terrance W. Richmond (Spranger)  
Michael Sauer (Games)  
F. Thomas Schornhorst (Fleenor, T.Smith)  
Steven H. Schutte  
(Ben-Yisrayl, Ben-Yisrayl, Ben-Yisrayl,  
Canaan, Gibson, Holmes, Isom, Prowell,  
Matheney, Overstreet, Stephenson)  
Ann M. Skinner (E.Williams)  
Meggan Smith (Isom)  
John S. Sommer (Roche, Trueblood)  
David C. Stebbins (Woods)  
Ann M. Sutton (Timberlake)  
James N. Thiros (Rouster)  
Linda R. Torrent (C.Smith)  
Lindsay C. Van Gorkom (Gibson)  
Alex R. Voils, Jr. (Schiro)  
Laura L. Volk  
(Dye, Corcoran, Gibson, Prowell, Pruitt, Ward,  
Wrinkles)  
Linda M. Wagoner (Burris, Johnson)  
Richard A. Waples (Daniels)  
Scott A. Weathers (Huffman)  
Brent L. Westerfeld  
(Fleenor, J.Lowery, Resnover, Ritchie)  
Juliet M. Yackel (D.Williams)  
Lorinda Meier Youngcourt  
(Bieghler, Bivins, Minnick)

### INDIANA STATE PUBLIC DEFENDER

Susan K. Carpenter Oct 1981- May 2011  
Stephen T. Owens 2012 - 2020  
Amy E. Karozos May 2021 - present

## IC 35-50-2-9 (b) AGGRAVATING CIRCUMSTANCES

Of the 98 cases resulting in a death sentence since 1977:

(Includes Christopher Peterson and William Clyde Gibson twice, with two separate death sentences; includes only once those ten who were resentenced to death after reversal on appeal)

Cases alleging / proving single aggravator: 40

Cases alleging / proving multiple aggravators: 58

Most aggravators alleged/proved in a single case: 05 (Baer), 04 (G. Davis, Gibson, Harrison, Miller, Ward)

### b (1) Intentional Murder:

	<u>Robbery</u>	<u>Burglary</u>	<u>Rape</u>	<u>CDC</u>
Allen	Martinez	Barker	Baer (Attempt)	Benefiel
Averhart	McCollum	Bellmore	Benefiel	Canaan
Baer	Miller	Bieghler	G.Davis	Evans
Benirschke	Minnick	Boyd	Evans	Gibson
Bivins	Rondon	Canaan	Harris	Miller
Burris	Rouster	G.Davis	Judy	T.Lowery
Cooper	Saylor	Dillon	T.Lowery	Ward
Daniels	C.Smith	Fleenor	Miller	
Games	Stroud	Johnson	Minnick	<u>Molesting</u>
Holmes	J.K.Thompson	J.Lowery	Overstreet	Brown
Hough	Underwood	Matheny	Patton	Coleman
Huffman	Van Cleave	Roche	Schiros	F.Davis
James	D.Williams	Stroud	Ward	T.Lowery
Jackson	E.Williams	Thompson		Stevens
Kennedy	L.Williams	Wallace	<u>Kidnapping</u>	
Landress	Wisehart	Wisehart	Barker	<u>Arson</u>
Lockhart	Woods		Harris	Harrison
J.Lowery			Jackson	Johnson
			Kennedy	
			Ingle	

**b (2) Explosives:** None

**b (3) Lying in Wait:** F.Davis, G.Davis, Fleenor, Matheny, Stephenson, Thacker, Vandiver, Ingle

**b (4) Hired to Kill:** Vandiver

**b (5) Hiring to Kill:** Thacker

**b (6) Law Enforcement Victim:** Averhart, Castor, Lambert, Moore, Pruitt, Resnover, Ritchie, T.Smith, Spranger, Timberlake

**b (7) Convicted of Another Murder:** Brown, Coleman, Gibson, Harrison, Hough, Lockhart, Peterson, L.Williams, J.R. Thompson, J.K. Thompson

**b (8) Committed Another Murder:** Baer, Baird, Barker, Benirschke, Bieghler, Castor, Conner, Corcoran, Dillon, Dye, Fleenor, Hicks, Hollis, Holmes, Hough, Isom, Judy, Kubsch, J.Lowery, McManus, McCollum, Moore, Peterson, Potts, Powell, Roark, Roche, Rouster, Stephenson, Stroud, J.K. Thompson, Townsend, Trueblood, Wallace, Wilkes, D.Williams, E.Williams, Wrinkles, Weisheit

**b (9) On Probation or Parole or In Custody:** Baer, Gibson, Miller, Ritchie, Saylor, R. Smith, Stevens, Ward

**b (10) Dismemberment:** Gibson

**b (11) Burning, Mutilation, Torture:** Ward

**b (12) Victim Less Than 12 Years Old:** Baer, Harrison, Kubsch, McManus, Roark, Stevens, Trueblood, Weisheit, Wilkes

**b (13) Convicted of Battery, Kidnapping, Confinement, Sex Crime against same victim:** None

**b (14) Victim was Witness Against Defendant:** None

**b (15) Drive-By Shooting:** Stephenson

**b (16) Intentional Killing of Viable Fetus:** None

**b (17) At School:** None.

**b (18) At Church:** None.

## PENDING DEATH PENALTY CASES

### At Trial

According to the Indiana Supreme Court Administrator, who monitors the progress of death penalty cases pursuant to Rule 24 of the Indiana Rules of Criminal Procedure, 5 death penalty cases are pending and awaiting trial as of January 1, 2022:

Defendant	County	DP Filed	Cause #	Trial / Next Action
Gary Cecil Ferrell, II	Clinton	08-20-21	12D01-2108-MR-000908	Pretrial Conf 01-20-22; Jury Trial 02-24-22
Elliahls Lamar Dorsey	Marion	01-26-21	49D32-2004-MR-013622	Pretrial Conf 02-01-22
Jason Dane Brown	Marion	09-28-17	49D32-1708-MR-028177	LWOP Bench Trial 02-07-22
John Keith Adams	Marion	02-25-00	49D30-9910-CF-172192	Status Conf 03-10-22 Found Incomp 10-19-00
Peter Burton	Lake	04-20-93	45G03-9304-CF-000095	Serving LWOP in Illinois

### On Direct Appeal

None.

### On PCR in Trial Court

None.

### On PCR Appeal

None.

### On Habeas in U.S. District Court

Eric D. Holmes (Marion County) Petition for Writ of Habeas Corpus filed.

(U.S. District Court, N.D. Indiana - No. 1:00-cv-01477-SEB-DML; No. 1:05-cv-01763-LJM-WTL)

Stay of proceedings until State shows that Holmes has regained competency.

Jeffrey Alan Weisheit (Vanderburgh / Clark County) Petition for Writ of Habeas Corpus filed.

(U.S. District Court, S.D. Indiana - 4:19-cv-36-SEB-DML)

William Clyde Gibson III (Floyd County) (Expected filing of Petition for Writ of Habeas Corpus)

Kevin Charles Isom (Lake County) Petition for Writ of Habeas Corpus filed.

(U.S. District Court, S.D. Indiana - 2:21-CV-231-HAB)

Awaiting answer from Indiana Supreme Court on Certified Question by U.S. District Court.

### On Habeas Appeal in U.S. Circuit Court

None.

### Found Incompetent to be Executed

Michael D. Overstreet (Johnson County)

### Awaiting Execution - Direct Appeals, PCR Appeals, Habeas Appeals Completed.

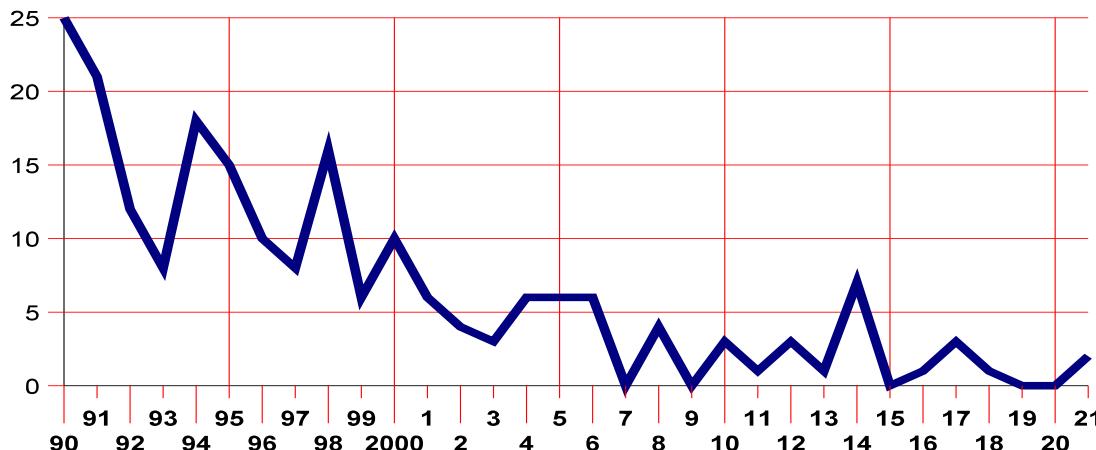
Joseph E. Corcoran (Allen County)

Roy Lee Ward (Spencer County)

Benjamin Ritchie (Marion County)

## DEATH PENALTY REQUESTS BY INDIANA PROSECUTORS

According to the Indiana Supreme Court Administrator, since 1990 Indiana Prosecutors have requested a Death Sentence in 207 murder cases as of January 1, 2022:



### Death Penalty Requests by Indiana Prosecuting Attorneys 2014 to January 1, 2022:

Defendant	County	DP Request Filed	Cause #	Sentencing Disposition	
Ferrell, Gary Cecil, II	Clinton	08-20-21	12D01-2108-MR-000908	Pretrial Conf 02-09-22; Jury Trial 02-24-22	
Dorsey, Elliahs Lamar	Marion	01-26-21	49D32-2004-MR-013622	Pretrial Conf 02-01-22	
Baumgardt, Anthony	Boone	04-24-18	06D02-1803-MR-000501	05-29-19	LWOP
Wright, Zachariah Brian	Boone	09-20-17	06D01-1706-MR-001078	01-03-20	LWOP
Brown, Jason Dane	Marion	09-28-17	49D32-1708-MR-028177	PTC 01-24-22; LWOP Bench Trial 02-07-22	
Dansby, Marcus	Allen	01-05-17	02D05-1609-MR-000010	07-25-19	300 years
Cruz, Johnathan	Marion	07-26-16	49G03-1606-MR-021170	05-11-17	LWOP
Oberhansley, Joseph	Clark	12-16-14	10C04-1409-MR-001	10-13-20	LWOP
Vann, Darren Deon	Lake	10-17-14	45G04-1512-MR-000009 45G04-1512-MR-000002	05-25-18	LWOP X7
Blount, Carl Le'Ellis	Lake	09-16-14	45G04-1407-MR-000006	02-08-17	LWOP
Davis, Major, II	Marion	08-19-14	49G02-1407-MR-034656	04-27-17	LWOP
Rackemann, Kenneth	Marion	07-01-14	49G01-1402-MR-009106	04-26-16	LWOP X4
Schuler, Kevin Andrew	Harrison	01-08-14	31D01-1308-MR-000508	02-09-17	LWOP X2
Scott, Austin Bryan	Harrison	01-08-14	31D01-1308-MR-000507	09-06-16	LWOP X2

**Death Penalty Requests by Indiana Prosecuting Attorneys 1990 to 2013:**

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
<b>2013 (1)</b>			
Hooten, Richard	Clark	05-19-14	LWOP
<b>2012 (3)</b>			
Bell, Roy	Fulton	09-16-13	LWOP
Gibson, William Clyde	Floyd	11-26-13	<b>Death Sentence</b>
Gibson, William Clyde	Floyd	08-15-14	<b>Death Sentence</b>
<b>2011 (1)</b>			
Hardy, Thomas	Marion	04-05-12	LWOP + 40 years
<b>2010 (3)</b>			
Flores, David Alex	Lake	09-09-10	LWOP
Weisheit, Jeffrey Alan	Vanderburgh/Clark	06-03-13	<b>Death Sentence</b>
Chamorro, Barney J.	Boone	05-10-12	LWOP
<b>2009 (0)</b>			
<b>2008 (4)</b>			
Isom, Kevin	Lake	03-08-13	<b>Death Sentence</b>
Davis, Ronald	Marion	11-10-10	245 years
Gibson, Michael A.	Sullivan	03-18-10	LWOP
Melcher, Zachariah	Sullivan	01-28-11	65 years
<b>2007 (0)</b>			
<b>2006 (6)</b>			
Baker, Mark S.	Fulton	11-16-07	LWOP
Harbison, Nicholas	Pike	06-22-07	LWOP
Rios, Simon	Allen	10-01-07	LWOP + 100 years

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
Turner, Desmond	Marion	11-20-09	LWOP + 88 years
Walker, Katron L.	Vigo	08-28-09	95 years
Wilkes, Daniel	Vanderburgh	01-25-08	<b>DP</b> Reversed; LWOP
<b>2005 (6)</b>			
Allen, Kenneth	Marion	02-05-10	LWOP
Cottrell, Chad A.	Parke/Hamilton	05-29-09	LWOP
Gauvin, Michelle D.	Tippecanoe	10-26-06	LWOP
Melcher, Zachariah	Clark	08-03-06	LWOP
Stockelman, Anthony	Jackson	04-20-06	LWOP
Voss, Jeffrey	Marion	04-20-07	LWOP
<b>2004 (6)</b>			
Baer, Frederick Michael	Madison	06-09-05	<b>DP</b> Reversed; LWOP
Jeter, Darryl	Lake	06-16-06	LWOP
Maust, David	Lake	12-16-05	LWOP
Nicholson, Scott	Miami	01-12-11	60 years
Richards, Stephen T.	Lake	09-27-04	LWOP
Wilson, Kerry	Floyd	09-20-05	LWOP
<b>2003 (3)</b>			
Cain, Craig	Grant	10-18-04	LWOP
Holland, Thomas	Marion	12-09-05	LWOP
Losch, David L.	Elkhart	02-06-04	LWOP
<b>2002 (4)</b>			
Covington, Ronald	Marion	10-22-04	LWOP
Hatch, Ronrico	Allen	03-12-04	LWOP
Patrick, Jason	St. Joseph	03-15-04	65 years, 20 yrs, 08 yrs
Verner, Louis	Delaware	02-24-05	LWOP

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
<b>2001 (6)</b>			
McManus, Paul Michael	Vanderburgh	06-05-02	<b>DP Reversed; LWOP</b>
Parker, Lamar Edward	Allen	01-24-03	110 years
Pruitt, Tommy R.	Morgan	11-21-03	<b>DP Reversed; 180 years</b>
Richeson, Walter William	Lake	05-03-02	65 years
Shannon, Michael P.	Marion	03-19-03	LWOP
Ward, Roy Lee	Spencer	12-18-02	<b>Death Sentence</b>
<b>2000 (10)</b>			
Adams, John K.	Marion		Incompetent - Pending
Branum, Richard A.	Gibson	12-20-00	LWOP
Britt, Victor Eugene	Lake	11-03-06	246 years
Holland, Kelly K.	Harrison	05-16-01	LWOP, 180 years
Leone, Jeff A.	Greene	05-14-02	LWOP
Ritchie, Benjamin	Marion	10-15-02	<b>Death Sentence</b>
Smallwood, Howard J.	St. Joseph	11-01-01	LWOP
Stroud, Philip A.	St. Joseph	07-11-05	LWOP
Whipps, Jeffrey A.	Knox	10-02-02	40 years
Wilburn, Stevan P.	Fountain	-	Jury Trial; Not Guilty
<b>1999 (6)</b>			
Kubsch, Wayne	St.Joseph	08-28-00	<b>DP Reversed; LWOP</b>
Lichtenberger, Mark	Adams	07-10-00	LWOP
Malinski, David	Porter	03-16-00	155 years
Powell, Jason	Elkhart	03-14-02	LWOP
Slater, Reggion	Porter	10-29-01	LWOP
Witmer, Alex	Elkhart	03-06-02	65 years

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
<b>1998 (16)</b>			
Anderson, Corey	Jasper	02-28-00	LWOP
Corcoran, Joseph Edward	Allen	08-26-99	<b>Death Sentence</b>
Dixon, Larry Darnell	Lake	01-10-00	50 years
Greer, Timothy	Johnson	03-02-00	LWOP
Gross, Jeremy	Marion	06-09-00	LWOP
Highbaugh, Michael	Marion	04-11-00	LWOP
Jones, Jerry	Marion	05-30-01	73 years
Kovak, Boris	Elkhart	08-26-99	LWOP
Moore, Michael S.	Delaware	05-28-99	155 years
Overstreet, Michael Dean	Johnson	07-31-00	<b>Death Sentence (Incomp)</b>
Powell, Myron	Marion	06-16-01	65 years
Salyers, Frankie Allen	Elkhart	05-06-05	LWOP
Schmitt, Eric Scott	Vanderburgh	03-24-99	75 years
Sowers, Lawrence	Henry	01-10-01	18 years Assisting Criminal
Temple, Richard P.	Carroll	05-22-00	130 years
Veal, Paul G.	Marion	10-19-00	LWOP
<b>1997 (8)</b>			
Dickens, Gregory	St.Joseph	07-09-99	LWOP
Fitzhugh, Bryan	Allen	10-16-98	188 years
Gooden, Anthony Terrell	Lake	07-03-02	60 years
Hobson, Jentry	Lake	11-30-00	25 years Conspiracy Murder
Hubbard, Randall L.	Morgan	07-24-98	120 years
Jackson, Sharon Elizabeth	Lake	07-08-02	20 years Conspiracy Murder
Price, Kerrie	Marion	03-02-00	LWOP
Sholes, David T.	Wabash	03-07-97	LWOP

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
<b>1996 (10)</b>			
Britt, Eugene	Porter	05-23-96	LWOP
Dye, Walter	Marion	01-20-98	<b>DP Reversed; LWOP</b>
Gorbea, Joseph L.	Lake	02-20-98	LWOP
Ingle, John	Floyd	11-23-98	<b>DP Reversed; 115 years</b>
Martin, Tony	Marion	09-19-98	DP Withdrawn
Mason, Henry T.	Allen	09-29-97	LWOP
Mosley, Corey	Marion	08-22-97	LWOP
Sherwood, Steven	Morgan	09-28-01	65 years
Stephenson, John M.	Warrick	06-17-97	<b>DP Reversed; 110 years</b>
Warlick, Rickey P.	Allen	05-29-98	LWOP
<b>1995 (15)</b>			
Boyd, Daniel	Marion	06-27-97	LWOP
Garrett, Edgar	Elkhart	10-30-95	Jury Trial; Not Guilty
Gaume, Joe	Elkhart	10-16-97	60 years, 20 years
Jones, Roman	Lake	12-27-96	225 years
Lowrimore, Steven R.	Marion	04-17-98	LWOP; Deceased
Lunsford, Ronald	Sullivan	09-09-96	40 years; Vol Mansl
Mathisen, Thomas	Marion	09-04-96	LWOP
Mathisen, Ronald	Marion	09-06-96	LWOP
Miller, Ronnie	Marion	03-26-99	85 years
Peoples, Bryan	Elkhart	10-03-96	120 years
Rogers, Thomas Lee	Lake	04-26-96	LWOP
Smith, Robert A.	Sullivan	07-12-96	<b>DP - Executed</b>
Spiller, Kenneth J.	Lake	10-30-96	115 years
Webber, Harvell	Marion	06-10-96	Dismissed
Witt, Darren	Lake	12-06-96	LWOP

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
<b>1994 (18)</b>			
Adams, Raymond K.	Hamilton	10-30-95	LWOP
Ajabu, Kofi Modibo	Hamilton	10-03-95	240 years
Barker, Charles E.	Marion	11-26-96	<b>DP</b> Reversed - LWOP + 110 yrs
Beason, Jay	LaPorte	12-05-95	120 years
Berry, Mark	LaPorte	08-26-96	80 years
Gilmer, Frank Scott	Porter	05-13-96	LWOP
Jones, Rodney	LaPorte	03-07-95	20 years; Aggravated Battery
Kidd, William T.	Elkhart	05-12-94	LWOP
McIntyre, Robert	LaPorte	12-11-95	LWOP
Newton, Larry	Delaware	12-29-95	LWOP
Parish, David	Knox	09-16-94	Dismissed
Sotelo, Joseph S.	Lake	10-21-94	LWOP
Stevens, Christopher	Putnam	03-14-95	<b>Death Sentence</b>
Thompson, Jerry K.	Marion	05-24-96/09-29-00	<b>DP; DP; Deceased</b>
Walls, James G.	Hamilton	10-30-95	LWOP
Weatherford, Robert W. S.	Madison	11-15-95	LWOP
Williams, Kevin V.	Elkhart	06-29-95	60 years
Wrinkles, Matthew	Vanderburgh	06-14-95	Death Sentence
<b>1993 (8)</b>			
Allen, Marty J.	Johnson	12-21-94	192 years
Burton, Peter	Lake	Pending	Pending; Serving LWOP in Illinois
Holmes, Steven M.	Marion	07-23-93	100 years
Powell, Vincent	Vanderburgh	05-05-94	<b>DP</b> - Reversed - 100 years
Sears, James	Marion	03-10-94	60 years, 50 years

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
Taylor, Denon A.	Marion	10-07-94	60 years, 40 years
Timberlake, Norman	Marion	08-11-95	<b>Death Sentence</b>
Whetzel, Stephen	Floyd	03-18-96	45 years

### **1992 (12)**

Alcorn, William P.	Marion	11-01-94	Jury Trial; Not Guilty
Bradley, Richard D.	Madison	02-10-93	60 years
Clements, Helen Marie	Elkhart	12-17-92	50 years
Hurt, Kenneth S.	Marion	05-10-94	60 years
Loveless, Melinda D.	Jefferson	01-04-93	60 years
Penick, Jimmie	Dekalb	01-26-94	60 years
Roseborough, Jesse	Lake	03-19-93	60 years
Saylor, Benny Lee	Madison	02-17-94	<b>DP - Reversed - 100 years</b>
Spears, Clinton	Lake	02-23-93	4 years; Assisting a Criminal
Tackett, Mary L.	Jefferson	01-04-93	60 years
Williams, Edward Earl	Lake	05-15-07	100 years
Wingett, Ronald	Marion	04-22-93	90 years

### **1991 (21)**

Anderson, Timothy	Vanderburgh	11-14-91	60 years
Bivins, Gerald	Boone	06-05-92	<b>DP Executed</b>
Bradley, Adam	Steuben	09-02-92	50 years
Carrion, Christopher	Allen	11-19-92	50 years
Cliver, Randy	Greene	01-05-93	60 years, 35 years; Deceased
Collier, Charles B.	Washington	01-13-92	3 years; Obstruction of Justice
Dearth, William	Steuben	01-30-92	20 years; Conspiracy
Gray, Larry	Steuben	10-27-92	50 years
Harrison, James Patrick	Posey	12-14-91	<b>DP - Reversed - 150 years</b>
Helfenbein, Theodore	Clark	05-26-92	94 years

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
Holmes, Eric	Marion	03-26-93	<b>Death Sentence (Incomp)</b>
Lambert, Michael	Delaware	01-17-92	<b>DP - Executed</b>
Paul, Jeffrey J.	Posey	04-29-92	60 years, 50 years
Peterson, Christopher	Lake	06-05-92	<b>DP Reversed; 120 years</b>
Peterson, Christopher	Porter	05-15-92	<b>DP Reversed; Pending</b>
Pigg, Steve A.	Miami	12-18-91	45 years, 35 years
Powell, Cheryl	Steuben	06-03-92	40 years
Smith, Steven	Marion	09-24-93	60 years, 50 years
Sullivan, Donna	Steuben	03-12-92	15 years; Conspiracy
Taylor, Raleigh T.	Marion	07-16-93	110 years
Yerden, Russell W.	Marion	06-14-95	60 years, 50 years, 20 years

### **1990 (25)**

Buie, Jason	Randolph	09-25-91	100 yrs - Reversed - 40 yrs
Burke, Curtis	Miami	01-20-92	50 years
Busenbark, Gene A.	Parke	09-18-90	60 years, 20 years
Dobkins, Orville	Shelby	05-17-91	Dismissed
Garza, Raul	Allen	03-15-91	60 years
Harmon, William Glen	Porter	11-02-92	280 years
Higgins, Joey	Newton	10-22-90	52 years
James, Victor	LaPorte	02-28-91/	<b>DP Reversed; 90 years</b>
Matheney, Alan L.	St. Joseph	05-11-90	<b>DP - Executed</b>
McCord, Scott	Randolph	07-01-91	110 years; Deceased
McKinney, Bruce	Lake	12-16-91	55 years
Miller, Perry	Porter	05-20-91	<b>DP Reversed; 138 years</b>
Niksich, Edward J.	Lake	07-03-91	80 years
Richards, Randall	Marion	12-20-91	80 years
Robertson, Donald	Marion	05-06-92	92 years

<u>Death Penalty Filing</u>	<u>County</u>	<u>Sentencing</u>	<u>Disposition</u>
Robinson, Latanya J.	Allen	07-16-90	60 years, 20 years
Roche, Charles	Lake	11-30-90	<b>DP Reversed; Suicide</b>
Sheets, John C.	Randolph	09-30-91	8 years; Assisting Criminal
Simmons, Vesta	Porter	12-05-90	110 years
Swetkey, George F.	Lake	08-24-90	110 years
Trueblood, Joseph	Tippecanoe	04-12-90	<b>DP - Executed</b>
Vance, Michael	Marion	03-28-91	190 years
Walls, Rickey J.	Sullivan	-	Jury Trial; Not Guilty
Wall, Fred E.	Sullivan	-	Jury Trial; Not Guilty
Wood, Rodney A.	Porter	12-02-91	60 years

Since the adoption of Rule 24 of the Indiana Rules of Criminal Procedure in 1990, whenever Indiana Prosecuting Attorneys file a request seeking a death sentence, it must also be filed with the Indiana Supreme Court Administrator. The above information comes largely from that database, and through MyCase/Odyssey Case Management Systems and Appellate Court opinions.

According to the Indiana Supreme Court Administrator, since 1990 Indiana Prosecutors have requested a Death Sentence in 207 murder cases as of January 1, 2022. Since 2013, only 14 death penalty requests have been filed, and only 3 remain pending in the trial court. (10 have resulted in LWOP sentences and 1 has resulted in a 300 year sentence). The number of death penalty requests have drastically decreased over the past two decades. Over that same time frame, Life Imprisonment Without Parole sentences have skyrocketed.

In Life Without Parole cases, there is no requirement of notice to the Indiana Supreme Court Administrator and Rule 24 of the Indiana Rules of Criminal Procedure does not apply.

## TIME / ENDLESS DELAYS

Of the 98 cases resulting in a death sentence since 1977:

(Includes Christopher Peterson and William Clyde Gibson twice, with two separate death sentences; includes each of those ten inmates resentenced to death again after remand only once.)

Murder to Death Sentence = 14.3 months average

Shortest = Brewer (3 months) Longest = Isom (67 months), Barker (41 months)

Most Recently: Weisheit (39 months), Gibson I (19 months), Gibson II (29 months), Isom (67 months), Wilkes (21 months), Baer (16 months), Pruitt (29 months)

Of the 104 decisions reported by the Indiana Supreme Court on Direct Appeal:

Death Sentence to Indiana Supreme Court Direct Appeal Opinion = 37.6 months average

Shortest = Judy (11 months) Longest = Allen (109 months)

Most Recently: Weisheit (19 months), Gibson I (22 months), Gibson II (18 months), Wilkes (23 months), Corcoran (36 months), Overstreet (31 months), Kubsch (31 months), McManus (25 mo) Stroud (21 months), Ritchie (19 months), Ward ( 37 months), Pruitt (22 months)

Since 1977, the United States Supreme Court has denied certiorari on Indiana death penalty cases 144 times, and thereafter denied rehearings 16 times. Only twice have they reached the merits of a claim. In 1994 the United States Supreme Court affirmed the conviction and sentence of Thomas Schiro. Schiro v. Farley, 114 S.Ct. 783 (1994). Two years later, the Indiana Supreme Court vacated Schiro's death sentence on appeal after denial of his third PCR. Schiro v. State, 669 N.E.2d 1357 (Ind. 1996). And in 2010, the United States Supreme Court vacated the 7th Circuit Court of Appeals opinion and reinstated the death sentence in Wilson v. Corcoran, 131 S.Ct. 13 (November 08, 2010).

Only two other times has the United States Supreme Court accepted certiorari on an Indiana death penalty case. The first was in 1989, vacating the death sentence of Michael Daniels and remanding back to the Indiana Supreme Court for reconsideration in light of South Carolina v. Gathers. Daniels v. Indiana, 109 S.Ct. 3182 (1989). Upon reconsideration, the Indiana Supreme Court again affirmed the death sentence at Daniels v. State, 561 N.E.2d 487 (Ind. 1990). In 2000, the death sentence of Alton Coleman was vacated and remanded back to the Indiana Supreme Court for reconsideration in light of Williams v. Taylor. Coleman v. Indiana, 120 S.Ct. 1717 (2000). Upon reconsideration, the Indiana Supreme Court again unanimously affirmed the death sentence. Coleman v. State, 741 N.E.2d 697 (Ind. 2000).

The cases of Howard Allen (Marion) and Donald Ray Wallace (Vanderburgh) easily take the award for most prolific delays. Allen murdered a 73 year old woman in 1987, and was given a death sentence in 1988. The case was not decided on direct appeal until 1997. The Indiana Supreme Court found the Court Reporter in contempt and suspended the appellate attorney from the practice of law for causing the 9 year delay.

Wallace murdered a family of four during a burglary in 1980, and was given a death sentence in 1982. The case was affirmed on direct appeal in 1985. Denial of PCR was affirmed in 1990. A Petition for Habeas Corpus was filed in the U.S. District Court, Southern District of Indiana in 1995. It was fully briefed and on the desk of U.S. District Court Judge Sarah Evans Barker for more than 5 years before a decision was finally handed down on November 14, 2002. Wallace v. Davis, WL 31572002 (S.D. Ind. 2002). The opinion left unexplained the reason for the delay. The decision was affirmed by the U.S. Seventh Circuit Court of Appeals at Wallace v. Davis, 362 F.3rd 914 (7th Cir. March 26, 2004). Wallace was executed by lethal injection on March 10, 2005.

## **WHAT COURT HAS JURISDICTION ON APPEAL?**

Pursuant to Indiana Code 35-50-2-9(j), Indiana Appellate Rule 4(A)(1)(a), and Art. 7, § 4 of the Indiana Constitution, the Indiana Supreme Court has mandatory and exclusive jurisdiction over all appeals from cases resulting in a Death Sentence, and over direct appeals from cases resulting in a sentence of Life Imprisonment Without Parole. The direct appellate review is automatic and given priority over all other cases.

## **Indiana Rules of Appellate Procedure**

### Rule 4. Supreme Court Jurisdiction

#### A. Appellate Jurisdiction.

(1) Mandatory review. The Supreme Court shall have mandatory and exclusive jurisdiction over the following cases:

(a) Criminal Appeals in which a sentence of death or life imprisonment without parole is imposed under Ind. Code § 35-50-2-9 and Criminal Appeals in post conviction relief cases in which the sentence was death.

(3) Certain interlocutory appeals. The Supreme Court shall have jurisdiction over interlocutory appeals authorized under Appellate Rule 14 in any case in which the State seeks the death penalty or in life without parole cases in which the interlocutory order raises a question of interpretation of IC 35-50-2-9.

<b><u>COURT</u></b>	<b><u>PROCEEDING</u></b>	<b><u>WHO REPRESENTS STATE?</u></b>
Trial Court - County Circuit, Superior	Trial (DP)	County Prosecuting Attorney
Trial Court - County Circuit, Superior	Trial (LWOP)	County Prosecuting Attorney
Ind. Supreme Court (DP)	Direct Appeal (DP)	Attorney General
Ind. Supreme Court (LWOP)	Direct Appeal (LWOP)	Attorney General
Trial Court - County Circuit, Superior	PCR Petition(DP)	Attorney General
Trial Court - County Circuit, Superior	PCR Petition (LWOP)	County Prosecuting Attorney
Indiana Supreme Court	PCR Appeal (DP)	Attorney General
Indiana Court of Appeals	PCR Appeal (LWOP)	Attorney General
U.S. District Court	Habeas Petition (DP)	Attorney General
U.S. District Court	Habeas Petition (LWOP)	Attorney General
U.S. Court of Appeals	Habeas Appeal (DP)	Attorney General
U.S. Court of Appeals	Habeas Appeal (LWOP)	Attorney General

The Indiana Attorney General represents the State of Indiana in all cases after a defendant is sentenced to death, including direct appeal, post-conviction relief (trial and appeal), and habeas corpus (trial and appeal) in the federal courts.

## **Ind. R. P. Post-Conviction Remedies Rule 1, § 9(d)**

(d) State. In non-capital cases, the prosecuting attorney of the circuit in which the court of conviction is situated shall represent the State of Indiana in the court of conviction. In capital cases, the Attorney General shall represent the State of Indiana for purposes of answering the petition, and the prosecuting attorney shall, at the request of the Attorney General, assist the Attorney General. The Attorney General shall represent the State of Indiana on any appeal pursuant to this Rule.

## LIFE IMPRISONMENT WITHOUT PAROLE IN INDIANA

Life Imprisonment Without Parole was added as a jury option in all Indiana Death Penalty cases by a 1993 amendment to IC 35-50-2-9 (P.L. 250, § 2, effective July 1, 1993). The Legislature added a savings clause that made LWOP available only where the murder is committed after June 30, 1993. A defendant who commits murder before this date, but is sentenced after, is not eligible for LWOP. State v. Alcorn, 638 N.E.2d 1242 (Ind.1994), Azania v. State, 730 N.E.2d 646 (Ind.2000).

A 1994 amendment to IC 35-50-2-9 (P.L. 158, § 7) added provisions allowing the State to request only Life Imprisonment Without Parole without requesting a death sentence, but with the same procedures and burdens.

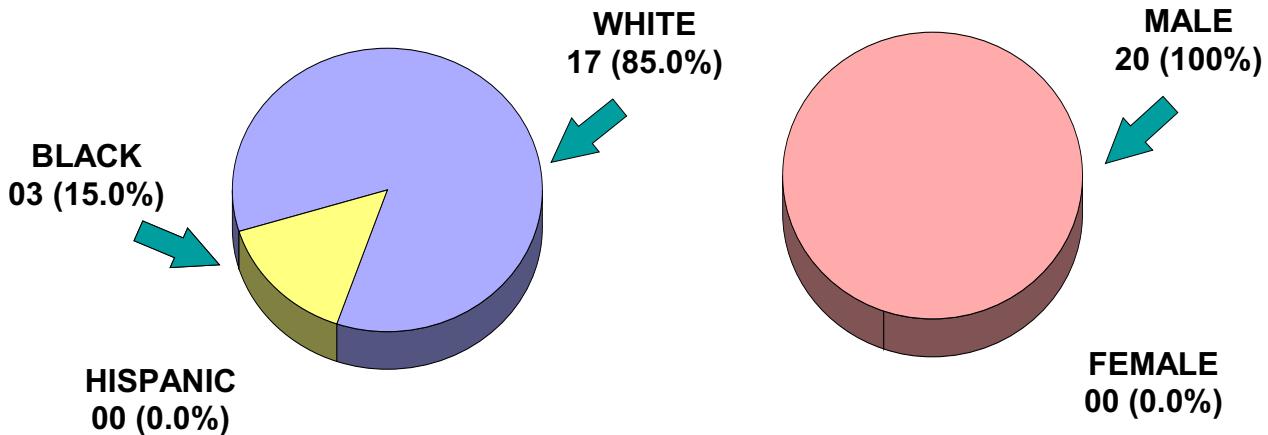
In 1994 (P.L.158, § 6), IC 35-50-2-8.5 was created, establishing Indiana's version of a "three strikes" law, authorizing a sentence of Life Imprisonment Without Parole for any felony, where two prior unrelated felony convictions listed under IC 35-50-2-2 (b)(4) as non-suspendable are shown. This statute was repealed by P.L.158-2013, § 662, effective July 1, 2014. According to the Indiana Department of Corrections, Asher Hill, convicted in the Marion County Superior Court in 2001 of Robbery (Class A Felony) and Confinement (Class B Felony), is the only person sentenced to LWOP under this statute, and is currently serving that sentence.

Additionally, Michael Daniels (01-07-05) and Darnell Williams (07-02-04) had their death sentences commuted to Life Imprisonment Without Parole by Indiana Governor Joe Kernan. Arthur Baird (08-29-05) had his death sentence commuted to Life Imprisonment Without Parole by Indiana Governor Mitch Daniels. They are the only three convicted murderers to have their death sentences commuted by a Governor since the death penalty was reinstated in Indiana in 1977. Each are currently serving Life Imprisonment Without Parole instead.

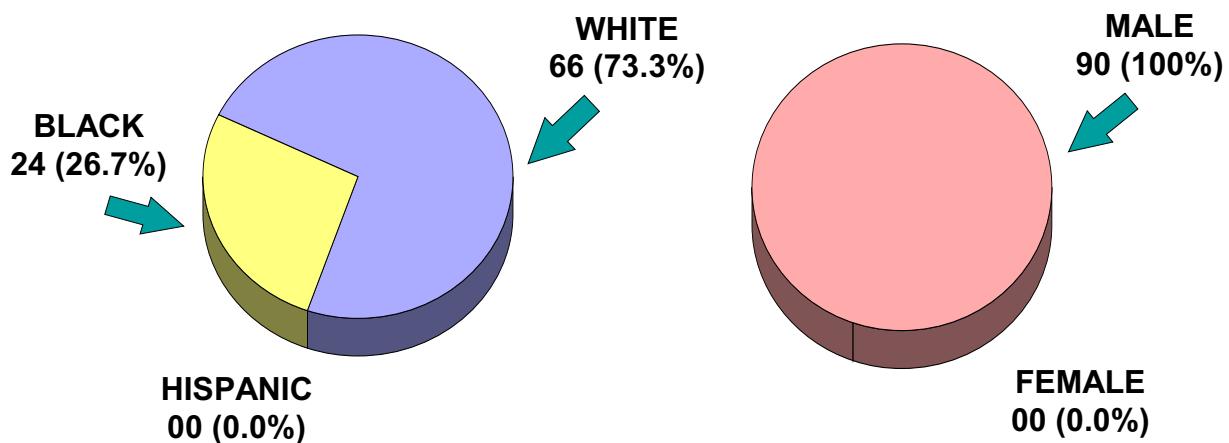
Prior to 1977 Indiana had an indeterminate sentencing scheme which included "life imprisonment" for Murder, Kidnapping and a few other violent crimes. Almost all inmates serving such a sentence have since been released on parole or by commutation/pardon. The laws relating to their parole release have been changed many times since 1977. See, White v. Indiana Parole Bd., 713 N.E.2d 327, 328 (Ind. Ct. App. 1999), Indiana Code 11-1-1-9, Indiana Code 11-1-1-9.1, and Indiana Code 11-7-1-1. Those with more than one sentence of Life Imprisonment are apparently not currently eligible for parole.

It must also be recognized that there are many inmates currently serving what practically amounts to a sentence of Life Imprisonment Without Parole; that is, those who are serving sentences of 100+ years likely have a "projected release date" well past their life expectancy. The life expectancy for those born today in Indiana is estimated at 77.1 years. Of course, the demographics of those in prison may reduce this number dramatically. Inmates are 95% male, often lived or living a life of drug or alcohol dependence and abuse, are prone to violence and mental illness, have sometimes been subjected to extreme poverty, and may not receive premium medical care before or during imprisonment.

## Executions in Indiana Since 1977 = 20



## Executions in Indiana Since 1900 = 90



- ✓ The last fifteen executions in Indiana have been of white males.
- ✓ Only white males have been executed in Indiana since 1997.
- ✓ Indiana conducted more executions in 2005 (5) than in any year since 1938, when 8 convicted murderers were executed.

## INDIANA EXECUTIONS SINCE 1977

<u>Inmate</u>	<u>County</u>	<u>Date of Execution</u>	<u>Method of Execution</u>
1. Steven T. Judy*	Morgan	03-09-1981	Electrocution
2. William Vandiver*	Lake	10-16-1985	Electrocution
3. Gregory D. Resnover	Marion	12-08-1994	Electrocution
4. Tommie J. Smith	Marion	07-19-1996	Lethal Injection
5. Gary Burris	Marion	11-20-1997	Lethal Injection
6. Robert A. Smith*	Sullivan	01-29-1998	Lethal Injection
7. D. H. Fleenor	Johnson	12-09-1999	Lethal Injection
8. Gerald W. Bivins*	Boone	03-14-2001	Lethal Injection
9. James Lowery	Tippecanoe/Boone	06-27-2001	Lethal Injection
10. Kevin Lee Hough	Allen	05-02-2003	Lethal Injection
11. Joseph L. Trueblood	Tippecanoe	06-13-2003	Lethal Injection
12. Donald Ray Wallace	Vanderburgh/Vigo	03-10-2005	Lethal Injection
13. Bill J. Benefiel	Vigo	04-21-2005	Lethal Injection
14. Gregory Scott Johnson	Madison	05-25-2005	Lethal Injection
15. Kevin A. Conner	Marion	07-27-2005	Lethal Injection
16. Alan L. Matheney	St.Joseph/Lake	09-28-2005	Lethal Injection
17. Marvin L. Bieghler	Howard	01-27-2006	Lethal Injection
18. David Leon Woods	Dekalb/Boone	05-04-2007	Lethal Injection
19. Michael Allen Lambert	Delaware	06-15-2007	Lethal Injection
20. Matthew E. Wrinkles	Vanderburgh	12-11-2009	Lethal Injection

\* Waived appeals

### EXECUTED IN TEXAS WHILE ON INDIANA DEATH ROW:

Michael Lee Lockhart	Lake	12-09-1997	Lethal Injection
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### EXECUTED IN OHIO WHILE ON INDIANA DEATH ROW:

Alton Coleman	Lake	04-26-2002	Lethal Injection
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## INDIANA EXECUTIONS SINCE 1977

<u>Inmate</u>	<u>Date of Murder</u>	<u>Date of Sentencing</u>	<u>Sentencing Judge</u>
1. Steven T. Judy*	04-28-1979	02-25-1980	Judge Jeffrey V. Boles
2. William Vandiver*	03-20-1983	01-20-1984	Judge James E. Letsinger
3. Gregory Resnover	12-11-1980	07-23-1981	Judge Jeffrey V. Boles
4. Tommie J. Smith	12-11-1980	07-23-1981	Judge Jeffrey V. Boles
5. Gary Burris	01-29-1980	02-20-1981	Judge John Tranberg
6. Robert A. Smith*	06-30-1995	07-12-1996	Judge P.J. Pierson
7. D. H. Fleenor	12-12-1982	01-04-1984	Judge Larry J. McKinney
8. Gerald W. Bivins*	01-16-1991	06-05-1992	Judge Thomas K. Milligan
9. James Lowery	09-30-1979	07-11-1980	Judge Paul H. Johnson Jr.
10. Kevin Lee Hough	11-06-1985	06-11-1987	Judge Edward J. Meyers
11. Joseph L. Trueblood	08-15-1988	08-12-1990	Judge Ronald E. Melichar
12. Donald Ray Wallace	01-14-1980	10-21-1982	Judge Hugh D. McQuillan
13. Bill J. Benefiel	08-15-1988	08-12-1990	Judge Michael H. Eldred
14. Gregory Scott Johnson	06-23-1985	06-19-1986	Judge Thomas Newman, Jr.
15. Kevin A. Conner	01-26-1988	11-03-1988	Judge John W. Tranberg
16. Alan L. Matheney	03-04-1989	05-11-1990	Judge James E. Letsinger
17. Marvin L. Bieghler	12-10-1981	03-25-1983	Judge Dennis H. Parry
18. David Leon Woods	04-07-1984	03-28-1985	Judge Donald R. Peyton
19. Michael Allen Lambert	12-28-1990	01-17-1992	Judge Robert L. Barnet, Jr.
20. Matthew E. Wrinkles	07-21-1994	06-14-1995	Judge Richard L. Young

\* Waived appeals

### EXECUTED IN TEXAS WHILE ON INDIANA DEATH ROW:

Michael Lee Lockhart	03-22-1988	10-26-1988	Judge James E. Letsinger
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### EXECUTED IN OHIO WHILE ON INDIANA DEATH ROW:

Alton Coleman	07-11-1984	06-24-1985	Judge Richard W. Maroc
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	<u>Age At Murder</u>	<u>Age At Sentencing</u>	<u>Age At Execution</u>	<u>Sentence to Execution Time on Death Row</u>
Judy*	22 yr, 339 d	23 yr, 277 d	24 yr, 289 d	01 yr, 012 d
Vandiver*	34 yr, 206 d	35 yr, 147 d	37 yr, 051 d	01 yr, 269 d
Resnover	29 yr, 121 d	29 yr, 345 d	43 yr, 118 d	13 yr, 138 d
T. Smith	26 yr, 309 d	27 yr, 167 d	42 yr, 163 d	14 yr, 361 d
Burris I	23 yr, 043 d	24 yr, 034 d	40 yr, 338 d	09 yr, 185 d
Burris II	23 yr, 043 d	34 yr, 340 d	40 yr, 338 d	05 yr, 363 d
R. Smith*	45 yr, 119 d	46 yr, 131 d	47 yr, 332 d	01 yr, 201 d
Fleenor	31 yr, 042 d	33 yr, 067 d	48 yr, 039 d	15 yr, 339 d
Bivins*	31 yr, 030 d	32 yr, 181 d	41 yr, 097 d	08 yr, 282 d
Lowery I	32 yr, 198 d	33 yr, 117 d	54 yr, 103 d	21 yr, 351 d
Lowery II	32 yr, 198 d	35 yr, 297 d	54 yr, 103 d	18 yr, 171 d
Hough	26 yr, 081 d	27 yr, 298 d	43 yr, 258 d	15 yr, 325 d
Trueblood	31 yr, 233 d	33 yr, 107 d	46 yr, 169 d	13 yr, 062 d
Wallace	22 yr, 133 d	25 yr, 048 d	47 yr, 188 d	22 yr, 140 d
Benefiel	32 yr, 073 d	34 yr, 070 d	48 yr, 322 d	14 yr, 252 d
Johnson	20 yr, 125 d	21 yr, 121 d	40 yr, 096 d	18 yr, 340 d
Conner	22 yr, 305 d	23 yr, 221 d	40 yr, 122 d	16 yr, 266 d
Matheney	38 yr, 118 d	39 yr, 186 d	54 yr, 326 d	15 yr, 140 d
Bieghler	33 yr, 360 d	35 yr, 100 d	58 yr, 043 d	22 yr, 308 d
Woods	19 yr, 244 d	20 yr, 233 d	42 yr, 270 d	22 yr, 037 d
Lambert	20 yr, 068 d	21 yr, 088 d	36 yr, 237 d	15 yr, 149 d
Wrinkles	34 yr, 199 d	35 yr, 162 d	49 yr, 342 d	14 yr, 180 d
<b>&gt; AVG</b>	<b>28 yr, 349 d</b>	<b>30 yr, 207 d</b>	<b>46 yr, 109 d</b>	<b>16 yr, 092 d</b>

	<u>Murder to Death Sentence</u>	<u>Sentence to Direct Appeal Opinion</u>	<u>Murder to Execution</u>	<u>Direct Appeal Opinion to Execution</u>
Judy*	00 yr, 303 d	00 yr, 339 d	01 yr, 315 d	00 yr, 038 d
Vandiver*	00 yr, 306 d	01 yr, 190 d	02 yr, 210 d	00 yr, 079 d
Resnover	00 yr, 224 d	02 yr, 126 d	13 yr, 362 d	10 yr, 264 d
T. Smith	00 yr, 224 d	03 yr, 001 d	15 yr, 220 d	11 yr, 360 d
Burris I	01 yr, 022 d	03 yr, 159 d	17 yr, 295 d	13 yr, 144 d
Burris II	11 yr, 297 d	02 yr, 347 d	17 yr, 295 d	03 yr, 016 d
R. Smith*	01 yr, 012 d	01 yr, 103 d	02 yr, 213 d	00 yr, 098 d
Fleenor	01 yr, 023 d	03 yr, 282 d	16 yr, 362 d	12 yr, 057 d
Bivins*	01 yr, 141 d	02 yr, 152 d	10 yr, 057 d	06 yr, 130 d
Lowery I	00 yr, 285 d	01 yr, 298 d	21 yr, 270 d	19 yr, 053 d
Lowery II	03 yr, 099 d	02 yr, 148 d	21 yr, 270 d	16 yr, 023 d
Hough	01 yr, 217 d	03 yr, 125 d	17 yr, 177 d	12 yr, 210 d
Trueblood	01 yr, 240 d	01 yr, 322 d	14 yr, 302 d	11 yr, 105 d
Wallace	02 yr, 280 d	03 yr, 046 d	25 yr, 055 d	19 yr, 094 d
Benefiel	01 yr, 362 d	01 yr, 036 d	16 yr, 249 d	13 yr, 215 d
Johnson	00 yr, 361 d	05 yr, 222 d	19 yr, 345 d	13 yr, 118 d
Conner	00 yr, 282 d	02 yr, 355 d	17 yr, 182 d	13 yr, 276 d
Matheney	01 yr, 068 d	01 yr, 243 d	16 yr, 208 d	13 yr, 262 d
Bieghler	01 yr, 105 d	02 yr, 128 d	24 yr, 048 d	20 yr, 180 d
Woods	00 yr, 355 d	04 yr, 245 d	23 yr, 027 d	17 yr, 157 d
Lambert	01 yr, 020 d	02 yr, 323 d	16 yr, 169 d	12 yr, 191 d
Wrinkles	00 yr, 328 d	02 yr, 200 d	15 yr, 143 d	11 yr, 345 d
<b>&gt; AVG</b>	<b>01 yr, 061 d</b>	<b>02 yr, 287 d</b>	<b>18 yr, 095 d</b>	<b>14 yr, 021 d</b>

\* Judy, Vandiver, Robert Smith, and Bivins waived remaining appeals and were executed by consent. (Direct Appeal cannot be waived. All those executed by consent waived after Direct Appeal, except Bivins, who waived after unsuccessful Direct and PCR appeals.)

\*\* Burris' original 1981 death sentence was reversed on appeal by the Indiana Supreme Court. On remand, he was again sentenced to death in 1991.

\*\* Lowery's original 1980 death sentence was reversed on appeal by the Indiana Supreme Court. On remand, he was again sentenced to death in 1983.

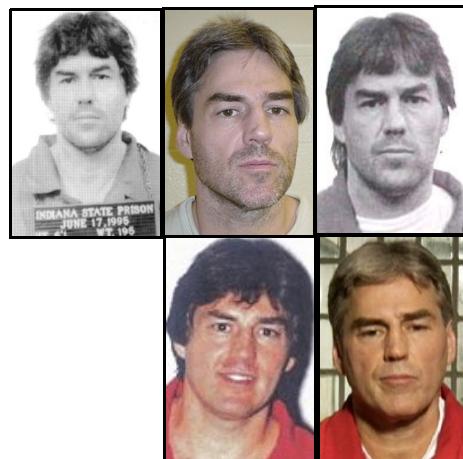
► In calculating averages: (1) For *Age at Murder*, all inmates are counted, Burris and Lowery only once; (2) For *Age at Sentencing*, all inmates are counted, Burris and Lowery twice; (3) For *Age at Execution*, only those inmates who did not waive appeals are counted, Burris and Lowery only once; (4) For *Sentence to Execution*, only those inmates who did not waive appeals are counted, Burris and Lowery from last death sentence only once; (5) For *Murder to Death Sentence*, all inmates are counted, Burris and Lowery from first death sentence only once; (6) For *Sentence to Direct Appeal*, all inmates are counted, Burris and Lowery twice; (7) For *Murder to Execution*, only those inmates who did not waive appeals are counted, Burris and Lowery only once; (8) For *Direct Appeal to Execution*, only those inmates who did not waive appeals are counted, Burris and Lowery from last direct appeal only once.

## INDIANA EXECUTIONS SINCE 1977

### **WRINKLES, MATTHEW ERIC # 20**

Executed December 11, 2009 at 12:39 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

52nd murderer executed in U.S. in 2007  
1188th murderer executed in U.S. since 1976  
2nd murderer executed in Indiana in 2007  
20th murderer executed in Indiana since 1976  
90th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
12-11-09	Lethal Injection	Matthew E. Wrinkles W / M / 34 - 49	01-03-60	Debbie Wrinkles W / F / 31 Tony Fulkerson W / M / 28 Natalie Fulkerson W / W / 26	07-21-94	.357 Handgun	Wife Brother in Law Sister in Law	06-14-95

**Judge / County:** Vanderburgh County Circuit Court Judge Richard L. Young

**Trial Prosecutor(s):** Stanley M. Levco, Mary Margaret Lloyd  
**Defense:** Michael J. Danks, Dennis A. Vowels

**Aggravating Circumstances:** b (8) 3 Murders

**Summary:**

After continuous marital problems with her husband Matthew Wrinkles, Debbie moved out of the house with their two children, going to live with Debbie's brother, Tony, and his wife, Natalie, on Tremont Drive in Evansville. Twice in the past Wrinkles had threatened Debbie with a gun. Soon after, Wrinkles filed for divorce. His mother was concerned about his behavior and had him committed. After three days of evaluation, he was released. In the next two weeks, despite a Protective Order in effect, Wrinkles went looking for Debbie. On July 20, 1994 Wrinkles, Debbie and their attorneys met for a provisional hearing in their divorce proceeding. They reached an agreement to set aside the Protective Order, and for Wrinkles to have visitation. They also agreed for Debbie to meet Wrinkles with the kids at a restaurant later that day. Debbie decided not to show up for the meeting. Later that night, Wrinkles again dressed up in camouflage and drove to the home of Tony Fulkerson, where Debbie and the kids were staying. He parked a block away, cut the telephone wires, and kicked in the back door. He was armed with a .357 handgun and a knife. When he was finished, Natalie was dead on the front porch with a gunshot wound to her face; Tony was dead in the bedroom with four gunshot wounds; Debbie was dead in the hallway with a gunshot wound to her chest/shoulder area. One of the children (Lindsay) saw her father shoot her mother, then attempt CPR. Lindsay told him she was going to call police, and he fled from the house. Wrinkles was later arrested at the home of his cousin, where the .357 murder weapon was recovered.

**Final / Special Meal:** Prime rib with a loaded baked potato, pork chops with steak fries, and two salads with ranch dressing and rolls.

**Final Words:** "Not at this time, let's get it done. Let's lock and load. It's plagiarized, but what the hell."

## **Michael Allen Lambert #19**

Executed June 15, 2007 12:29 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

23rd murderer executed in U.S. in 2007  
1080th murderer executed in U.S. since 1976  
2nd murderer executed in Indiana in 2007  
19th murderer executed in Indiana since 1976  
89th murderer executed in Indiana since 1900

**Judge / County:** Delaware County Superior Court Judge Robert L. Barnet, Jr.



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
06-15-07	Lethal Injection	Michael Allen Lambert W / M / 20 - 36	10-21-70	Officer Greg Winters W / M / 31	12-28-90	.25 Handgun	Arrestee	01-17-92

**Trial Prosecutor(s):** Richard W. Reed, J. A. Cummins, Jeffrey L. Arnold

**Defense:** Ronald E. McShurley, Mark D. Maynard

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

### **Summary:**

Muncie Police Officers were dispatched to a traffic accident and observed an abandoned utility truck. The truck was towed and Lambert was found nearby crawling under a vehicle. Lambert had spent most of the night getting drunk and after telling officers he was trying to sleep, was arrested by Officer Kirk Mace for Public Intoxication. He was patted down and placed into the back of a police car driven by Officer Gregg Winters for transport to jail. A few minutes later, the police vehicle was observed sliding off the road into a ditch. Lambert was still handcuffed in the backseat and Officer Winters had been shot 5 times in the back of the head and neck. A .25 handgun was found laying on the floorboard. It was later learned that Lambert had stolen the .25 pistol from his employer. A demonstration/re-enactment video was introduced into evidence showing the manner in which a gun could be retrieved and fired while handcuffed. A statement by the defendant was admitted despite his .18 BAC.

### **Final / Special Meal:**

Declined.

### **Final Words:**

None.

## David Leon Woods #18

Executed May 5, 2007 1:35 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

17th murderer executed in U.S. in 2007  
1074th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 2007  
18th murderer executed in Indiana since 1976  
88th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
05-04-07	Lethal Injection	David Leon Woods W / M / 19 - 42	08-07-64	Juan Palencia H / M / 77	04-07-84	Stabbing With Knife	Neighbor	03-28-85

**Judge / County:** Boone County Superior Court Judge Donald R. Peyton (Venued from DeKalb County)

**Trial Prosecutor(s):** Paul R. Cherry, Ora A. Kincaid, III

**Defense:** Allen F. Wharry, Douglas E. Johnston, Charles C. Rhets

**Aggravating Circumstances:** b (1) Robbery

### Summary:

Woods, Greg Sloan, and Pat Sweet went to the home of Juan Placencia in Garrett, Indiana to steal a television. Woods was armed with a knife. Sweet stayed in the yard, while Woods and Sloan rang the doorbell. When Placencia answered, Woods immediately jumped in and stabbed him with the knife. When he fell back and asked for help, Woods then stabbed him again repeatedly and took money from his wallet. Woods and Sloan then carried out the television, hid it, and later sold it. They washed their clothes and threw the knife in the creek. When police arrived the next morning in response to a call of a man needing help, Woods was on the porch of Placencia's apartment complex crying and saying that he had gone there to use the telephone and found the body. While questioning Woods, his mother came to the scene and told police that she thought her son was involved in the murder. She consented to a search of her residence, which revealed a knife sheath and a stained towel. Woods was taken to the station and while preparations were being made for a polygraph, Woods broke down and gave a complete confession. Sloan testified at trial after entering a guilty plea to Aiding in Murder.

### Final / Special Meal:

Woods shared a last meal of birthday cake and pizza with his family Wednesday. Prison officials had him on a liquid diet Thursday.

### Final Words:

"I want Juan's family to know I truly am sorry, and I do have remorse. I want everybody to know that I do have peace, and it's through Jesus Christ that I have this peace."

## Marvin Bieghler #17

Executed January 27, 2006 1:17 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

4th murderer executed in U.S. in 2006  
1008th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 2006  
17th murderer executed in Indiana since 1976  
87th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
01-27-06	Lethal Injection	Marvin Bieghler W / M / 33 - 58	12-15-47	Tommy Miller W / M / 21 Kimberly Miller	12-10-81	Handgun	Drug Customer and Wife	03-25-83

**Judge / County:** Howard County Superior Court Judge Dennis H. Parry

**Trial Prosecutor(s):** Richard L. Russell, Charles J. Myers

**Defense:** Charles Scruggs, John C. Wood

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Burglary; b (8) 2 murders

### Summary:

Bieghler was in the business of buying and selling marijuana. Tommy Miller occasionally sold drugs for Bieghler. After one of Bieghler's chief operatives was arrested and a large shipment of marijuana seized, he was effectively put out of business. Bieghler told others that if he discovered who had "dropped a dime" on him, he would "blow him away." Bieghler suspected Miller of "snitching" on him. Bieghler and Brook drove to Miller's trailer near Kokomo, and while his bodyguard waited outside, Bieghler went in and shot both Tommy Miller and his pregnant wife Kimberly with a .38 pistol. A dime was placed near each body. He was later arrested in Florida. Brook reached a plea agreement with the prosecutor for a reduced sentence, and testified as a witness for the State at trial. While the gun was never recovered, nine .38 casings found at the scene matched those found at Bieghler's regular target shooting range. At trial, Bieghler claimed that he was on his way to Florida at the time of the shootings and that his pistol had gone missing prior to the shootings.

### Final / Special Meal:

Shrimp, mushrooms and deep-fried onion appetizers, New York strip steak, a chicken breast, baked potato, salad, and 7-Up soft drink.

### Final Words:

"Let's get it over with."

## **Alan Lehman Matheney #16**

Executed September 28, 2005 12:27 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

41st murderer executed in U.S. in 2005  
985th murderer executed in U.S. since 1976  
5th murderer executed in Indiana in 2005  
16th murderer executed in Indiana since 1976  
86th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
09-28-05	Lethal Injection	Alan Lehman Matheney W / M / 38 - 54	11-06-50	Lisa Bianco W / F / 34	03-04-89	Beating with shotgun	Ex-Wife	05-11-90

**Judge / County:** Lake County Superior Court Judge James E. Letsinger  
(Venued from St. Joseph County)

**Trial Prosecutor(s):** John D. Krisor

**Defense:** Scott L. King

**Aggravating Circumstances:** b (1) Burglary; b (3) Lying in wait

### **Summary:**

Matheney was convicted and sent to prison in 1987 for Battery of his ex-wife, Lisa Bianco, and Confinement for taking the children out of state. While in prison, Matheney had repeatedly expressed a desire to kill Bianco, and attempted to solicit others to do so. After serving almost 2 years, he was given an 8-hour furlough from Pendleton, where he was an inmate. Although the pass authorized a trip to Indianapolis, Matheney headed straight for St. Joseph County. Once there, he changed clothes and took a shotgun from a friend's house, then drove to Mishawaka. He parked the car in a lot two doors down from his ex-wife's house, then broke in through the back door. Bianco ran from the home, pursued by Matheney through the neighborhood. When he caught her, he beat her with the shotgun that broke into pieces. He then got into his car and drove away. Bianco died as a result of this blunt force trauma. Matheney unsuccessfully asserted an insanity defense at trial. (This case generated massive amounts of publicity and led to state legislation requiring the Indiana DOC to notify victims of release from prison)

### **Final / Special Meal:**

Chicken wings, a fried chicken dinner, large wedges of potatoes, corn on the cob, biscuits and a chocolate shake.

### **Final Words:**

"I love my family and my children. I'm sorry for the pain I've caused them. I thank my friends who stood by me . . . I'm sure my grandchildren will grow up happy and healthy in the care of their wonderful parents," Matheney said in a final statement read by his lawyer.

## Kevin Aaron Conner #15

Executed July 27, 2005 12:31 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

31st murderer executed in U.S. in 2005  
975th murderer executed in U.S. since 1976  
4th murderer executed in Indiana in 2005  
15th murderer executed in Indiana since 1976  
85th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
07-27-05	Lethal Injection	Kevin Aaron Conner W / M / 22 - 40	03-27-65	Steve Wentland W / M / 19 Tony Moore W / M / 24 Bruce Voge W / M / 19	01-26-88	Stabbing with knife Shotgun Shotgun	Acquaintances	11-03-88

**Judge / County:** Marion County Superior Court Judge John W. Tranberg

**Trial Prosecutor(s):** John V. Commons, David E. Cook

**Defense:** Steven B. Lazinsky, Rick Mendes

**Aggravating Circumstances:** IC 35-50-2-9 b (8) 3 murders

### **Summary:**

Conner was drinking with friends Steve Wentland, Tony Moore, and Bruce Voge at Moore's home. Wentland left for a drive with Moore in the front seat and Conner in the back. Wentland and Moore argued and Moore struck Wentland with Conner's knife. Wentland fled from the car but was chased down and run over by Moore. Conner then stabbed him to death. They drove to the warehouse of Conner's employer, where Conner and Moore began arguing about the night's events. Conner shot Moore to death with a shotgun. Conner then returned to Moore's home and shot Voge on the couch. Conner then fled to Texas.

### **Final / Special Meal:**

His final meal came from Dairy Queen: four chili dogs, onion rings, a banana split and an Oreo-cookie Blizzard ice-cream drink, Correction Department spokeswoman Java Ahmed said. Conner also smoked two cigars -- an exception to the prison's no-smoking policy granted to condemned inmates.

### **Final Words:**

In an obscenity-laced final statement related by a prison spokeswoman, Conner said, "Everybody has to die sometime, so . . . let's get on with the killing."

## Gregory Scott Johnson #14

Executed May 25, 2005 12:28 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

26th murderer executed in U.S. in 2005  
970th murderer executed in U.S. since 1976  
3rd murderer executed in Indiana in 2005  
14th murderer executed in Indiana since 1976  
84th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
05-25-05	Lethal Injection	Gregory Scott Johnson W / M / 20 - 40	02-18-65	Ruby Hutsler W / F / 82	06-23-85	Stomping beating	None	06-19-86

**Judge / County:** Madison County Superior Court Judge Thomas Newman, Jr.

**Trial Prosecutor(s):** William F. Lawler, Jr.

**Defense:** Gary Miracle

**Aggravating Circumstances:** IC 35-50-2-9 b(1) Burglary

### Summary:

A newspaper delivery boy noticed the home of 82 year old Ruby Hutsler on fire and roused a neighbor to call police. He returned but could not enter the home due to the fire and smoke. Firemen were able to put out the fire in about a half hour. Ruby Hutsler was found 5 feet from the front door with broken bones on her nose and cheek and 20 fractured ribs. Her larynx and spine were also fractured. An autopsy revealed that she died as a result of these injuries and not fire or smoke inhalation. A dispatch was sent out that Johnson was a suspect in several fires in the area. Johnson was seen by Officers watching the firemen fight the fire and was arrested for Public Intoxication. In custody, Johnson initially denied any involvement, but admitted setting 4 recent fires in the area. During a later interrogation, Johnson was asked if by killing Hutsler he was trying to join his friend, Mark Wisehart, on death row. Johnson became emotional and gave a full confession. (Johnson had testified as a prosecution witness against his friend Mark Wisehart charged with capital murder) Johnson stated that he had entered the home by breaking a front window with a broom and immediately confronted 90 pound Hutsler in her night clothes. Hutsler slumped to the floor, breathing heavily. Johnson said he stepped on her as he moved around the house. He took a watch and silver dollars, found matches, started the fire and fled.

### Final / Special Meal:

Johnson ate his traditional last meal Monday with his attorneys. He had ribs, pulled pork, sauteed mushrooms, soda and chocolate cheesecake (he wanted Oreo pie, but they were out). For his attorneys, he ordered pizza.

### Final Words:

"Everyone has been professional." After the execution, a handwritten statement from Johnson was distributed. In it, he expressed hope that his sister would survive even without his liver. "There are those who claim that Debi will have a new liver three weeks after being placed on the list. I'll be watching from above and expect her to be recuperating at that time." He was critical of the Indiana Parole Board for refusing to believe he sincerely wanted to help his sister, that he could have changed in 20 years. The board, he wrote, violated the Indiana Constitution, which states the penal code is "founded on the principles of reformation, and not of vindictive justice." He then thanked others for their prayers. "I'll see you on the other side."

## **Bill J. Benefiel #13**

Executed April 21, 2005 12:35 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

16th murderer executed in U.S. in 2005  
960th murderer executed in U.S. since 1976  
2nd murderer executed in Indiana in 2005  
13th murderer executed in Indiana since 1976  
83rd murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
04-21-05	Lethal Injection	Bill J. Benefiel W / M / 30 - 48	06-03-56	Delores Wells W / F / 19	02-07-87	Asphyxia by Superglue	None	11-03-88

**Judge / County:** Vigo County Superior Court Judge Michael H. Eldred

**Trial Prosecutor(s):** Phillip I. Adler

**Defense:** Daniel L. Weber, Christopher B. Gambill

**Aggravating Circumstances:** IC 35-50-2-9 b(1) Rape; b(1) Criminal Deviate Conduct

### **Summary:**

17 year old Alicia was kidnapped on the way to a store two blocks from her home in Terre Haute by Benefiel, who was armed with a gun and wearing a mask. Alicia was tied-up and gagged, driven to Benefiel's home and taken inside. During 4 months of captivity inside Benefiel's home, Alicia was raped and sodomized over 60 times at gunpoint. Most of this time she was chained and handcuffed to a bed. He glued her eyelids shut, put tape over her eyes, and toilet paper in her mouth. She was cut with a knife and beaten. After 3½ months, Alicia saw a second girl, Delores Wells, in the home. She was naked and handcuffed on the bed, with tape over her eyes and mouth. She later saw Benefiel beat Delores and put superglue in her nose, then pinch it together. Benefiel left the home for 2 hours and upon his return, confessed to Alicia that he had killed and buried Delores. When police knocked on the door, Benefiel stuffed Alicia into a ceiling crawl space. The police entered with a search warrant and rescued her. The body of Delores was found soon after in a wooded area. An autopsy revealed injuries to her vagina and anus, and established asphyxia as the cause of death. (insanity defense)

### **Final / Special Meal:**

One large pizza with sausage, pepperoni, mushrooms, onions, green pepper, black olives and tomatoes; One 12-inch Italian beef sandwich with cheese; Four pints of Ben & Jerry's ice cream: Butter Pecan, Cherry Garcia, New York Super Fudge Chunk and Oatmeal Cookie Chunk; One Dutch apple pie; Six cans of RC cola; Six cans of Pepsi cola.

### **Final Words:**

When asked for a final statement, Benefiel said, "No, let's get this over with. Let's do it."

## **Donald Ray Wallace Jr. #12**

Executed March 10, 2005 12:23 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

9th murderer executed in U.S. in 2005  
953rd murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 2005  
12th murderer executed in Indiana since 1976  
82nd murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
03-10-05	Lethal Injection	Donald Ray Wallace Jr. W / M / 22 - 47	09-03-57	Patrick Gilligan W / M / 30 Teresa Gilligan W / F / 30 Lisa Gilligan W / F / 5 Gregory Gilligan W / M / 4	01-14-80	Handgun	None	10-21-82

**Judge / County:** Vigo County Circuit Court Judge Hugh D. McQuillan  
(Venued from Vanderburgh County)

**Trial Prosecutor(s):** Stanley M. Levco, Robert J. Pigman

**Defense:** William G. Smock

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Burglary; b (8) 4 murders

### **Summary:**

As attested by the admission of Wallace to friends after the fact, after burglarizing the home of Ralph Hendricks, he "got greedy" and decided to break into the house next door. However, when he did so, he was surprised to find the family inside. Patrick and Teresa Gilligan and their two children, aged 4 and 5, were confronted by Wallace with a gun. All four were tied up and shot in the head. Wallace would say to friends later that he shot Mr. Gilligan because he was "giving him trouble"; he shot Mrs. Gilligan because she was screaming and he "had to shut her up"; and he shot the children because he "could not let the children grow up with the trauma of not having parents." Wallace then took guns, a CB, a scanner, and other property, all of which was later recovered from or traced to Wallace. Wallace was found incompetent and confined in a mental hospital for almost 2 years prior to trial. His IQ was measured at 130. In the weeks before his execution Wallace admitted that he had "faked" mental illness, and that he had in fact committed the murders.

### **Final / Special Meal:**

Filet mignon, baked potato, soup and chocolate truffle cake from a local Damon's Grill.

### **Final Words:**

"I hope everyone can find peace with this."

## **Joseph L. Trueblood #11**

Executed June 13, 2003 12:24 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana



38th murderer executed in U.S. in 2003  
858th murderer executed in U.S. since 1976  
2nd murderer executed in Indiana in 2003  
11th murderer executed in Indiana since 1976  
81st murderer executed in Indiana since 1900

Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
06-13-03	Lethal Injection	Joseph L. Trueblood W / M / 31 - 46	12-26-56	Susan Bowsher W / F / 23 Ashlyn Bowsher W / F / 2 William Bowsher W / M / 17 mo	08-15-88	Handgun	Ex-Girlfriend and her children	04-12-90

**Judge / County:** Tippecanoe County Circuit Court Judge Ronald E. Melichar

**Trial Prosecutor(s):** Jerry J. Bean, John H. Meyers, IV

**Defense:** George G. Wilder, Thomas J. O'Brien, Michael J. O'Reilly

**Aggravating Circumstances:** IC 35-50-2-9 (b) (12) 2 victims less than 12 years of age; b (8) 3 murders

### **Summary:**

Trueblood was upset with his former girlfriend, Susan Bowsher, because she expressed her intention of going back with her ex-husband. Trueblood picked up Susan and her two small children one day and while they were in the car he shot Susan 3 times in the head, and shot each child once in the head. He then drove to the home of his twin brother, admitted to him what he had done, borrowed a shovel, then drove to a secluded area and buried all three in a shallow grave. After 4 witnesses had testified at trial, Trueblood indicated a desire to plead guilty and did so. When interviewed by the Probation Officer for the Presentence Report, Trueblood claimed that Susan had shot the kids, then killed herself. He then sought to withdraw his guilty plea, which was denied.

### **Final / Special Meal:**

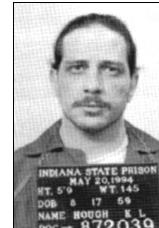
Trueblood refused a special last meal. "This is the way I'm protesting what the state is getting ready to do." Instead, he was given the same dinner as other inmates: a bologna sandwich, a cheese sandwich, cookies and fruit.

### **Final Words:**

In a final statement, Trueblood reiterated his innocence, asserting that Bowsher had killed herself and her children and that his attorneys had told him that pleading guilty was the best way to avoid the death penalty. "That's the only reason I pleaded guilty," he said, in a statement given through attorney John Sommers. "If I had been given a lie detector test, it would have proven I was telling the truth."

## Kevin Lee Hough #10

Executed March 14, 2003 by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana



30th murderer executed in U.S. in 2003  
850th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 2003  
10th murderer executed in Indiana since 1976  
80th murderer executed in Indiana since 1900

Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
05-02-03	Lethal Injection	Kevin Lee Hough W / M / 31 - 41	08-17-59	Ted Bosler W / M / 49 Gene Rubrake W / M / 56	11-06-85	Handgun	None	06-11-87

**Judge / County:** Allen County Superior Court Special Judge Edward J. Meyers

**Trial Prosecutor(s):** Stephen M. Sims, Robert E. Love

**Defense:** Bruce R. Snyder, Bruce S. Cowan

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Robbery; b (7) Prior murder conviction; b (8) 2 murders

### **Summary:**

Hough was upset with his cousin's landlords, Ted Bosler and Gene Rubrake. When his cousin failed to pay rent, his landlords took his cousin's property. Along with his brother, Duane Lapp, Hough went to their residence in Fort Wayne "to get the property back." They were invited inside and once downstairs, Hough pulled a .45 automatic pistol. When Rubrake swung at him, Hough shot him in the chest. Bosler dropped to the floor and Hough shot him in the back. Hough then shot Rubrake again in the face. Hough took a TV remote and a beer which he thought may have fingerprints and left. Lapp testified at trial as the State's star witness.

In a separate trial, Hough was also convicted for murdering Antoni Bartkowiak during a home invasion 11 days before the murder of Bosler and Rubrake.

### **Final / Special Meal:**

Hough declined a last meal.

### **Final Words:**

"I hope the victims families get some measure of satisfaction. Hopefully their grief won't be so much."

## James Lowery #9

Executed June 27, 2001 12:29 a.m. by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

39th murderer executed in U.S. in 2001  
722nd murderer executed in U.S. since 1976  
2nd murderer executed in Indiana in 2001  
9th murderer executed in Indiana since 1976  
79th murderer executed in Indiana since 1900



INDIANA STATE PRISON  
MAY 20, 1994  
HT. 5'10 WT. 195

Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
06-27-01	Lethal Injection	James Lowery W / M / 32 - 54	03-16-47	Mark Thompson W / M / 80 Gertrude Thompson W / F / 80	09-30-79	Handgun	Former Employers	07-11-80 01-07-83

**Judge / County:** Boone County Superior Court Judge Paul H. Johnson, Jr.  
(Venued from Tippecanoe County)  
Hendricks County Circuit Court Judge Jeffrey V. Boles (On remand)

**Trial Prosecutor(s):** John H. Meyers, IV, John W. Barce

**Defense:** Lawrence D. Giddings, Donald R. Peyton

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Burglary; b (1) Robbery; b (8) 2 murders

### Summary:

Mark and Gertrude Thompson were 80 years of age, in declining health, and needed assistance in caring for themselves and their property. Both were found shot to death in their country home in West Point, Indiana. The Thompsons had earlier employed Lowery and his wife as caretakers. The Thompsons, dissatisfied with the Lowerys, asked them to leave. Lowery and his friend Jim Bennett discussed committing robbery and Lowery told Bennett he knew where he could get some money. Bennett picked Lowery up and followed Lowery's directions. Lowery told Bennett they were going to the Thompson's residence to force him to write a check for \$9,000, then to kill and bury both Thompsons. Lowery forced housekeeper Janet Brown into the kitchen where Mark Thompson was standing. He told Thompson he was being held up and then shot him in the stomach. Lowery then went to another room, forced Mrs. Thompson into the kitchen and shot her in the head. He also shot Brown, but Brown had her hand over her head when Lowery fired at her, causing injury to her hand and her head, but not fatally wounding her. When an alarm began sounding, he went back and shot Mr. Thompson in the head and fled. Lowery admitted the killings during penalty phase testimony. Bennett pled guilty by agreement, received a 40 year sentence, and testified against Lowery at his first trial. Following reversal on direct appeal for failure to sequester the jury, a second trial ended with the same result. At the second trial, Bennett refused to testify and his previous testimony was admitted against Lowery, who was sentenced to death a second time.

### Final / Special Meal:

He declined a special last meal in favor of standard inmate fare.

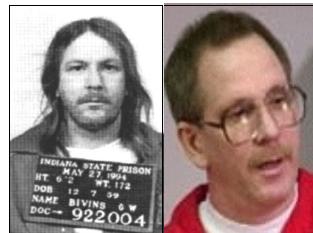
### Final Words:

Afterward, his attorney, Monica Foster read a lengthy handwritten statement from Lowery that ended with the words: "I am so very sorry."

## Gerald W. Bivins #8

Executed March 14, 2001 by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

19th murderer executed in U.S. in 2001  
702rd murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 2001  
8th murderer executed in Indiana since 1976  
78th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
03-14-01	Lethal Injection	Gerald W. Bivins W / M / 31 - 41	12-07-59	Rev. William H. Radcliffe W / M / 39	01-16-91	Handgun	None	06-05-92

**Judge / County:** Boone County Superior Court Special Judge Thomas K. Milligan

**Trial Prosecutor(s):** Rebecca S. McClure, Bruce E. Petit

**Defense:** Allen F. Wharry, Michael D. Gross

**Aggravating Circumstances:** IC 35-50-2-9 b(1) Robbery

### **Summary:**

Bivins, Chambers, and Weyls engaged in a 2-day central Indiana crime spree. They shoplifted blue jeans at gunpoint from a Lafayette Lazarus. They then drove to a Holiday Inn in Lebanon, forced their way into a guest's room, robbed him, stole his vehicle, and left him tied to the bathtub. Heading back toward Lafayette, they stopped at a rest stop north of Lebanon, and robbed Reverend Radcliffe at gunpoint in the restroom. After taking his wallet, Bivins turned Radcliffe around into a stall and shot him in the head. Later, Bivins said he did so "because he wanted to know what it felt like to kill." Full confessions followed. After losing direct and PCR appeals, Bivins waived federal appeals.

### **Final / Special Meal:**

Earlier he had consumed a last meal of German ravioli and chicken and dumplings prepared by his mother in the prison kitchen under supervision. Prison officials said it was the first time the state had granted a condemned inmate's request for a final meal cooked by a family member.

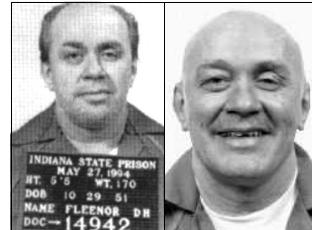
### **Final Words:**

"I wish to apologize to the victim's family for the pain I have caused, and the pain I have caused my family and friends and I ask that they, who did this to me, be forgiven."

## D. H. Fleenor #7

Executed December 9, 1999 by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

94th murderer executed in U.S. in 1999  
594th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1999  
7th murderer executed in Indiana since 1976  
77th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
12-09-99	Lethal Injection	D. H. Fleenor W / M / 31 - 48	10-29-51	Nyla Harlow W / F / 49 Bill Harlow W / M / 58	12-12-82	Handgun	Mother-in- Law Her Husband	01-04-84

**Judge / County:** Johnson County Circuit Court Judge Larry J. McKinney  
(Venued from Jefferson County)

**Trial Prosecutor(s):** Merritt K. Alcorn, Wilmer E. Goering II, Robert C. Shook

**Defense:** Ted R. Todd, Larry D. Combs

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Burglary; b (3) Lying in Wait; b (8) 2 murders

### Summary:

Fleenor went to an evening church service attended by his estranged wife, Sandra Sedam, and her parents, Bill and Nyla Harlow. He stayed briefly, then left. When Sandra and her parents returned to their home, Fleenor appeared in the hallway and immediately shot Bill with a .22 he purchased earlier in the day. Fleenor ordered Sandra, her mother, and 3 grandchildren to sit on the couch. He allowed Nyla to go to her husband. As Nyla assisted Bill on the floor, Fleenor shot her in the head. He ordered Sandra and the kids to carry her body to the bedroom. He forced Sandra to drive to her brother's home to tell him they would be out of town for a few days, then returned to the Harlow home. Bill was still alive and asked about his wife. Fleenor said, "I can't let him suffer" and shot him dead. The next morning, Fleenor fled to Tennessee with Sandra and the children in tow. The bodies were not discovered until 4 days later. Police captured Fleenor at the home of relatives in Tennessee.

### Final / Special Meal:

None.

### Final Words:

"I am not guilty."

## **Robert Allan Smith #6**

Executed January 29, 1998 by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

3rd murderer executed in U.S. in 1998  
435th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1998  
6th murderer executed in Indiana since 1976  
76th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
01-29-98	Lethal Injection	Robert Allan Smith W / M / 45 - 47	03-03-50	Michael Wedmore W / M / 33	06-30-95	Stabbing w/ putty knife	Fellow DOC Inmate	07-12-96

**Judge / County:** Sullivan County Circuit Court Judge P. J. Pierson

**Trial Prosecutor(s):** Robert E. Springer  
**Defense:** William G. Smock, Joseph K. Etling

**Aggravating Circumstances:** IC 35-50-2-9 b (9) In Custody of DOC

**Summary:**

Smith, serving a 38 year sentence for Battery, was an inmate at the Indiana DOC, Wabash Correctional Institution in Sullivan County. Along with inmate Lunsford, Smith stabbed inmate Michael Wedmore 37 times with a sharpened putty knife. The attack was witnessed by correctional officers. Both Smith and Lunsford surrendered immediately, turning over the murder weapons. Smith proceeded pro-se, pled guilty, and agreed to a Death Sentence. The Court nevertheless appointed standby counsel who raised competency as an issue. At the guilty plea hearing, Smith stated, "I'm telling the court that the next person I go at won't be a baby killer, it will be a state employee and I will butcher him." (Wedmore was serving a 60 year sentence for the murder of his girlfriend's 2 year old child in Hamilton County). Accomplice Lunsford received a 40 year sentence.

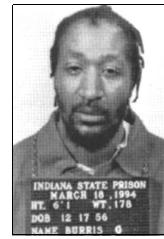
**Final / Special Meal:**

**Final Words:**

Smith apologized for being such a screw-up during his life and then quoted Eleanor Roosevelt: "You gain strength, courage and confidence by every experience in which you really stop to look fear in the face."

## Gary Burris #5

Executed November 20, 1997 by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana



69th murderer executed in U.S. in 1997  
427th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1997  
5th murderer executed in Indiana since 1976  
75th murderer executed in Indiana since 1900

Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
11-20-97	Lethal Injection	Gary Burris B / M / 23 - 40	12-17-56	Kenneth Chambers B / M / 31	01-29-80	Handgun	None	02-20-81 11-22-91

**Judge / County:** Marion County Superior Court Judge John W. Tranberg  
Marion County Superior Court Judge Judge Patricia J. Gifford (On remand)

**Trial Prosecutor(s):** J. Gregory Garrison, John D. Tinder

**Defense:** Thomas E. Alsip, L. Craig Turner

**Aggravating Circumstances:** IC 35-50-2-9 b(1) Robbery

### Summary:

Kenneth Chambers was a cab driver in Indianapolis. His nude body was found in an alley near Fall Creek Parkway, face down and stuck to the ground by a pool of his frozen blood. There was a small caliber gunshot wound to the right temple. The cab company log revealed that Burris had called for a cab and was Chambers' last fare. A witness testified that Burris returned to his apartment with Emmett Merriweather and James Thompson with wads of money and a cab driver's run sheet and clipboard. Burris was arrested at the apartment of his girlfriend where a .38 caliber handgun was found. The ISP Lab confirmed it to be the murder weapon.

### Final / Special Meal:

### Final Words:

## Tommie J. Smith #4

Executed July 18, 1996 by Lethal Injection  
at Indiana State Prison, Michigan City, Indiana

21st murderer executed in U.S. in 1996  
334th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1996  
4th murderer executed in Indiana since 1976  
74th murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
07-18-96	Lethal Injection	Tommie J. Smith B / M / 26 - 42	02-06-54	Jack Ohrberg W / M / 44	12-11-80	Automatic Rifle	None	07-23-81

**Judge / County:** Marion County Superior Court Judge Jeffrey V. Boles  
(Originally venued to Hendricks County; by agreement, returned to Marion, with  
Hendricks Circuit Judge Jeffrey V. Boles presiding - Joint trial with Gregory Resnover)

**Trial Prosecutor(s):** J. Gregory Garrison, David E. Cook (Stephen Goldsmith)

**Defense:** Richard R. Plath

**Aggravating Circumstances:** IC 35-50-2-9 b (6) Victim was law enforcement officer

### Summary:

On December 11, 1980 at 5:30 a.m., Indianapolis Police Sergeant Jack Ohrberg and other officers went to 3544 North Oxford in Indianapolis attempting to serve papers on persons believed to be at that location. Ohrberg banged on the door several times and identified himself as a police officer. Two other officers on the front porch were in uniform. After the next door neighbor told officers that there was noise from inside the apartment, Ohrberg crouched and pounded with his shoulder on the door, which began to open. Officers saw furniture blocking the door, and saw 2 or 3 muzzle flashes from two different locations inside. Ohrberg was shot and collapsed on the porch. Officers took cover and saw a man come out onto the porch, point a rifle, and fire at least 2 additional shots into Ohrberg. Officers took cover and returned fire. Shots continued to come from inside the house. After a few minutes, Gregory Resnover came out, threw down an AR-15 rifle and surrendered. Earl Resnover followed, laying down an AR-15 and a pistol. Ohrberg's business card was found in Earl's wallet. Two women then came out, leaving wounded Smith inside. An AR-15 which was recovered next to Smith was found to be the murder weapon. An arsenal of weapons and ammunition was recovered inside the apartment. Accomplice Resnover was also sentenced to death and executed December 8, 1994.

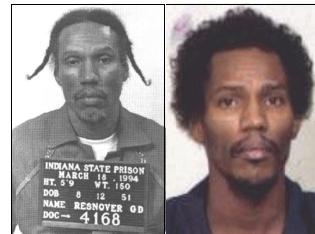
### Final / Special Meal:

### Final Words:

## Gregory Resnover #3

Executed December 8, 1994 by Electric Chair  
at Indiana State Prison, Michigan City, Indiana

30th murderer executed in U.S. in 1994  
256th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1994  
3rd murderer executed in Indiana since 1976  
73rd murderer executed in Indiana since 1900



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
12-08-94	Electric Chair	Gregory Resnover B / M / 29 - 43	08-12-51	Jack Ohrberg W / M / 44	12-11-80	Automatic Rifle	None	07-23-81

**Judge / County:** Marion County Superior Court Judge Jeffrey V. Boles  
(Originally venued to Hendricks County; by agreement, returned to Marion, with  
Hendricks Circuit Judge Jeffrey V. Boles presiding - Joint trial with Tommie Jo Smith)

**Trial Prosecutor(s):** J. Gregory Garrison, David E. Cook (Stephen Goldsmith)

**Defense:** Thomas E. Alsip

**Aggravating Circumstances:** IC 35-50-2-9 b (6) Victim was law enforcement officer

### Summary:

On December 11, 1980 at 5:30 a.m., Indianapolis Police Sergeant Jack Ohrberg and other officers went to 3544 North Oxford in Indianapolis attempting to serve papers on persons believed to be at that location. Ohrberg banged on the door several times and identified himself as a police officer. Two other officers on the front porch were in uniform. After the next door neighbor told officers that there was noise from inside the apartment, Ohrberg crouched and pounded with his shoulder on the door, which began to open. Officers saw furniture blocking the door, and saw 2 or 3 muzzle flashes from two different locations inside. Ohrberg was shot and collapsed on the porch. Officers took cover and saw a man come out onto the porch, point a rifle, and fire at least 2 additional shots into Ohrberg. Officers took cover and returned fire. Shots continued to come from inside the house. After a few minutes, Gregory Resnover came out, threw down an AR-15 rifle and surrendered. Earl Resnover followed, laying down an AR-15 and a pistol. Ohrberg's business card was found in Earl's wallet. Two women then came out, leaving wounded Smith inside. An AR-15 which was recovered next to Smith was found to be the murder weapon. An arsenal of weapons and ammunition was recovered inside the apartment. Accomplice Smith was also sentenced to death and executed July 18, 1996.

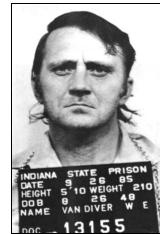
### Final / Special Meal:

He refused a last meal and shower he was offered.

### Final Words:

## William E. Vandiver #2

Executed October 16, 1985 by Electric Chair  
at Indiana State Prison, Michigan City, Indiana



17th murderer executed in U.S. in 1985  
49th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1985  
2nd murderer executed in Indiana since 1976  
72nd murderer executed in Indiana since 1900

Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
10-16-85	Electric Chair	William E. Vandiver W / M / 34 - 37	08-26-48	Paul Komyatti W / M / 62	03-20-83	Stabbing with knife x100	Father-in-Law	01-20-84

**Judge / County:** Lake County Superior Court Judge James E. Letsinger

**Trial Prosecutor(s):** Thomas W. Vanes

**Defense:** Herbert I. Shaps

**Aggravating Circumstances:** IC 35-50-2-9 b (3) Lying in wait; b (4) Hired to kill

### Summary:

Paul Komyatti, Sr. on occasion drank to excess and became loud and violent. He was disliked by members of his immediate family, which included his wife, Rosemary, his son Paul Jr., and his daughter, Mariann. Paul Sr. had demanded that Mariann divorce Vandiver because of his criminal past., and threatened to inform the police on him. Vandiver joined with the family in a conspiracy to kill Paul Sr. Pursuant to their agreement, several attempts to poison him were made without success. Finally, they decided to put him under with ether and inject air into his veins. One evening, Vandiver and Mariann waited outside the home for a signal from Paul Jr. that Paul Sr. was asleep. Upon seeing the signal, they entered the house and changed the plan at the last moment for lack of ether. Instead they entered the bedroom intending to smother Paul Sr., and sprang on him in his bed. Paul Sr. fought hard for his life and yet another attempt at murder was bungled. Vandiver, however, terminated the resistance by stabbing him in the back with a fish filet knife "at least 100 times." 34 deep knife wounds were later discovered on the body. He hit him in the head 5 or 6 times with his gun, but he was still breathing. By Vandiver's own admission, decapitation was the immediate cause of death. Vandiver and the other family members then sectioned up the body while making jokes. Evidence was also presented that Vandiver had gotten a "loan" of \$5000 from Paul Jr., as well as \$1700 and Paul Sr.'s truck from Rosemary. At trial, Vandiver recanted his prior confessions and placed the entire blame on Paul Jr. for the murder and dissection. Vandiver waived all appeals.

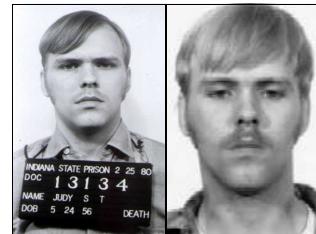
### Final / Special Meal:

### Final Words:

## **Steven Timothy Judy #1**

Executed March 9, 1981 by Electric Chair  
at Indiana State Prison, Michigan City, Indiana

1st murderer executed in U.S. in 1981  
4th murderer executed in U.S. since 1976  
1st murderer executed in Indiana in 1981  
1st murderer executed in Indiana since 1976  
71st murderer executed in Indiana since 1976



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
03-09-81	Electric Chair	Steven Timothy Judy W / M / 22 - 24	05-24-56	Terry Chasteen W / F / 21 Misty Zollers W / F / 5 Stephen Chasteen W / M / 4 Mark Chasteen W / M / 2	04-28-79	Strangulation with cloth, Drowning, Drowning, Drowning	None	02-25-80

**Judge / County:** Morgan County Superior Court Special Judge Jeffrey V. Boles

**Trial Prosecutor(s):** G. Thomas Gray, Stephen A. Oliver

**Defense:** Steven L. Harris

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Rape; b (8) 4 murders

### **Summary:**

Hunters discovered Terry Chasteen's body in White Lick Creek. A police search of the creek led to the discovery of the bodies of 3 small children, aged 2, 4 and 5. Terry Chasteen was found naked, bound and gagged. She had been raped and died of strangulation, while the children died of asphyxia due to drowning. At trial, Judy presented an insanity defense and testified at length concerning his commission of the rape and murders. Judy stated that he was driving on Interstate 465 in Marion County when he passed Terry Chasteen's car. He testified that he motioned for her to pull over and purported to assist the victims, offering her a ride. Judy then drove the victims to the creek directing the children down the path ahead of Terry and him. Judy testified that he then raped Terry Chasteen and bound her hands and feet and gagged her. When Terry cried out, the children ran back standing around him yelling. He then strangled Terry and threw her body into the creek. He then threw each of the children as far as he could into the water and fled. Judy's version of the was substantially corroborated by the evidence presented by the State. At the death phase of the trial, Judy ordered his attorneys not to present any evidence of mitigating circumstances. Judy stated to the jury in open court at the sentencing hearing that he would advise them to give him the death sentence, because he had no doubt that he would kill again if he had an opportunity, and some of the people he might kill in the future might be members of the jury. He also directed a similar comment to the trial judge.

### **Final / Special Meal:**

Prime rib, lobster, baked potatoes, salad and dinner rolls.

### **Final Words:**

"I don't hold no grudges. This is my doing. I'm, sorry it happened."

## Alton Coleman

EXECUTED IN OHIO WHILE ON DEATH ROW IN INDIANA

Executed April 26, 2002 10:13 a.m. by Lethal Injection  
at Southern Ohio Correctional Facility, Lucasville, Ohio



22nd murderer executed in U.S. in 2002

771st murderer executed in U.S. since 1976

2nd murderer executed in Ohio in 2002

4th murderer executed in Ohio since 1976

Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
04-26-02	Lethal Injection	Alton Coleman B / M / 28 - 46	11-06-55	Tonnie Storey B / F / 15 Marlene Walters W / F / 44	07-11-84 07-13-84	Strangled Beaten	None	06-24-85 05-06-85

### Summary:

At the time of Coleman's execution, there were approximately 3,700 convicted murderers on death row in the United States. Coleman was the only one with death sentences from 3 different states: Indiana, Ohio, and Illinois. These sentences were the culmination of a 1984 midwestern crime spree by Coleman and accomplice Deborah Brown that included up to 8 murders, 7 rapes, 3 kidnappings, and 14 armed robberies.

### Ohio

On July 11, 1984, 15 year old Tonnie Storey left her home in Cincinnati to attend a computer class at a junior high school. Eight days later, her bound and partially decomposed body was discovered in an abandoned building. The cause of death was strangulation. A classmate testified and identified Coleman in the company of a woman talking to the victim on July 11th, when she was last seen alive. A fingerprint from the scene also matched Coleman's. Both Coleman and Brown received death sentences. On appeal, Coleman's death sentence was set aside due to ineffective counsel. Brown's death sentence was commuted in 1991 by Ohio Governor Celeste as he was leaving office.

Coleman and Brown bicycled into Norwood, Ohio, on July 13, 1984. About three hours later, they drove away in Harry Walters' car, leaving Harry Walters unconscious and Marlene Walters dead. Harry Walters survived. He testified that Coleman and Brown inquired about a camping trailer he had been offering for sale. Upon inviting Coleman and Brown into his home, he sat on the couch discussing the trailer title. Coleman picked up a wooden candlestick and, after admiring it, hit Harry Walters on the back of the head, knocking him unconscious. A few hours later, Sheri Walters came home from work and at the bottom of the basement steps, she found her father, barely alive, and her mother, dead. Both had ligatures around their throats and electrical cords tied around their bare feet. Her mother's hands were bound behind her back and her father's hands were handcuffed behind his back. Her mother's head was covered with a bloody sheet.

### Indiana

7 year old Tamika and her 9 year old niece, Annie, were walking back from the candy store to their home when they were confronted by Debra Denise Brown and Coleman. Brown and Coleman convinced them to walk into the woods to play a game. Once there, they removed Tamika's shirt and tore it into small strips which they used to bind and gag the children. When Tamika began to cry, Brown held her nose and mouth while Coleman stomped on her chest. After carrying Tamika a short distance away, Annie was forced to perform oral sex on both Brown and Coleman, then Coleman raped her. Brown and Coleman then choked her until she



was unconscious. When she awoke, they were gone. Tamika was found dead in the bushes nearby, strangled with an elastic strip of bedsheet. The same fabric was later found in the apartment shared by Coleman and Brown. Annie received cuts so deep that her intestines were protruding into her vagina. Evidence of a remarkably similar murder in Ohio was admitted at trial.

**Judge / County:** Lake County Superior Court Judge Richard W. Maroc

**Trial Prosecutor(s):** Thomas W. Vanes, Richard Cook

**Defense:** Cornell Collins, Lonnie Randolph

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Child Molesting; b (7) 2 prior murder convictions in Ohio

Illinois

Juanita Wheat, the victim's mother, testified that at the time of the offense she resided in Kenosha, Wisconsin, with her daughter, Vernita, and her seven- year-old son, Brandon. At the end of April or beginning of May of 1984, the defendant introduced himself to Juanita as Robert Knight, showed her an identification card bearing that name, and told her he lived two blocks away. Coleman visited often and ate dinner with the family over the next few weeks. On May 29, 1984, Juanita allowed Vernita to accompany Coleman to his apartment "to pick up a stereo system." Three weeks later the strangled body of Vernita Wheat was discovered in the bathroom of an abandoned building in Waukegan, Illinois. A fingerprint from Coleman was taken from the scene.

**Final / Special Meal:**

Filet mignon with mushroom gravy, biscuits and gravy, fried chicken, French fries, broccoli with cheese, collard greens, onion rings, corn bread, a salad, sweet potato pie, butter pecan ice cream and cherry cola.

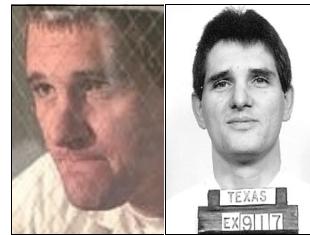
**Final Words:**

"The Lord is my shepherd," which he repeated over and over again.

## Michael Lee Lockhart

EXECUTED IN TEXAS WHILE ON DEATH ROW IN INDIANA  
Executed December 9, 1997 by Lethal Injection in Texas

72nd murderer executed in U.S. in 1997  
430th murderer executed in U.S. since 1976  
37th murderer executed in Texas in 1997  
144th murderer executed in Texas since 1976



Date of Execution	Method	Murderer (Race/Sex/Age at Murder-Execution)	Date of Birth	Victim(s) (Race/Sex/Age at Murder)	Date of Murder	Method of Murder	Relationship to Murderer	Date of Sentence
12-09-97	Lethal Injection	Michael Lee Lockhart W / M / 27 - 37	09-30-60	Paul Douglas Hulsey, Jr. (Police Officer)	03-22-88	Handgun	None	10-26-88

### Summary:

Lockhart was convicted for the capital murder of police officer Paul Hulsey Jr. in Beaumont, Texas. Hulsey had followed Lockhart driving a stolen corvette to a local hotel, then followed him into his room. As he was making the arrest, Lockhart punched the officer, grabbed a gun and shot him. According to a statement later given by Lockhart, he then shot him a second time and fled. (During trial, Lockhart bolted and jumped through a third story courthouse window. His escape was unsuccessful.)

Lockhart was also implicated in a series of gruesome offenses during the five months preceding the Texas murder, including the sexual assault, murder and mutilation of 16-year-old Wendy Gallagher in Griffith, Indiana on October 13, 1987, and the sexual assault of Lockhart's former wife in Toledo, Ohio on November 7-8, 1987; and the sexual assault, murder and mutilation of 14-year-old Jennifer Colhouer in Land O' Lakes, Florida on January 20, 1988. Lockhart was convicted of murder and was on death row in Indiana and Florida at the time of his execution in Texas.

### Indiana

The body of 16 year old Windy Gallagher was found by her sister in the bedroom of their home in Griffith, Indiana. She was nude from the waist down with her hands tied behind her back, and her bra pushed up above her breasts. She was stabbed with a large knife 4 times in the neck and 17 times in the abdomen. There was a large pool of blood and her intestines were hanging out. Missing from her room was a photo of Windy and a small purse. Fingerprints in the room were identified as Lockhart's. The day before in Chicago, a woman was robbed of her purse at knifepoint. She identified Lockhart as her attacker. She was fortunate to recover her purse 3 days later. Inside it, she found the small purse belonging to Windy Gallagher. In January 1988, a 14 year old girl was raped and stabbed to death in Florida. Lockhart was identified by witnesses and DNA as the murderer. Because of striking similarities, evidence of this crime was admitted at trial. Lockhart's crime spree ended in Texas, where he murdered a police officer in Beaumont. He was convicted of Capital Murder in Texas in October 1988. This crime and conviction was kept from the jury until the penalty phase of the trial. Following the trial, Lockhart was returned and held on Texas Death Row until his execution on 12-09-97.

**County / Judge:** Lake County Superior Court Judge James E. Letsinger

**Trial Prosecutor(s):** Thomas W. Vanes, Joan Kuoros

**Defense:** Robert L. Lewis, Willie Harris, Darnail Lyles

**Aggravating Circumstances:** IC 35-50-2-9 b (1) Robbery; b (7) Convicted of another murder in Texas

### **Final / Special Meal:**

Double-meat cheeseburger, fries and a Coke.

**Final Words:** Just before the lethal drugs were administered, Lockhart looked through a window to five family members of his murder victims and asked for their forgiveness. "I am deeply sorry. It is my hope my death will give you some kind of comfort." Then, he expressed love and thanks to his friends and family. "A lot of people view what is happening here as evil, but I want you to know that I found love and compassion here. The people who work here, I thank them for the kindness they have shown me and I deeply appreciate all that has been done for me by the people who work here. That's all, Warden, I'm ready. I am really at peace."

## INDIANA EXECUTIONS SINCE 1900

<u>Inmate</u>	<u>Sentencing County</u>	<u>Race/Sex/Age At Sentencing</u>	<u>Date of Sentencing</u>	<u>Date of Execution</u>
1. Joseph Keith	Gibson	W/M/40	02/09/1901	11/15/1901
2. John Rinkard	Wabash	W/M/63	05/07/1901	01/17/1902
3. Willis Wheeler	Warrick	W/M/45	10/22/1901	06/06/1902
4. Lewis Russell	Gibson	B/M/48	05/10/1902	09/26/1902
5. Matthew Alexander	Vigo	B/M/28	12/19/1902	04/16/1903
6. William Jackson	Vanderburgh	B/M/45	02/21/1903	06/12/1903
7. Ora Copenhaver	Marion	W/M/26	10/28/1902	06/13/1903
8. Edward Hoover	Marion	W/M/26	06/10/1903	11/13/1903
9. Benjamin Springs	Vigo	B/M/34	03/16/1904	07/01/1904
10. Jerry Duggins	Vigo	W/M/28	03/23/1904	07/08/1904
11. Berkley Smith	Marion	B/M/30	02/04/1905	06/30/1905
12. George Williams	Marion	B/M/28	10/25/1906	02/08/1907
13. John Chirka	Lake	W/M/40	09/22/1913	02/20/1914
14. Harry Rasico	Vigo	W/M/35	09/20/1914	02/20/1914
15. Robert Collier	Vanderburgh	W/M/34	06/18/1914	10/16/1914
16. Kelly Robinson	Marion	B/M/28	05/22/1915	02/01/1916
17. William Ray	Marion	B/M/18	04/27/1920	08/05/1920
18. Will Thornton	Lake	B/M/21	07/30/1920	12/10/1920
19. William Donovan	Montgomery	W/M/35	01/21/1922	06/01/1922
20. Ben Brooks	Bartholomew	W/M/33	01/14/1922	12/01/1922
21. Harry Diamond	Porter	W/M/25	06/07/1923	11/14/1924
22. Peter Vergolini	Lake	W/M/29	10/15/1924	01/30/1925
23. John Koval	Lake	W/M/32	07/02/1925	10/16/1925
24. Edward Stewart	Marion	W/M/25	10/08/1925	01/08/1926
25. Peter Jankowski	Lake	W/M/26	10/13/1925	01/22/1926
26. Henry Smith	Porter	B/M/26	12/10/1925	03/26/1926
27. Roosevelt Hicks	Marion	B/M/23	03/27/1926	07/29/1927
28. John Hall	Elkhart	W/M/20	10/03/1926	04/10/1928
29. James Britt	Lake	B/M/42	12/06/1929	03/21/1930
30. Ignacio Saragova	Laporte	W/M/26	02/23/1931	06/24/1931
31. Herbert Johnson	Lagrange	W/M/33	10/12/1931	02/12/1932
32. Ulysses Mackneezier	Porter	B/M/29	11/18/1929	07/01/1932
33. Charles Witt	Boone	W/M/26	01/28/1932	11/24/1932
34. John Moore	Blackford	W/M/28	11/17/1932	03/02/1933
35. Glen Shustrom	Lake	W/M/23	06/03/1932	02/28/1933
36. Richard Perkins	Hancock	B/M/31	03/19/1932	01/01/1934
37. Harley Edwards	Jackson	W/M/39	03/17/1933	03/02/1934
38. Louis Hamilton	Boone	W/M/27	12/26/1932	09/28/1934
39. Edward Coffin	Clark	W/M/22	06/09/1934	10/09/1934
40. Gaston Slaughter	Vigo	B/M/35	10/01/1934	04/17/1935
41. Olivett Griggs	Lake	B/M/32	03/07/1935	06/14/1935
42. Richard Chapman	Lake	W/M/20	02/04/1935	10/19/1935
43. Clarence Thomas	Whitley	W/M/31	07/06/1936	10/19/1936
44. Harry Singer	Wabash	W/M/25	09/15/1936	12/26/1936
45. Chester Arkuszewski	Laporte	W/M/24	11/18/1936	03/12/1937
46. William Kuhlman	Franklin	W/M/28	02/18/1937	06/10/1937
47. John Poholsky	Franklin	W/M/35	02/24/1937	06/10/1937
48. Frank Williams	Franklin	W/M/39	02/24/1937	06/10/1937

<u>Inmate</u>	<u>Sentencing County</u>	<u>Race/Sex/Age At Sentencing</u>	<u>Date of Sentencing</u>	<u>Date of Execution</u>
49. Raymond Fortune	Huntington	W/M/26	10/18/1936	09/17/1937
50. Willis Fuller	Vigo	W/M/28	10/31/1936	01/14/1938
51. Monroe White	Newton	B/M/32	01/22/1938	05/03/1938
52. Heber Hicks	Franklin	W/M/39	12/21/1936	05/06/1938
53. John Smith	Whitley	W/M/22	02/14/1938	06/01/1938
54. Robert Shaw	Lagrange	W/M/29	03/09/1938	06/28/1938
55. Hugh Marshall	Shelby	W/M/19	04/05/1937	07/08/1938
56. Vurtis Neal	Shelby	W/M/22	04/05/1937	07/08/1938
57. Henry Noelke	Vanderburgh	W/M/32	11/10/1937	09/30/1938
58. Orells Easton	Floyd	W/M/25	08/31/1938	06/03/1939
59. James Swain	Vanderburgh	B/M/18	12/15/1937	06/23/1939
60. Adrian Miller	Allen	W/M/31	05/06/1939	08/16/1939
61. Milton Hawkins	Floyd	W/M/24	12/24/1940	11/14/1941
62. Virginius Carter	Dearborn	W/M/33	10/21/1941	02/10/1942
63. Cleveland Greathouse	Lake	B/M/63	06/23/1945	11/26/1945
64. Frank Quarles	Vanderburgh	B/M/44	02/15/1945	04/02/1946
65. Frank Badgley	Jasper	W/M/49	12/02/1947	02/23/1949
66. Robert Brown	Jasper	W/M/37	12/02/1947	02/23/1949
67. Thomas Kallas	Lake	W/M/58	01/14/1948	03/29/1949
68. Franklin Click	Allen	W/M/30	12/01/1949	12/30/1950
69. Robert Watts	Bartholomew	B/M/27	03/31/1950	01/16/1951
70. Richard Kiefer	Allen	W/M/37	06/19/1959	06/15/1961
71. Steven T. Judy	Morgan	W/M/23	02/25/1980	03/09/1981
72. William Vandiver	Lake	W/M/35	01/20/1984	10/16/1985
73. Gregory Resnover	Marion	B/M/29	07/23/1981	12/08/1994
74. Tommie J. Smith	Marion	B/M/27	07/23/1981	07/18/1996
75. Gary Burris	Marion	B/M/34	11/22/1991	11/20/1997
76. Robert A. Smith	Sullivan	W/M/46	07/12/1996	01/29/1998
77. D.H. Fleenor	Johnson	W/M/33	01/04/1984	12/09/1999
78. Gerald W. Bivins	Boone	W/M/32	06/05/1992	03/14/2001
79. James Lowery	Boone	W/M/35	01/07/1983	06/27/2001
80. Kevin Lee Hough	Allen	W/M/27	06/11/1987	05/02/2003
81. Joseph L. Trueblood	Tippecanoe	W/M/33	08/12/1990	06/13/2003
82. Donald Ray Wallace	Vigo	W/M/25	10/21/1982	03/10/2005
83. Bill J. Benefiel	Vigo	W/M/34	08/12/1990	04/21/2005
84. Gregory Scott Johnson	Madison	W/M/21	06/19/1986	05/25/2005
85. Kevin A. Conner	Marion	W/M/23	11/03/1988	07/27/2005
86. Alan L. Matheney	Lake	W/M/39	05/11/1990	09/28/2005
87. Marvin Bieghler	Howard	W/M/35	03/25/1983	01/27/2006
88. David Leon Woods	Boone	W/M/20	03/28/1985	05/04/2007
89. Michael Allen Lambert	Delaware	W/M/21	01/17/1992	06/15/2007
90. Matthew E. Wrinkles	Vanderburgh	W/M/49	06/14/1995	12/11/2009

In addition, James Dalhover was executed on December 13, 1938 under federal authority for the murder of a state policeman during a bank robbery.

Harry Risico (1914) and John Chirka (1914) were the first murderers executed in Indiana by electrocution. Tommie J. Smith (1996) was the first murderer executed in Indiana by lethal injection.

Steven Judy (1981), William Vandiver (1985), and Robert A. Smith (1998) waived all appeals. Gerald Bivins (2001) waived the remainder of his appeals after unsuccessful Direct and PCR appeals.

There were more executions in Indiana in 2005 (5) than in any year since 1938.

The last 15 executions in Indiana have been of white males.

# INDIANA EXECUTIONS SINCE 1900

## MOST ACTIVE COUNTIES

13	Lake
12	Marion
08	Vigo
06	Vanderburgh
05	Boone
04	Franklin
04	Allen
03	Porter

## EXECUTIONS BY DECADE

1900 - 09 = 12	1960 - 69 = 01
1910 - 19 = 04	1970 - 79 = 00
1920 - 29 = 12	1980 - 89 = 02
1930 - 39 = 32	1990 - 99 = 05
1940 - 49 = 07	2000 - 10 = 13
1950 - 59 = 02	2010 - 21 = 00
Most active year = 08 executions in 1938	
Most active day = 03 executions on June 10, 1937	

## METHOD OF EXECUTION

Prior to 1913, all executions in Indiana were by hanging. From 1913 through 1994, all executions were by electric chair. In 1995, IC 35-38-6-1 was amended by P.L. 294-1995, §1, changing the prescribed method of execution from electrocution to lethal injection:

"(a) The punishment of death shall be inflicted by ~~causing to pass through the body of the convicted person a current of electricity of sufficient intensity to cause death. The application of the current must continue until the person is dead.~~ **intravenous injection of a lethal substance or substances into the convicted person:**  
 (1) **in a quantity sufficient to cause the death of the convicted person; and**  
 (2) **until the convicted person is dead.**" [IC 35-38-6-1].

"The lethal injection procedure to be used on Lambert, called Operational Directive ISP 06-26, requires the introduction by intravenous catheter of 5 grams of sodium pentothal (an anesthetic to render the prisoner unconscious), followed by 50 mg of sterile saline, followed by 100 mg of pancuronium bromide (a paralytic agent), followed by 50 mg of sterile saline, followed by 200 mEq of potassium chloride. The final drug stops the heart. This protocol is the same one used by Indiana to execute Mr. Woods last month." Lambert v. Buss, \_\_\_ F.3d \_\_\_, 2007 WL 1710939 (7th Cir. June 14, 2007) (Stay / Injunction denied in lawsuit challenging lethal injection method of execution)

Current death penalty procedure is found at IC 35-38-6 and requires that the execution take place inside the walls of the state prison before sunrise. All executions since July 1, 1995 have been by lethal injection.

**AGE**      Average age at sentencing = 31 years  
 Oldest age at sentencing = 63 years (Rinkard 1902 & Greathouse 1945)  
 Youngest age at sentencing = 18 years (Ray 1920 & Swain 1939)

<b>RACE</b>	White = 66 (73.3%)	<b>GENDER</b>	Male = 90 (100%)
	Black = 24 (26.7%)		Female = 00 (0.0%)
			No woman has ever been executed in Indiana.

Shortest time between Death Sentence and execution = 99 days  
 (Olivett Griggs was executed on June 14, 1935 after sentencing on March 7, 1935)

Longest time between Death Sentence and execution = 22 years, 308 days  
 (Marvin Bieghler was executed on 01/27/2006 after sentencing on 03/25/1983)

Source: Indiana Department of Corrections

## PRE-1900 INDIANA EXECUTIONS

<u>Inmate</u>	<u>Race/Sex/Age</u>		<u>Conviction</u>	<u>Date of Execution</u>	<u>Sentencing County</u>
	<u>At Execution</u>	<u>Occupation</u>			
1. Slaughter	?/M/?	?	Murder	??/??/1814	Knox
2. Chryst, Henry	W/M/?	?	Murder	04/01/1817	Wayne
3. Ouley, James	W/M/?	Wheelwright	Murder	01/01/1818	Crawford
4. Fuller, Amasa	W/M/?	?	Murder	03/31/1820	Dearborn
5. Dahmen, John	W/M/?	Farmer	Murder-Robb	07/26/1821	Floyd
6. Mckinney, Thomas	W/M/?	Counterfeiter	Murder	01/22/1822	Knox
7. Pitts, Hampshire	B/M/?	?	Murder	12/06/1822	Wayne
8. Harvey, John	W/M/50	?	Murder	06/27/1823	Vanderburgh
9. Cox, William	B/M/?	?	Rape	04/09/1824	Knox
10. Hudson, James	W/M/?	Farmer	Murder	01/12/1825	Madison
11. Bridge, John	W/M/?	Farmer	Murder	06/03/1825	Madison
12. Sawyer, Stephen	W/M/?	Farmer	Murder	06/03/1825	Madison
13. Swanson, Edward	W/M/?	?	Murder	05/11/1829	Rush
14. Richardson, John	W/M/?	?	Murder	11/12/1830	Fountain
15. Herring, Kader	W/M/?	Farmer	Murder	06/11/1833	Bartholomew
16. Jones, John	W/M/?	?	Murder	06/11/1833	Bartholomew
17. Heller, Isaac	W/M/?	Farmer	Murder	04/25/1836	Union
18. Staves, Francis	W/M/?	Laborer	Murder-Robb	??/??/1837	Porter
19. Scott, David	W/M/?	Farm Hand	Murder-Robb	06/15/1838	La Porte
20. Lechner, John	W/M/?	?	Murder	11/03/1840	Noble
21. Thompson, William	W/M/?	?	Murder-Robb	02/12/1841	Putnam
22. Sumner, James	W/M/?	?	Murder	01/07/1841	Jackson
23. Beauchamp, Noah	W/M/?	Farmer	Murder	12/30/1842	Parke
24. Dyas, Henry	W/M/?	?	Murder	07/05/1844	Vigo
25. Fields, James	W/M/?	?	Murder	12/18/1846	Crawford
26. Gross, Ernest	W/M/?	Laborer	Murder-Robb	12/13/1850	Floyd
27. Bennett, John	W/M/?	?	Murder	12/05/1851	Ripley
28. Madden, Benjamin	W/M/?	?	Murder-Robb	05/03/1855	Allen
29. Keefer, George	W/M/?	?	Murder-Robb	05/03/1855	Allen
30. Hubbard, John	W/M/?	?	Murder-Robb	12/13/1855	Wabash
31. Mullinix, Greenbury	W/M/25	Farmer	Murder	12/18/1857	Putnam
32. Harden, Henry	W/M/?	Convict	Murder	06/17/1864	Clark
33. Hendley, John	?M/?	?	Murder	12/29/1865	Marion
34. Sage, George	?M/?	?	Murder-Burg	05/25/1866	Jennings
35. White, Milton	W/M/23	Farmer	Murder	11/01/1867	Madison
36. Morgan, Oliver	W/M/26	Blacksmith	Murder-Burg	12/23/1869	Vigo
37. Sawyer, Ben	B/M/?	Steamboat Wkr	Murder	05/26/1871	Vanderburgh
38. Brooks, Jerome	W/M/22	?	Murder-Robb	01/27/1871	Carroll
39. Camp, Thomas	W/M/?	?	Murder	11/22/1872	Gibson
40. Beavers, John	W/M/35	?	Murder-Robb	02/15/1878	Jefferson
41. Achey, John	W/M/?	Gambler	Murder	01/29/1879	Marion
42. Merrick, William	W/M/?	Livery Propr	Poisoning	01/29/1879	Marion
43. Watson, Walter	W/M/27	?	Murder	04/03/1879	Vermillion
44. Guetig, Louis	W/M/29	?	Murder	09/19/1879	Marion
45. Stout, Buck	W/M/21	Farm Hand	Murder-Robb	08/08/1883	Parke
46. McDonald, Samuel	W/M/?	Laborer	Murder-Robb	01/10/1883	Allen
47. Anderson, John	W/M/17	Bootblack	Murder-Robb	01/25/1884	Posey
48. Snyder, Zachary	W/M/21	?	Murder-Robb	01/25/1884	Posey
49. Butler, Charles	W/M/27	?	Murder	01/10/1884	Whitley
50. Coffey, John	W/M/21	?	Murder-Robb	01/16/1885	Montgomery

<u>Inmate</u>	<u>Race/Sex/Age At Execution</u>	<u>Occupation</u>	<u>Conviction</u>	<u>Date of Execution</u>	<u>Sentencing County</u>
51. Wartena, Weibern	W/M/?	Fisherman	Murder-Robb	02/26/1886	Jasper
52. Phillips, Robert	B/M/?	?	Murder	04/08/1886	Marion
53. Henning, John	W/M/55	Tinker	Murder	05/27/1886	Montgomery
54. Archer, Sam	W/M/28	Farmer	Murder	07/09/1886	Martin
55. Bates, Nathaniel	W/M/26	Farm Laborer	Murder	08/26/1886	Wayne
56. Warner, Macy	W/M/25	Convict	Murder	03/09/1888	Clark
57. Grubb, Sylvester	W/M/?	?	Murder	04/19/1889	Knox
58. Stone, James	W/M/?	?	Murder	02/16/1894	Daviess
59. Jones, Harry	B/M/27	Convict	Murder	05/07/1897	Marion

All executions in Indiana prior to 1914 were by hanging.

These Pre-1900 Indiana Executions were extracted from the database of executions, "Executions in the United States, 1608-2002: The ESPY File." (4th Edition, 2004) This list of 15,269 executions performed under the civil authority in the United States and American Colonies was compiled by researchers M. Watt Espy, and John Ortiz Smykla. The work was funded by the National Science Foundation, and is available through the Inter-University Consortium for Political and Social Research (1994).The "ESPY Files" are available on the web at:

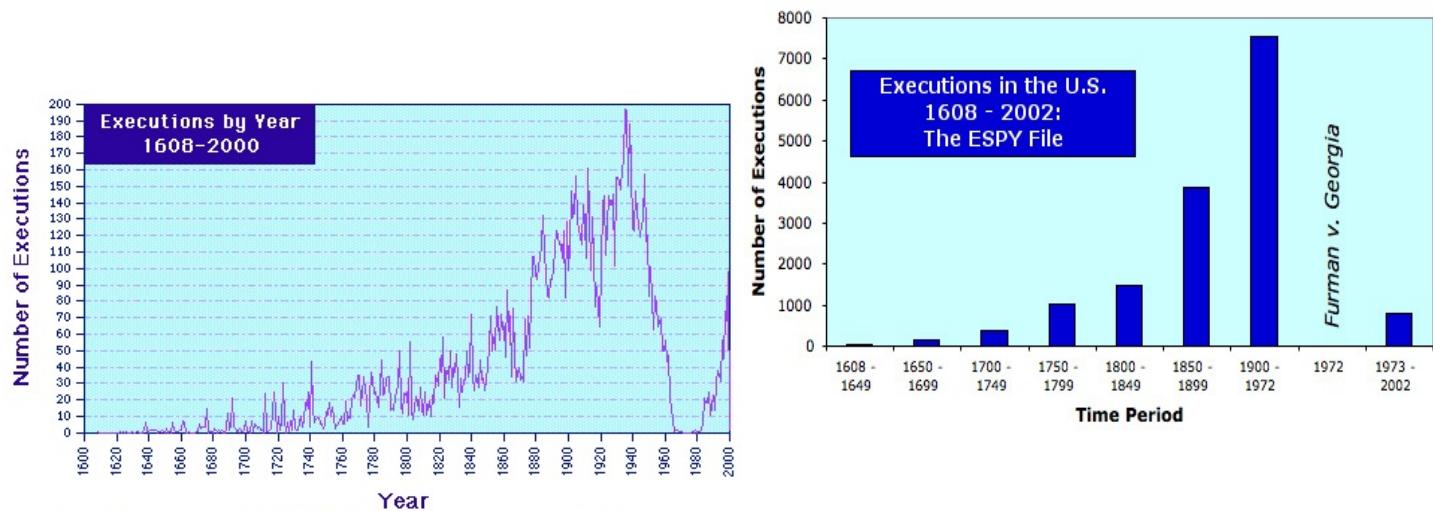
Inter-University Consortium for Political and Social Research

<http://www.icpsr.umich.edu/icpsrweb/NACJD/studies/08451/detail>

<http://www.stanford.edu/group/ssds/dewidocs/icpsr8451/cb8451.pdf>

Death Penalty Information Center

<https://deathpenaltyinfo.org/executions/executions-overview/executions-in-the-u-s-1608-2002-the-espy-file>



(Source: "Executions in the U.S. 1608-1987: The Espy File," with recent years added by DPIC)

# INDIANA SUPREME COURT

Since 1977, 107 cases resulting in a Death Sentence were reviewed by the Indiana Supreme Court on Direct Appeal. This number includes Opinions on Rehearing only if the original decision was changed. (Evans). Also included are Opinions issued after remand by the U.S. Supreme Court. (Daniels). Joint Appeals are counted separately for each Defendant. (McCollum / Townsend, Rouster / D. Williams). Direct appeals by Defendants sentenced to death again after reversals are counted twice. (Averhart, Burris, Kennedy, Kubsch, J. Lowery, Minnick, Moore, Roark, J.K. Thompson, Ward). Remands for more specific sentencing order are not included.

## DIRECT APPEALS (107 cases)

Death Sentence Affirmed 84 (78.5%)  
Death Sentence Vacated 23 (21.5%)

Of those vacated death sentences:

- 8 for new guilt trial  
(Kubsch, James Lowery, Minnick, Patton, Roark, Stroud, J.K. Thompson, Ward)
- 5 for new sentencing hearing only (Barker, Castor, Kennedy, Landress, Thompson)
- 1 for new judicial sentencing only (Bellmore)
- 8 remanded to impose imprisonment  
(Cooper, Evans, Ingle, Jackson, Kennedy, Martinez, Roark, Thacker)
- 1 for either new sentencing hearing or imprisonment (James)

Murder conviction affirmed 95 (92.2%)

Murder conviction reversed 08 (07.8%)

- (Kubsch, James Lowery, Minnick, Patton, Roark, Stroud, J.K. Thompson, Ward)
- In Averhart, Burris, Kennedy and Ward the appeal was on the death sentence only, not the conviction.

	<u>Participating in Decision</u>	<u>Wrote Opinion</u>	<u>Voted to Affirm DP</u>	<u>Voted to Vacate DP</u>
DAVID	04	01	04 (100.0%)	00 (00.0%)
MASSA	04	01	04 (100.0%)	00 (00.0%)
RUSH	04	01	04 (100.0%)	00 (00.0%)
SLAUGHTER	00	00	00 (00.0%)	00 (00.0%)
GOFF	00	00	00 (00.0%)	00 (00.0%)
RUCKER	20	03	14 (70.0%)	06 (30.0%)
DICKSON	87	15	60 (69.0%)	27 (31.0%)
SULLIVAN	35	08	26 (74.3%)	09 (25.7%)
SHEPARD	85	18	66 (77.6%)	19 (22.4%)
BOEHM	28	07	21 (75.0%)	07 (25.0%)
SELBY	14	01	12 (85.7%)	02 (14.3%)
DEBRULER	75	08	27 (36.0%)	48 (64.0%)
GIVAN	72	14	65 (90.3%)	07 (09.7%)
KRAHULIK	24	07	15 (62.5%)	09 (37.5%)
PIVARNIK	44	18	41 (93.2%)	03 (06.8%)
PRENTICE	20	01	13 (65.0%)	07 (35.0%)
HUNTER	15	04	13 (86.7%)	02 (13.3%)
		107	385 (72.5%)	146 (27.5%)

Hunter did not participate (Bieghler, Moore, Vandiver); Givan did not participate (Johnson).

Affirmed DP on Direct Appeal: (84 total cases)	$\frac{5-0}{44}$	$\frac{4-1}{23}$	$\frac{3-2}{13}$	$\frac{4-0}{3}$	$\frac{3-1}{1}$
Vacated DP on Direct Appeal: (23 total cases)	$\frac{5-0}{11}$	$\frac{4-1}{5}$	$\frac{3-2}{7}$		

Justice Debruler was the lone dissenter in 20 cases on Direct Appeal, each time voting to vacate the death sentence. Justice Debruler also voted to vacate the death sentence in all 17 cases where the death sentence was vacated on direct appeal during his tenure.

## INDIANA SUPREME COURT JUSTICES 1977 - 2022

	Tenure	Governor	Replaced
Steven H. David	10-18-10 - present	Daniels	Boehm
Mark S. Massa	04-02-12 - present	Daniels	Shepard
Loretta H. Rush	11-07-12 - present	Daniels	Sullivan
Geoffrey G. Slaughter	06-13-16 - Present	Pence	Dickson
Christopher M Goff	07-24-17 - Present	Holcomb	Rucker
Robert Rucker, Jr.	1999 - 2017	O'Bannon	Selby
Brent E. Dickson	1986 - 2016	Orr	Prentice
Frank Sullivan, Jr.	1993 - 2012	Bayh	Krahulik
Randall T. Shepard	1985 - 2012	Orr	Hunter
Theodore R. Boehm	1996 - 2010	Bayh	Debruler
Myra C. Selby	1995 - 1999	Bayh	Givan
Roger O. Debruler	1968 - 1996	Branigin	Mote
Richard M. Givan	1969 - 1995	Branigin	Lewis
Jon D. Krahulik	1990 - 1993	Bayh	Pivarnik
Alfred J. Pivarnik	1977 - 1990	Bowen	Arterburn
Dixon W. Prentice	1971 - 1986	Whitcomb	Jackson
Donald H. Hunter	1967 - 1985	Branigin	Rakestraw

Pursuant to Indiana Code 35-50-2-9(j), Indiana Appellate Rule 4(A)(1)(a), and Art. 7, § 4 of the Indiana Constitution, the Indiana Supreme Court has mandatory and exclusive jurisdiction over all appeals from cases resulting in a Death Sentence, and over direct appeals from cases resulting in a sentence of Life Imprisonment Without Parole. The direct appellate review is automatic and given priority over all other cases.

## POST-CONVICTION RELIEF APPEALS (71 cases)

Since 1977, 65 cases resulting in a Death Sentence were reviewed by the Indiana Supreme Court after a denial of Post-Conviction Relief by the trial court, and 6 were reviewed on State's Appeal of the granting of Post-Conviction Relief by the trial court. (Dye, Holmes, Huffman, Spranger, Daniels, and McManus). Not included in this number are Wilkes, Moore, Van Cleave, F. Davis, and Games, where death sentences were vacated upon granting Post-Conviction Relief, but only the convictions were at issue on appeal. Daniels is included although the conviction was not an issue on appeal. This number includes Opinions on Rehearing only if the original PCR decision was changed. (Saylor). Also included are Opinions issued after remand by the U.S. Supreme Court. (Coleman). Orders granting or denying permission to file successive PCR are not included. Consolidated appeals are included twice. (Gibson).

Death Sentence Affirmed 58 (81.7%)

Death Sentence Vacated 13 (18.3%)

- (L. Williams, Burris, Charles Smith, Averhart, Huffman, Spranger, Schiro, Rondon, Prowell, G. Davis, Azania, Dye, Saylor)

Murder conviction affirmed 70 (94.6%)

Murder conviction reversed 04 (05.4%) (Dye, Charles Smith, Huffman, Prowell)

- In Daniels, the conviction was not an issue on appeal.

	<u>Participating in Decision</u>	<u>Wrote Opinion</u>	<u>Voted to Affirm DP</u>	<u>Voted to Vacate DP</u>
DAVID	06	00	06 (100%)	00 (00.0%)
MASSA	05	03	05 (100%)	00 (00.0%)
RUSH	04	00	03 (75.0%)	01 (00.0%)
SLAUGHTER	02	01	02 (100.0%)	00 (00.0%)
GOFF	04	00	04 (100.0%)	00 (00.0%)
RUCKER	26	05	18 (69.2%)	08 (30.8%)
DICKSON	66	07	54 (81.8%)	12 (18.2%)
SULLIVAN	53	12	44 (83.0%)	09 (17.0%)
SHEPARD	65	15	57 (87.7%)	08 (12.3%)
BOEHM	46	10	40 (87.0%)	06 (13.0%)
SELBY	23	02	21 (91.3%)	02 (08.7%)
DEBRULER	19	05	07 (36.8%)	12 (63.2%)
GIVAN	17	04	14 (82.4%)	03 (17.6%)
KRAHULIK	03	01	02 (66.7%)	01 (33.3%)
PIVARNIK	11	05	10 (90.9%)	01 (09.1%)
PRENTICE	01	00	01 (100%)	00 (00.0%)
HUNTER	00	00	00 (00.0%)	00 (00.0%)
	70		288 (82.1%)	63 (17.9%)

1 Per Curiam opinion (Averhart); Hunter did not participate (Schiro); Rucker did not participate (Coleman); Slaughter did not participate (Gibson, Gibson).

Affirmed DP on PCR: (58 total cases)	<u>5-0</u> 45	<u>4-1</u> 6	<u>4-0</u> 1	<u>3-2</u> 5	<u>3-1</u> 1
Vacated DP on PCR: (13 total cases)	<u>5-0</u> 6	<u>4-1</u> 5	<u>3-2</u> 2		

Justice DeBruler voted to vacate the Death Sentence in all 7 cases where a death sentence was vacated on PCR during his tenure.

## **Indiana Supreme Court and Indiana Court of Appeals REPORTED CASES - June 1, 2013 to January 1, 2022**

- Gibson v. State, 43 N.E.3d 231 (Ind. September 24, 2015) Direct Appeal)
- Gibson v. State, 133 N.E.3d 673 (Ind. October 24, 2019) (PCR)
- Gibson v. State, Unpub., 107 N.E.3d 1115 (Ind. App. July 16, 2018)
- Gibson v. State, 137 N.E.3d 924 (Ind. October 24, 2019) (Transfer denied)
- Gibson v. State, 51 N.E.3d 204 (Ind. April 12, 2016) (Direct Appeal)
- Isom v. State, 31 N.E.3d 469 (Ind. May 20, 2015) (Direct Appeal)
- Isom v. State, 2015 Ind. LEXIS 673 (Ind. July 28, 2015) (Rehearing denied)
- Isom v. State, 170 N.E.3d 623 (Ind. June 30, 2021) (PCR)
- Overstreet v. State, 993 N.E.2d 179 (Ind. September 3, 2013) (Successive PCR)
- In re Cooper, 78 N.E.3d 1098 (Ind. March 24, 2017) (Disciplinary)
- Pruitt v. State, 78 N.E.3d 14 (Ind. App May 16, 2017) (On remand)
- Ward v. Carter, 79 N.E.3d 383 (Ind. App. June 1, 2017) (Protocol)
- Ward v. Carter, 90 N.E.3d 660 (Ind. February 13, 2018) (Protocol)
- Ward v. Carter, 2018 LEXIS 295 (Ind. April 23, 2018) (Rehearing denied)
- Weisheit v. State, 989 N.E.2d 782 (Ind. June 24, 2013) (Transfer denied)
- Weisheit v. State, 26 N.E.3d 3 (Ind. February 18, 2015) (Direct Appeal)
- Weisheit v. State, 2015 Ind. LEXIS 511 (Ind. June 9, 2015) (Rehearing denied)
- Weisheit v. State, 109 N.E.3d 978 (Ind. November 7, 2018) (PCR)

# INDIANA CODE AND RULE PROVISIONS RELATING TO THE DEATH PENALTY

Indiana Code 35-50-2-3 Murder Penalties  
Indiana Code 35-50-2-9 Death Penalty Procedure  
Indiana Code 35-38-6 Execution of Death Sentence  
Indiana Code 35-36-9 Pretrial Determination of Intellectual Disability  
Indiana Criminal Rule 24 Capital Cases

## **IC 35-50-2-3 MURDER PENALTIES**

(a) A person who commits murder shall be imprisoned for a fixed term of between forty-five (45) and sixty-five (65) years, with the advisory sentence being fifty-five (55) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000).

(b) Notwithstanding subsection (a), a person who was:

(1) at least eighteen (18) years of age at the time the murder was committed may be sentenced to:  
(A) death; or  
(B) life imprisonment without parole; and

(2) at least sixteen (16) years of age but less than eighteen (18) years of age at the time the murder was committed may be sentenced to life imprisonment without parole;

under section 9 of this chapter unless a court determines under IC 35-36-9 that the person is an individual with an intellectual disability.

[As added by Acts 1976, P.L.148, SEC.8. Amended by Acts 1977, P.L.340, SEC.116; P.L.332-1987, SEC.1; P.L.250-1993, SEC.1; P.L.164-1994, SEC.2; P.L.158-1994, SEC.5; P.L.2-1995, SEC.128; P.L.148-1995, SEC.4.; P.L.117-2002, SEC.1; P.L.71-2005, SEC.6, effective April 25, 2005; P.L. 99-2007, SEC. 212; P.L.117-2015, § 56, effective July 1, 2015.]

**Summary:** Murder is punishable by a fixed term of 45-65 years imprisonment, with an advisory sentence of 55 years, and up to a \$10,000 fine. Alternatively, if at least 16 years of age at the time of the murder, the defendant may be sentenced to life without parole, and if at least 18 years of age at the time of the murder, may be sentenced to death, unless found to have an intellectual disability.

### **2015 - P.L.117-2015, § 56 (effective July 1, 2015)**

- ▶ Makes minor change in wording of statute, changing “an individual with mental retardation” to “an individual with an intellectual disability.”

### **2007 - P.L. 99-2007, § 212 (effective May 2, 2007)**

- ▶ Makes minor change in wording of statute, changing “a mentally retarded individual” to an individual with mental retardation.”

### **2005 - P.L. 71-2005, § 6 (effective April 25, 2005)**

- ▶ Eliminates “presumptive” sentences, instead making 55 years imprisonment an “advisory” sentence, all in an effort to bypass Blakely v. Washington so that a sentence greater than the “advisory” sentence can be given without a jury determination of aggravating circumstances.

**2002 - P.L. 117-2002, § 1 (effective July 1, 2002)**

- ▶ Amends (b) raising the minimum age for he death penalty from 16 to 18 years of age at the time of the murder. Retains 16 years of age as the minimum age for life without parole.

**1995 - P.L. 2-1995, § 128 (Approved May 5, effective July 1, 1995)**

- ▶ Resolves the conflicting versions of the statutes by adopting 1994 changes from both P.L.164-1994,§ 2 and P.L.158-1994, § 5.

**1995 - P.L. 148-1995, § 4 (effective July 1, 1995)**

- ▶ Changes the penalty for murder from 40-60 years imprisonment with a presumptive sentence of 50 years, to 45-65 years imprisonment, with a presumptive sentence of 55 years.

**1994 - P.L.164-1994, § 2 (Approved March 11, 1994, effective July 1, 1994)**

- ▶ Changes the penalty for murder from 30-60 years imprisonment with a presumptive sentence of 40 years, to 40-60 years imprisonment, with a presumptive sentence of 50 years.

**1994 - P.L.158-1994, § 5 (Approved March 15, 1994, effective July 1, 1994)**

- ▶ Adds a provision exempting mentally retarded individuals from a death sentence or life without parole.
- ▶ Note that this statute was passed without incorporating the changes of P.L. 164-1994 § 2, which was approved 4 days earlier. The Indiana Supreme Court held in Smith v. State, 675 N.E.2d 693 (Ind. 1996) that the subsequently passed statute prevails.

**1993 - P.L. 250-1993, § 1 (effective July 1, 1993)**

- ▶ Amends (b) allowing life without parole as an option in murder cases, also with a minimum age of 16.
- ▶ Applies only to murders committed after June 30, 1993.

**1987 - P.L. 332-1987, § 1 (effective July 1, 1987)**

- ▶ Amends (b) making the minimum age for the death penalty 16 years of age at the time of the murder. (Prior to this time, the only Indiana statute relating to minimum age was the juvenile waiver statutes, which allowed waiver to adult court in some cases for the crime of murder committed by a 10 year old.)
- ▶ Not applicable to death sentences imposed before September 1, 1987.

## **IC 35-50-2-9 DEATH PENALTY SENTENCING PROCEDURE**

(a) The state may seek either a death sentence or a sentence of life imprisonment without parole for murder by alleging, on a page separate from the rest of the charging instrument, the existence of at least one (1) of the aggravating circumstances listed in subsection (b). In the sentencing hearing after a person is convicted of murder, the state must prove beyond a reasonable doubt the existence of at least one (1) of the aggravating circumstances alleged. However, the state may not proceed against a defendant under this section if a court determines at a pretrial hearing under IC 35-36-9 that the defendant is an individual with an intellectual disability.

(b) The aggravating circumstances are as follows:

- (1) The defendant committed the murder by intentionally killing the victim while committing or attempting to commit any of the following:
  - (A) Arson (IC 35-43-1-1).
  - (B) Burglary (IC 35-43-2-1).
  - (C) Child molesting (IC 35-42-4-3).
  - (D) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
  - (E) Kidnapping (IC 35-42-3-2).
  - (F) Rape (IC 35-42-4-1).
  - (G) Robbery (IC 35-42-5-1).
  - (H) Carjacking (IC 35-42-5-2) (before its repeal).
  - (I) Criminal organization activity (IC 35-45-9-3).
  - (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
  - (K) Criminal confinement (IC 35-42-3-3).
- (2) The defendant committed the murder by the unlawful detonation of an explosive with intent to injure a person or damage property.
- (3) The defendant committed the murder by lying in wait.
- (4) The defendant who committed the murder was hired to kill.
- (5) The defendant committed the murder by hiring another person to kill.
- (6) The victim of the murder was a corrections employee, probation officer, parole officer, community corrections worker, home detention officer, fireman, judge, or law enforcement officer, and either:
  - (A) the victim was acting in the course of duty; or
  - (B) the murder was motivated by an act the victim performed while acting in the course of duty.
- (7) The defendant has been convicted of another murder.
- (8) The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder.
- (9) The defendant was:
  - (A) under the custody of the department of correction;
  - (B) under the custody of a county sheriff;
  - (C) on probation after receiving a sentence for the commission of a felony; or
  - (D) on parole;at the time the murder was committed.
- (10) The defendant dismembered the victim.
- (11) The defendant:
  - (A) burned, mutilated, or tortured the victim; or
  - (B) decapitated or attempted to decapitate the victim;while the victim was alive.
- (12) The victim of the murder was less than twelve (12) years of age.
- (13) The victim was a victim of any of the following offenses for which the defendant was convicted:
  - (A) A battery offense included in IC 35-42-2 committed before July 1, 2014, as a Class D felony or as a Class C felony, under IC 35-42-2-1 or a battery offense included in IC 35-42-2 committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.
  - (B) Kidnapping (IC 35-42-3-2).

- (C) Criminal confinement (IC 35-42-3-3).
  - (D) A sex crime under IC 35-42-4.
- (14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.
- (15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):
- (A) into an inhabited dwelling; or
  - (B) from a vehicle.
- (16) The victim of the murder was pregnant and the murder resulted in the intentional killing of a fetus that has attained viability (as defined in IC 16-18-2-365).
- (17) The defendant knowingly or intentionally:
- (A) committed the murder:
    - (i) in a building primarily used for an educational purpose;
    - (ii) on school property; and
    - (iii) when students are present; or
  - (B) committed the murder:
    - (i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and
    - (ii) at a time when classes are in session.
- (18) The murder is committed:
- (A) in a building that is primarily used for religious worship; and
  - (B) at a time when persons are present for religious worship or education.
- (c) The mitigating circumstances that may be considered under this section are as follows:
- (1) The defendant has no significant history of prior criminal conduct.
  - (2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.
  - (3) The victim was a participant in or consented to the defendant's conduct.
  - (4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.
  - (5) The defendant acted under the substantial domination of another person.
  - (6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.
  - (7) The defendant was less than eighteen (18) years of age at the time the murder was committed.
  - (8) Any other circumstances appropriate for consideration.
- (d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:
- (1) the aggravating circumstances alleged; or
  - (2) any of the mitigating circumstances listed in subsection (c).
- (e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:
- (1) the death penalty; or

(2) life imprisonment without parole;

only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole;

only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to remand the case to the trial court for an evidentiary hearing without first providing the attorney general with an opportunity to be heard on the matter.

(l) Before a sentence may be imposed under this section, the jury, in a proceeding under subsection (e), or the court, in a proceeding under subsection (g), must find that:

(1) the state has proved beyond a reasonable doubt that at least one (1) of the aggravating circumstances listed in subsection (b) exists; and

(2) any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances.

[As added by Acts 1977, P.L.340, § 122; Amended by P.L.336-1983, § 1; P.L.212-1986, § 1; P.L.332-1987, § 2; P.L.320-1987, § 2; P.L.296-1989, § 2; P.L.138-1989, § 6; P.L.1-1990, § 354; P.L.230-1993, § 5; P.L.250-1993, § 2; P.L.158-1994, § 7; P.L.306-1995, § 1; P.L.216-1996, § 25; P.L.228-1996, § 1; P.L.261-1997, § 7; P.L.80-2002, § 1; P.L.117-2002, § 2; P.L.1-2003, § 97; P.L.147-2003, § 1; P.L.99-2007, § 213, effective May 2, 2007; P.L.158-2013, § 663; eff. July 1, 2014; P.L.214-2013, § 45; P.L.168-2014, § 119; P.L.74-2015, § 29; P.L.117-2015, § 57; P.L.187-2015, § 50; P.L.198-2015, § 1; P.L.25-2016, § 28; P.L.65-2016, § 40]

[Formerly: IC 35-13-4-1; IC 35-21-4-3; Acts 1941, P.L.148, § 1.]

**Summary:** (Trial Procedures; Aggravating/Mitigating Circumstances; Appeals) Murder is the only crime for which a death sentence may be imposed. At the discretion of the Prosecuting Attorney, the State may seek a death sentence (or Life Without Parole) by allegations on a separate page of the Indictment or Information. Upon request of the defendant, it is required that the jury be sequestered (not separated even at night) during the trial. A bifurcated (two-stage) hearing is required. In the first stage, the guilt or innocence of the defendant on the charge of murder is determined. If found guilty, the same jury reconvenes for the second (sentencing) phase of the trial. The State must allege and prove beyond a reasonable doubt at least 1 of 18 aggravating circumstances listed in the statute. The most common is intentional murder while committing another serious felony. A special verdict form is provided for each aggravating circumstance alleged. Mitigating Circumstances can also be raised. While not limited by statute, they often include the young age of the defendant, the lack of a prior criminal record, and mental illness. All evidence presented at the first phase of the trial may be considered. The jury of 12 is given 3 verdicts to choose from: death penalty, life imprisonment without parole, or neither (term of years). Any verdict must be unanimous. The jury shall also identify the aggravating circumstances found in a special verdict form. Any verdict is binding and the trial judge must sentence in accordance with the verdict. The jury is advised as to the statutory penalties for murder and any available good time credit or clemency. If the jury cannot reach a unanimous verdict, the trial Judge alone shall determine the sentence. In order to return a verdict for the death penalty or life without parole, the State must prove beyond a reasonable doubt the existence of an aggravating circumstance, and that any mitigating circumstances are outweighed by the aggravating circumstance(s). If neither, the defendant is sentenced to a determinate term of between 45 and 65 years of imprisonment. The trial Judge may receive victim impact evidence at sentencing. There is an automatic expedited appeal of a death sentence to the Indiana Supreme Court.

#### **2016 - P.L.65-2016, § 40 (effective July 1, 2015)**

- ▶ Amends (b)(13)(A) aggravator requiring a conviction for the crime of Battery against the Murder victim, eliminating the requirement that the conviction be under IC 35-42-2-1, and replacing it with “battery offense included in IC 35-42-2. (Perhaps to make clear that it includes Domestic Battery, Aggravated Battery)

#### **2016 - P.L.25-2016, § 28 (effective July 1, 2015)**

- ▶ (b)(1)(I) Recognizing the change of name of crime from “Criminal Gang Activity” to Criminal Organization Activity” under IC 35-45-9-3.

#### **2015 - P.L.198-2015, § 1 (effective July 1, 2015)**

- ▶ Adds Aggravator (11)(B) where the Defendant “decapitated or attempted to decapitate the victim.”

#### **2015 - P.L.187-2015, § 50 (effective July 1, 2015)**

- ▶ Adds Aggravator (b)(17) relating to murders committed on school property when students present or classes in session.
- ▶ Adds Aggravator (b)(18) relating to murders committed at church during services or education.

**2015 - P.L.117-2015, § 57 (effective July 1, 2015)**

- ▶ Makes minor change in wording of statute, changing an individual with “mental retardation” to an individual with “an intellectual disability” under Subsection (a).

**2015 - P.L.74-2015, § 29 (effective July 1, 2015)**

- ▶ Adds “Educational Credit” (to existing good time credit and clemency) to the list of jury penalty instructions under subsection (d).

**2014 - P.L.168-2014, § 119 (effective July 1, 2014)**

- ▶ Inserted “(before its repeal)” instead of “(repealed)” after the crimes of Criminal Deviate Conduct and Carjacking under (b)(1) as described below.

**2013 - P.L.214-2013, § 45 (effective July 1, 2014)**

- ▶ Also inserted “repealed” after the crime of Criminal Deviate Conduct under (b)(1) as described below.

**2013 - P.L.158-2013, § 663 (effective July 1, 2014)**

- ▶ In conjunction with the new penal code, it recognizes that Criminal Deviate Conduct and Carjacking have been “repealed,” but allows it to be used as an aggravating circumstance under (b)(1) if intentional murder while committing or attempting either; also adds the crime of Criminal Confinement to the list of underlying felonies under (b)(1).
- ▶ In conjunction with the new penal code, it recognizes that “classes” of penalties have been changed to “levels.” The (b)(13) aggravator previously required a conviction for the crime of Battery against the Murder victim, but only if the Battery was a Class C or Class D Felony. Change makes clear that this now applies only to Battery committed before July 1, 2014, the effective date of the new penal code. For Battery committed after June 30, 2014, it must be either a Class 3, 4, 5, 6 Felony.

**2007 - P.L. 99-2007, § 213 (effective May 2, 2007)**

- ▶ Makes minor change in wording of statute, changing “a mentally retarded individual” to “an individual with mental retardation” in Subsection (a).

**2006 - P.L. 1, § 550 (effective March 24, 2006)**

- ▶ Under subsection (d), changed reference from subsection (k) to subsection (l), to be consistent with 2003 change moving the former subsection (k) to subsection (l).

**2003 - P.L. 147, § 1 (effective July 1, 2003)**

- ▶ Added new subsection (k), authorizing the defendant, after state post-conviction review, to file a petition directly to the Indiana Supreme Court challenging guilt or death sentence based upon “new evidence.”

**2002 - P.L. 117, § 1, § 2 (effective July 1, 2002)**

- ▶ Increases the minimum age of eligibility for a death sentence from 16 to 18 years “at the time the murder was committed.” Minimum age for Life Without Parole remains at 18 years. (Amending IC 35-50-2-3)
- ▶ Requires a special verdict form for each aggravating circumstance alleged.
- ▶ Eliminates judicial override; requires the court to sentence in accordance with jury verdict. (Applies to any sentencing after June 30, 2002)

**2002 - P.L. 80, § 1 (effective upon passage)**

- ▶ Allows for victim impact statement "after a court pronounces sentence." (Applies to any murder conviction obtained after passage)

**1997 - P.L. 261, § 7 (effective Jan 22, 1998)**

(Vetoed by Governor O'Bannon May 12, 1997 - Passed over veto January 22, 1998)

- ▶ Added intentional killing of a viable fetus carried by murder victim as an aggravating circumstance under (b) (16).

**1996 - P.L. 216, § 25 (effective July 1, 1996)**

- ▶ Allows the court to receive victim impact evidence after jury recommendation.

**1996 - P.L. 228, §1 (effective July 1, 1996)**

- ▶ Added burning, mutilation, or torture of the victim while alive as aggravating circumstance under (b) (11).
- ▶ Renumbers b (11) (Victim < 12 years old) to b (12).
- ▶ Renumbers b (12) (Victim was prior victim of defendant convicted of felony battery, kidnapping, confinement, or sex crime) to b (13).
- ▶ Renumbers b (13) (Victim was witness against defendant) to b (14).
- ▶ Renumbers b (14) (Drive-By shootings) to b (15).

**1995 - P.L.306, § 1 (effective July 1, 1995)**

- ▶ Added provisions requiring execution within 1 year and a day after sentencing, which can only be stayed by the Indiana Supreme Court.
- ▶ Added provisions commanding the Attorney General to answer PCR petitions on behalf of state. Prosecutor must assist if requested.
- ▶ Requires trial court to set hearing on PCR within 90 days after Petition filed; and must rule on PCR within 90 days after hearing.
- ▶ Requires the Indiana Supreme Court to consider all possible claims of error on direct appeal.
- ▶ See also P.L. 294-1995; § 1 (amending IC 35-38-6-1) Changes the method of execution from electrocution to lethal injection.

**1994 - P.L. 158, § 7**

- ▶ Added provisions allowing State to seek Life Without Parole without seeking a death sentence, but with the same procedures and burdens.
- ▶ Added Criminal Gang Activity to the list of crimes eligible under (b) (1).
- ▶ Added provisions prohibiting State from seeking death sentence where defendant is mentally retarded.
- ▶ Added drive-by shootings as aggravating circumstance under (b) (14).

**1993 - P.L. 250, § 2, § 3, § 5**

- ▶ Added probation officer, parole officer, community corrections officer, and home detention officer to list of victims under (b) (6) aggravating circumstance.
- ▶ Added requirement under (d) that jury be instructed as to full range of possible penalties for murder, including consecutive sentences, good time, and clemency.
- ▶ Added jury option of recommending Life Without Parole under same standards as required for recommendation of death.
- ▶ Added Carjacking to the list of crimes eligible under (b) (1).
- ▶ "IC 35-50-2-3 and IC 35-50-2-9, as amended by this act, only apply to murders committed after June 30, 1993."

**1990 - P.L. 1, § 354 (effective March 20, 1990)**

- ▶ Corrected statutory citations for Kidnapping and Confinement under (b) (12).

**1989 - P.L. 138, § 6**

- ▶ Amended statute without apparent change.

**1989 - P.L. 296, § 2, § 3**

- ▶ Added Dealing in Cocaine or Narcotic Drug to the list of crimes eligible under (b) (1).
- ▶ Added statutory citations to crimes listed under (b) (1).
- ▶ Repealed the former (b)(9) and (b)(10) relating to murders committed while in prison, and added a new aggravating circumstance under (b)(9) relating to murders committed while imprisoned, on probation, or on parole.
- ▶ Renumbers (b)(11) (dismemberment) as (b)(10); Renumbers (b)(12) victim less than 12 years as (b)(11).
- ▶ Added aggravating circumstance under (b) (12) where the defendant is convicted of Battery, Kidnapping, Confinement, or a sex crime upon the murder victim.
- ▶ "This act does not apply to an offense that is committed before July 1, 1989."

**1987 - P.L. 320, § 2**

- ▶ Added aggravating circumstance under (b) (12) where victim is less than 12 years of age.

**1987 - P.L. 332, § 2, § 3**

- ▶ Corrected statute to make gender-neutral.
- ▶ Added mitigating circumstance under (c)(7) if the defendant is less than 18 years of age.
- ▶ "This act does not apply to a case in which a death sentence has been imposed before September 1, 1987."

**1986 - P.L. 212, § 1**

- ▶ Added aggravating circumstance under (b) (11) where the murder victim is dismembered.

**1983 - P.L. 336, § 1, § 2**

- ▶ Added aggravating circumstance under (b) (10) where murder committed while the defendant is imprisoned with 20 or more years remaining on sentence to serve.
- ▶ "This act takes effect June 1, 1983."

**1977 - P.L. 340, § 122**

- ▶ Established new death sentence statute, in compliance with recent decisions of U.S. Supreme Court, enumerating aggravating circumstances and requiring the State to prove at least one aggravating circumstance beyond a reasonable doubt, and that any mitigating circumstances are outweighed by the aggravating circumstance(s).
- ▶ Repeals the former IC 35-13-4-1.

**1973 - P.L. 328, § 1**

- ▶ Established mandatory death sentence upon conviction of First Degree Murder where aggravating circumstances exist.

**1971 - P.L. 454, § 1**

- ▶ Established life imprisonment or a death sentence as jury penalty options upon conviction of First Degree Murder, where explosives used or underlying Rape, Arson, Burglary or Robbery committed.

## **IC 35-38-6 EXECUTION OF DEATH SENTENCE**

### **IC 35-38-6-1 Execution of death sentence; specified time and date; executioner; lethal injection**

- (a) The punishment of death shall be inflicted by intravenous injection of a lethal substance or substances into the convicted person:
- (1) in a quantity sufficient to cause the death of the convicted person; and
  - (2) until the convicted person is dead.
- (b) The death penalty shall be inflicted before the hour of sunrise on a date fixed by the sentencing court. However, the execution must not occur until at least one hundred (100) days after the conviction.
- (c) The superintendent of the state prison, or persons designated by the superintendent, shall designate the person who is to serve as the executioner.
- (d) The department of correction may adopt rules under IC 4-22-2 necessary to implement subsection(a). [As added by P.L.311-1983, § 3. Amended by P.L.294-1995, § 1; P.L.20-2002, § 1; P.L.67-2017, § 15; P.L.217-2017, § 158, effective April 27, 2017; P.L.86-2018, § 334, effective March 15, 2018.]

### **IC 35-38-6-2 Court to issue warrant to sheriff; contents**

The court in which a death sentence is ordered shall issue a warrant to the sheriff within fourteen (14) days of the sentence:

- (1) that is under the seal of the court;
- (2) that contains notice of the conviction and the sentence;
- (3) that is directed to the superintendent of the state prison; and
- (4) that orders the superintendent to execute the convicted person at a specified time and date in the state prison.

[As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 2; P.L.67-2017, § 16]

### **IC 35-38-6-3 Delivery of person to warden; receipt of delivery of person**

A sheriff who receives a warrant under section 2 or section 7 of this chapter shall immediately:

- (1) transport the person to the state prison;
- (2) deliver the person and the warrant to the superintendent of the prison;
- (3) obtain a receipt for the delivery of the person; and
- (4) deliver the receipt to the clerk of the sentencing court.

[As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 3; P.L.67-2017, § 17]

### **IC 35-38-6-4 Confinement of convicted person; segregation of female prisoner; visits**

(a) The convicted person shall be confined in the state prison until the date of the convicted person's execution. The convicted person may temporarily be held in a maximum security facility for security purposes or during renovation of the state prison. A convicted female shall be confined in a maximum security women's prison until not more than thirty (30) days before the date of her execution. A convicted female shall be segregated from the male prisoners after her transfer from the women's prison.

(b) The convicted person's:

- (1) attorney;
- (2) physician;
- (3) relatives;
- (4) friends; and
- (5) spiritual advisor;

may visit the convicted person while the convicted person is confined. The department of correction shall adopt rules, under IC 4-22-2, governing such visits.

[As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 4]

### **IC 35-38-6-5 Place of execution of death sentence**

The execution must take place inside the walls of the state prison in a room arranged for that purpose. The department of correction shall provide the necessary room and appliances to carry out the execution as provided in this chapter. [As added by P.L.311-1983, § 3. Amended by P.L.294-1995, § 2]

**IC 35-38-6-6 Persons permitted to be present at execution of death sentence; exclusion of persons for safety or security reasons; confidentiality of identity of persons assisting in execution**

- (a) Only the following persons may be present at the execution:
- (1) The superintendent of the state prison.
  - (2) The person designated by the superintendent of the state prison and any assistants who are necessary to assist in the execution.
  - (3) The prison physician.
  - (4) One (1) other physician.
  - (5) The spiritual advisor of the convicted person.
  - (6) The prison chaplain.
  - (7) Not more than five (5) friends or relatives of the convicted person who are invited by the convicted person to attend.
  - (8) Except as provided in subsection (b), not more than eight (8) of the following members of the victim's immediate family who are at least eighteen (18) years of age:
    - (A) The victim's spouse.
    - (B) One (1) or more of the victim's children.
    - (C) One (1) or more of the victim's parents.
    - (D) One (1) or more of the victim's grandparents.
    - (E) One (1) or more of the victim's siblings.
- (b) If there is more than one (1) victim, not more than eight (8) persons who are members of the victims' immediate families may be present at the execution. The department shall determine which persons may be present in accordance with procedures adopted under subsection (c).
- (c) The department shall develop procedures to determine which family members of a victim may be present at the execution if more than eight (8) family members of a victim desire to be present or if there is more than one (1) victim. Upon the request of a family member of a victim, the department shall establish a support room for the use of:
- (1) an immediate family member of the victim described in subsection (a)(8) who is not selected to be present at the execution; and
  - (2) a person invited by an immediate family member of the victim described in subsection (a)(8) to offer support to the immediate family member.
- (d) The superintendent of the state prison may exclude a person from viewing the execution if the superintendent determines that the presence of the person would threaten the safety or security of the state prison and sets forth this determination in writing.
- (e) The department of correction:
- (1) shall keep confidential the identities of persons who assist the superintendent of the state prison in an execution; and (2) may: (A) classify as confidential; and withhold from the public; any part of a document relating to an execution that would reveal the identity of a person who assists the superintendent in the execution.
- [As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 5; P.L. 56-2006, § 1; P.L.67-2017, §18]

**IC 35-38-6-7 Escape and recapture of convicted person**

- (a) If the convicted person:
- (1) escapes from custody before the date set for execution; and
  - (2) is recaptured before the date set for execution;
- the convicted person shall be confined and executed according to the terms of the warrant.
- (b) If the convicted person:
- (1) escapes from custody before delivery to the superintendent of the state prison; and
  - (2) is recaptured after the date set for execution;
- any person may arrest and commit the convicted person to the jail of the county in which the convicted person was sentenced. The sheriff shall notify the sentencing court of the recapture, and the court shall fix a new date for the execution. The new execution date must not be less than thirty (30) nor more than sixty (60) days after the recapture of the person. The court shall issue a new warrant in the form prescribed by section 2 of this chapter.

(c) If the convicted person:

- (1) escapes from confinement; and
- (2) is recaptured after the date set for his execution;

any person may arrest and commit the convicted person to the department of correction. When the convicted person is returned to the department of correction or a facility or place designated by the department of correction, the department shall notify the sentencing court, and the court shall fix a new date for the execution. The new execution date must not be less than thirty (30) nor more than sixty (60) days after the recapture of the person. The court shall issue a warrant to the department of correction directing the superintendent of the state prison to execute the convicted person at a specified time and date in the state prison.

[As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 6, Effective March 14, 2002; P.L.67-2017, § 19]

#### **IC 35-38-6-8 Suspension of execution of death sentence; reason for delay**

(a) If the execution of the death sentence is suspended, the department of correction shall note the reason for the delay on the warrant but shall proceed with the execution when the period of suspension ends.

(b) The warrant shall be returned to the clerk of the sentencing court after:

- (1) the convicted person is executed;
- (2) the convicted person has been pardoned;
- (3) the convicted person's judgment has been reversed;
- (4) the convicted person's sentence has been commuted; or
- (5) the convicted person dies before his execution;

with a statement concerning the completion of the execution or the reason why the person was not executed. [As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 7]

#### **IC 35-38-6-9 Application of chapter to women convicted and sentenced to death**

The provisions of this chapter in relation to the infliction of the death penalty extend equally, so far as applicable, to the case of any woman convicted and sentenced to death. [As added by P.L.311-1983, § 3.]

#### **IC 35-38-6-10 Suspension of execution when condemned woman is pregnant; physicians certification**

If the physician of the state prison and one (1) other physician certify in writing to the superintendent of the state prison and the sentencing court that a condemned woman is pregnant, the superintendent shall suspend the execution of the sentence. When the state prison physician and one (1) other physician certify in writing to the superintendent of the state prison and the sentencing court that the woman is no longer pregnant, the sentencing court shall immediately fix a new execution date. [As added by P.L.311-1983, § 3; Amended by P.L.20-2002, § 8; P.L.67-2017, § 20]

**Summary:** The prescribed method of execution is by lethal injection, to be carried out at the Indiana State Prison in Michigan City, before sunrise by the Indiana Department of Corrections. Witnesses are limited to the warden and assistants, the prison physician and chaplain, 5 guests and spiritual advisor of the inmate, and up to 8 members of the victim's immediate family. If the inmate is pregnant, the execution is suspended until no longer pregnant.

#### **2018 - P.L.86-2018, § 334 (Effective March 15, 2018)**

- ▶ Changes the name of the person to serve as executioner, or to designate another, from "Superintendent" to "Warden" of the Indiana State Prison.

#### **2017 - P.L.217-2017, § 158 (Effective April 27, 2017)**

- ▶ In response to attacks by death row defendants, lawyers, and even drug companies, new provisions were added to specifically allow IDOC to enter into contracts for lethal drugs to be obtained from wholesalers, distributors, pharmacy or pharmacist, through issuance or compounding.
- ▶ In response to the threat of disciplinary action against cooperating pharmacists, added provisions excluding the Indiana Board of Pharmacy of its power and jurisdiction in such cases.

- ▶ Specific provisions were added to keep confidential, and not subject to discovery, the identity of any person providing such lethal substances.

**2017 - P.L. 67, § 15-20 (Effective July 1, 2017)**

- ▶ Changes the name of the person responsible for carrying out the execution from “Superintendent” to “Warden” of the Indiana State Prison.

**2006 - P.L. 56, § 1 (Effective March 13, 2006)**

- ▶ Reduces from 10 to 5 the number of the inmate’s friends or relatives who may attend execution.
- ▶ For first time, allows up to 8 members of victim’s immediate family to attend execution.
- ▶ Allows other members of victim’s immediate family and guests to use “support room.”
- ▶ Authorizes DOC to adopt rules for selection when more than 1 victim or more than 8 family members.

**2002 - P.L. 20-2002, § 1-8 (Effective March 14, 2002)**

- ▶ Substitutes "superintendent" for "warden" and authorizes superintendent to designate an "executioner."
- ▶ Authorizes death row prisoners to be held in maximum security outside the Indiana State Prison for security or during renovations.
- ▶ Mandates female death row prisoners to be held at a maximum security women’s prison.
- ▶ Mandates female death row prisoners to be segregated from male prisoners after transfer to Indiana State Prison, which must be not more than 30 days before execution.
- ▶ Allows Superintendent to exclude execution witnesses for security reasons, if done so in writing.
- ▶ Requires DOC to keep the identities of those assisting in execution confidential.
- ▶ Made changes to reflect gender-neutral language.

**1995 - P.L. 294-1995, § 1-2 (Effective July 1, 1995)**

- ▶ Amended IC 35-38-6-1 changing the method of execution from electrocution to lethal injection.
- ▶ Prior to this time, the statute provided: “The punishment of death shall be inflicted by causing to pass through the body of the convicted person a current of electricity of sufficient intensity to cause death. The application of the current must continue until the person is dead.”
- ▶ Empowers the Department of Correction to implement rules to carry out executions.

**Formerly:**

IC 35-1-46-9.

Acts 1913, c. 315, § 1.

- ▶ Changed method of execution from hanging to electrocution.

Acts 1905, c. 169, § 310.

## **IC 35-36-9 PRETRIAL DETERMINATION OF INTELLECTUAL DISABILITY IN DEATH SENTENCE CASES**

### **IC 35-36-9-1**

This chapter applies when a defendant is charged with a murder for which the state seeks a death sentence under IC 35-50-2-9. [As added by P.L.158-1994, § 3; P.L.2-1996, § 283.]

### **IC 35-36-9-2**

As used in this chapter, "individual with an intellectual disability" means an individual who, before becoming twenty-two (22) years of age, manifests: (1) significantly subaverage intellectual functioning; and (2) substantial impairment of adaptive behavior; that is documented in a court ordered evaluative report. [As added by P.L.158-1994, § 3; P.L. 99-2007, § 201 (Effective May 2, 2007); P.L.117-2015, § 48]

### **IC 35-36-9-3**

- (a) The defendant may file a petition alleging that the defendant is an individual with an intellectual disability.
- (b) The petition must be filed not later than twenty (20) days before the omnibus date.
- (c) Whenever the defendant files a petition under this section, the court shall order an evaluation of the defendant for the purpose of providing evidence of the following:
  - (1) Whether the defendant has a significantly subaverage level of intellectual functioning.
  - (2) Whether the defendant's adaptive behavior is substantially impaired.
  - (3) Whether the conditions described in subdivisions (1) and (2) existed before the defendant became twenty-two (22) years of age.

[As added by P.L.158-1994, § 3 ; P.L. 99-2007, § 202 (Effective May 2, 2007); P.L.117-2015, § 49]

### **IC 35-36-9-4**

- (a) The court shall conduct a hearing on the petition under this chapter.
- (b) At the hearing, the defendant must prove by clear and convincing evidence that the defendant is an individual with mental retardation.

[As added by P.L.158-1994, § 3; P.L. 99-2007, § 203 (Effective May 2, 2007); P.L.117-2015, § 50]

### **IC 35-36-9-5**

Not later than ten (10) days before the initial trial date, the court shall determine whether the defendant is an individual with an intellectual disability based on the evidence set forth at the hearing under section 4 of this chapter. The court shall articulate findings supporting the court's determination under this section.

[As added by P.L.158-1994, § 3; P.L. 99-2007, § 204 (Effective May 2, 2007); P.L.117-2015, § 51]

### **IC 35-36-9-6**

If the court determines that the defendant is an individual with an intellectual disability under section 5 of this chapter, the part of the state's charging instrument filed under IC 35-50-2-9(a) that seeks a death sentence against the defendant shall be dismissed. [As added by P.L.158-1994, § 3; P.L. 99-2007, § 205 (Effective May 2, 2007); P.L.117-2015, § 52]

### **IC 35-36-9-7**

If a defendant who is determined to be an individual with an intellectual disability under this chapter is convicted of murder, the court shall sentence the defendant under IC 35-50-2-3(a). [As added by P.L.158-1994, § 3; P.L. 99-2007, § 206 (Effective May 2, 2007); P.L.117-2015, § 53]

**Summary:** (Exempting an individual with an intellectual disability from a Death Sentence / Execution) Allows a capital defendant to file a petition 20 days before Omnibus Date alleging that he has an intellectual disability . Upon filing, the court orders a mental evaluation, and a hearing is held. The burden of proof is on the defendant to show by clear and convincing evidence that he is an individual with an intellectual disability. If this burden is met, the death penalty allegations must be dismissed. An "individual with an intellectual disability" is defined as one who, before 22 years of age, manifests: (1) significantly subaverage intellectual functioning; and (2) substantial impairment of adaptive behavior; that is documented in a court ordered evaluative report.

**2015 - P.L.117-2015, § 48-53 (Effective July 1, 2015)**

- ▶ Makes minor change in wording of statutes, changing “an individual with mental retardation” to an individual with “an intellectual disability.” Keeps the same definition, burden of proof, and all other requirements intact. Follows the lead of the federal government in 2010. Advocates for individuals with intellectual disability have asserted that the term “mental retardation” has negative connotations, has become offensive to many people, and often results in misunderstandings about the nature of the disorder and those who have it. A more conspiratorial explanation may be that those same advocates would prefer that no one with a mental illness receive a death sentence and this new term makes it easier to exclude them. After all, the ordinary definition of “intellectual disability” is not the same as “retarded,” and unquestionably would include a much higher percentage of the mentally ill.

**2007 - P.L. 99-2007, § 201-206 (Effective May 2, 2007)**

- ▶ Makes minor change in wording of statutes, changing “a mentally retarded individual” to “an individual with mental retardation.”

## Indiana Criminal Rule 24 - Capital Cases

**(A) Supreme Court cause number.** Whenever a prosecuting attorney seeks the death sentence by filing a request pursuant to Ind. Code § 35-50-2-9, the prosecuting attorney shall file that request with the trial court and with the Court Administrator, Indiana Supreme Court, 315 State House, Indianapolis, Indiana 46204. Upon receipt of same, the Court Administrator shall open a cause number in the Supreme Court and notify counsel.

**(B) Appointment of qualified trial counsel.** Upon a finding of indigence, it shall be the duty of the judge presiding in a capital case to enter a written order specifically naming two (2) qualified attorneys to represent an individual in a trial proceeding where a death sentence is sought. The provisions for the appointment of counsel set forth in this section do not apply in cases wherein counsel is employed at the expense of the defendant.

**(1) Lead counsel; qualifications.** One (1) of the attorneys appointed by the court shall be designated as lead counsel. To be eligible to serve as lead counsel, an attorney shall:

- (a) be an experienced and active trial practitioner with at least five (5) years of criminal litigation experience;
- (b) have prior experience as lead or co-counsel in no fewer than five (5) felony jury trials which were tried to completion;
- (c) have prior experience as lead or co-counsel in at least one (1) case in which the death penalty was sought; and
- (d) have completed within two (2) years prior to appointment at least twelve (12) hours of training in the defense of capital cases in a course approved by the Indiana Public Defender Commission.

**(2) Co-counsel; qualifications.** The remaining attorney shall be designated as co-counsel. To be eligible to serve as co-counsel, an attorney shall:

- (a) be an experienced and active trial practitioner with at least three (3) years of criminal litigation experience;
- (b) have prior experience as lead or co-counsel in no fewer than three (3) felony jury trials which were tried to completion; and
- (c) have completed within two (2) years prior to appointment at least twelve (12) hours of training in the defense of capital cases in a course approved by the Indiana Public Defender Commission.

**(3) Workload of appointed and salaried capital counsel.** In the appointment of counsel, the nature and volume of the workload of appointed counsel must be considered to assure that counsel can direct sufficient attention to the defense of a capital case.

(a) Attorneys accepting appointments pursuant to this rule shall provide each client with quality representation in accordance with constitutional and professional standards. Appointed counsel shall not accept workloads which, by reason of their excessive size, interfere with the rendering of quality representation or lead to the breach of professional obligations.

(b) A judge shall not make an appointment of counsel in a capital case without assessing the impact of the appointment on the attorney's workload, including the administrative duties of a chief or managing public defender.

(c) Salaried or contractual public defenders may be appointed as trial counsel in a capital case, if:

- (i) the public defender's caseload will not exceed twenty (20) open felony cases while the capital case is pending in the trial court;
- (ii) no new cases will be assigned to the public defender within thirty (30) days of the trial setting in the capital case;
- (iii) none of the public defender's cases will be set for trial within fifteen (15) days of the trial setting in the capital case; and
- (iv) compensation is provided as specified in paragraph (C).

(d) The workload to full-time salaried capital public defenders will be limited consistent with subsection (B)(3)(a) of this rule. The head of the local public defender agency or office, or in the event there is no agency or office, the trial judge, shall not make an appointment of a full-time capital public defender in a capital case without assessing the impact of the appointment on the attorney's workload, including the administrative duties of a chief or managing public defender. In assessing an attorney's workload, the head of the local public defender agency or office, or in

the event there is no agency or office, the trial judge shall be guided by Standard J of the Standards for Indigent Defense Services in Non-Capital cases as adopted by the Indiana Public Defender Commission, effective January 1, 1995, and shall treat each capital case as the equivalent of forty (40) felonies under the Commission's "all felonies" category. Appointment of counsel shall also be subject to subsections (B)(3)(c)(ii), (iii) and (iv) of this rule.

(C) **Compensation of appointed trial counsel.** All hourly rate trial defense counsel appointed in a capital case shall be compensated under subsection (1) of this provision upon presentment and approval of a claim for services detailing the date, activity, and time duration for which compensation is sought. Hourly rate counsel shall submit periodic billings not less than once every thirty (30) days after the date of appointment by the trial court. All salaried capital public defenders compensated under subsection (4) of this provision shall present a monthly report detailing the date, activity, and time duration of services rendered after the date of appointment. Periodic payment during the course of counsel's representation shall be made.

(1) **Hours and hourly rate.** Defense counsel appointed at an hourly rate in capital cases filed or remanded after appeal on or after January 1, 2001, shall be compensated for time and services performed at the hourly rate of ninety dollars (\$90.00) only for that time and those services determined by the trial judge to be reasonable and necessary for the defense of the defendant. The trial judge's determination shall be made within thirty (30) days after submission of billings by counsel. Counsel may seek advance authorization from the trial judge, ex parte, for specific activities or expenditures of counsel's time.

The hourly rate set forth in this rule shall be subject to review and adjustment on a biennial basis by the Chief Administrative Officer (CAO) of the Indiana Office of Judicial Administration (IOJA). Beginning July 1, 2002, and July 1st of each even year thereafter, the CAO shall announce the hourly rate for defense counsel appointed in capital cases filed or remanded after appeal on or after January 1, of the years following the announcement. The hourly rate will be calculated using the Gross Domestic Product Implicit Price Deflator, as announced by the United States Department of Commerce, for the last two years ending December 31st preceding the announcement. The calculation by the CAO shall be rounded to the next closest whole dollar.

In the event the appointing judge determines that the rate of compensation is not representative of practice in the community, the appointing judge may request the CAO of the IOJA to authorize payment of a different hourly rate of compensation in a specific case.

(2) **Support services and incidental expenses.** Counsel appointed at an hourly rate in a capital case shall be provided, upon an ex parte showing to the trial court of reasonableness and necessity, with adequate funds for investigative, expert, and other services necessary to prepare and present an adequate defense at every stage of the proceeding, including the sentencing phase. In addition to the hourly rate provided in this rule, all counsel shall be reimbursed for reasonable and necessary incidental expenses as approved by the trial judge. Counsel may seek advance authorization from the trial judge, ex parte, for specific incidental expenses.

Full-time salaried capital public defenders shall be provided with adequate funds for investigative, expert, and other services necessary to prepare and present an adequate defense at every stage of the proceeding, including the sentencing phase, as determined by the head of the local public defender agency or office, or in the event there is no agency or office, by the trial judge as set forth above.

(3) **Contract employees.** In the event counsel is generally employed by the court of appointment to perform other defense services, the rate of compensation set for such other defense services may be adjusted during the pendency of the death penalty case to reflect the limitations of case assignment established by this rule.

(4) **Salaried capital public defenders.** In those counties having adopted a Comprehensive Plan as set forth in IC 33-9-15 et seq., which has been approved by the Indiana Public Defender Commission, and who are in compliance with Commission standards authorized by IC 33-9-13-3(2), a full-time salaried capital public defender meeting the requirements of this rule may be assigned in a capital case by the head of the local public defender agency or office, or in the event there is no agency or office, by the trial judge. Salaried capital public defenders may be designated as either lead counsel or co-counsel. Salaried capital lead counsel and co-counsel must be paid salary and benefits equivalent to the average of the salary and benefits paid to lead prosecuting attorneys and

prosecuting attorneys serving as co-counsel, respectively, assigned to capital cases in the county.

Each year, by July 1, those counties wishing to utilize full-time salaried capital public defenders for capital cases shall submit to the CAO of the IOJA the salary and benefits proposed to be paid the capital public defenders for the upcoming year along with the salaries and benefits paid to lead prosecutors and prosecutors serving as co-counsel assigned capital cases in the county in the thirty-six (36) months prior to July 1, or a certification that no such prosecutor assignments were made. The CAO shall verify and confirm to the Indiana Public Defender Commission and the requesting county that the proposed salary and benefits are in compliance with this rule. In the event a county determines that the rate of compensation set forth herein is not representative of practice in the community, the county may request the CAO to authorize a different salary for a specific year.

(D) **Transcription of capital cases.** The trial or post-conviction court in which a capital case is pending shall provide for stenographic reporting with computer-aided transcription of all phases of trial and sentencing and all evidentiary hearings, including both questions and answers, all rulings of the judge in respect to the admission and rejection of evidence and objections thereto and oral argument, as required by Criminal Rule 5. If the parties agree, on the record, the court may permit electronic recording or stenographic reporting without computer-aided transcription of pre-trial attorney conferences and pre-trial or post-trial non-evidentiary hearings and arguments.

(E) **Imposition of sentence.** Whenever a court sentences a defendant to death, the court shall pronounce said sentence and issue its order to the Department of Correction for the defendant to be held in an appropriate facility. A copy of the order of conviction, order sentencing the defendant to death, an order committing the death-sentence inmate to the Department of Correction shall be forwarded by the court imposing sentence to the Indiana Supreme Court Administrator's Office. When a trial court imposes a death sentence, it shall, on the same day sentence is imposed, order the court reporter and clerk to begin immediate preparation of the record on appeal.

(F) **Setting of initial execution date — Notice.** In the sentencing order, the trial court shall set an execution date one (1) year from the date of judgment of conviction. Copies of said order shall be sent by the trial court to:

- (i) the prosecuting attorney of record;
- (ii) the defendant;
- (iii) the defendant's attorney of record;
- (iv) the appellate counsel, of such has been appointed;
- (v) the Attorney General;
- (vi) the Commissioner of the Department of Correction;
- (vii) the Warden of the institution where the defendant is confined; and
- (viii) the State Public Defender.

Contemporaneously with the service of the order setting the date of execution to the parties listed in this section, the trial court shall forward to the Supreme Court Administrator's Office a copy of the order, with a certification by the clerk of the court that the parties listed in this section were served a copy of the order setting the date of execution.

(G) **Stay of execution date.** This section governs the stay of execution for defendants sentenced to death.

(1) **Stay of execution — General.** The Supreme Court shall have exclusive jurisdiction to stay the execution of a death sentence. In the event the Supreme Court stays the execution of a death sentence, the Supreme Court shall order the new execution date when the stay is lifted. A copy of an order to stay an execution or set a new date for execution will be sent to the persons set forth in section (F) of this rule.

(2) **Stay of initial execution date.** Upon petition or on its own motion, the Supreme Court shall stay the initial execution date set by the trial court. On the thirtieth (30th) day following completion of rehearing, the Supreme Court shall enter an order setting an execution date, unless counsel has appeared and requested a stay in accordance with section (H) of this rule. A copy of an order entered under this provision will be sent to the persons set forth in section (F) of this rule.

(H) **Post-conviction relief — Stay — Duty of Counsel.** Within thirty (30) days following completion of rehearing, private counsel retained by the inmate or the State Police Defender (by deputy or by special assistant in the event of a conflict of interest) shall enter an appearance in the trial court, advise the trial court of the intent to petition for post-conviction relief, and request the Supreme Court to extend the stay of

execution of the death sentence. A copy of said appearance and notice of intent to file a petition for post-conviction relief shall be served by counsel on the Supreme Court Administrator. When the request to extend the stay is received, the Supreme Court will direct the trial court to submit a case management schedule consistent with Ind. Code § 35-50-2-9(i) for approval. On the thirtieth (30th) day following completion of any appellate review of the decision in the post-conviction proceeding, the Supreme Court shall enter an order setting the execution date. It shall be the duty of counsel of record to provide notice to the Supreme Court Administrator of any action filed with or decision rendered by a federal court that relate to defendants sentenced to death by a court in Indiana.

(I) **Initiation of appeal.** When a trial court imposes a death sentence, it shall on the same day sentence is imposed order the court reporter and clerk to begin immediate preparation of the record on appeal.

(J) **Appointment of appellate counsel.** Upon a finding of indigence, the trial court imposing a sentence of death shall immediately enter a written order specifically naming counsel under this provision for appeal. If qualified to serve as appellate counsel under this rule, trial counsel shall be appointed as sole or co-counsel for appeal.

(1) **Qualifications of appellate counsel.** An attorney appointed to serve as appellate counsel for an individual sentenced to die, shall:

- (a) be an experienced and active trial or appellate practitioner with at least three (3) years experience in criminal litigation;
- (b) have prior experience within the last five (5) years as appellate counsel in no fewer than three (3) felony convictions in federal or state court; and
- (c) have completed within two (2) years prior to appointment at least twelve (12) hours of training in the defense of capital cases in a course approved by the Indiana Public Defender Commission.

(2) **Workload of appointed appellate counsel.** In the appointment of Appellate Counsel, the judge shall assess the nature and volume of the workload of appointed appellate counsel to assure that counsel can direct sufficient attention to the appeal of the capital case. In the event the appointed appellate counsel is under a contract to perform other defense or appellate services for the court of appointment, no new cases for appeal shall be assigned to such counsel until the Appellant's Brief in the death penalty case is filed.

(K) **Compensation of appellate counsel.** Appellate counsel appointed to represent an individual sentenced to die shall be compensated under this provision upon presentment and approval of a claim for services detailing the date, activity, and time duration for which compensation is sought. Counsel shall submit periodic billings not less than once every thirty (30) days after the date of appointment. Attorneys employed by appellate counsel for consultation shall be compensated at the same rate as appellate counsel.

(1) **Hours and hourly rate.** Appellate counsel appointed on or after January 1, 2001, to represent an individual sentenced to die shall be compensated for time and services performed at the hourly rate of ninety dollars only for that time and those services determined by the trial judge to be reasonable and necessary for the defense of the defendant. The trial judge's determination shall be made within thirty (30) days after submission of billings by counsel. Counsel may seek advance authorization from the trial judge, ex parte, for specific activities or expenditures of counsel's time.

The hourly rate set forth above shall be subject to review and adjustment as set forth in section (C)(1) of this rule.

In the event the appointing judge determines that this rate of compensation is not representative of practice in the community, the appointing judge may request the CAO of the IOJA to authorize payment of a different hourly rate of compensation in a specific case.

(2) **Contract employees.** In the event appointed appellate counsel is generally employed by the court of appointment to perform other defense services, the rate of compensation set for such other defense services may be adjusted during the pendency of the death penalty appeal to reflect the limitations of case assignment established by this rule.

(3) **Salaried capital public defenders.** In the event appointed appellate counsel is a salaried capital public defender, as described in section (C)(4) of this rule, the county must comply with, and counsel shall be compensated according to, the requirements of section (C)(4).

(4) **Incidental expenses.** In addition to the hourly rate or salary provided in this rule, appellate counsel shall be reimbursed for reasonable incidental expenses as approved by the court of appointment.

(L) **Briefing on appeal.** In capital cases, counsel shall place the verbatim judgment of the trial court and verbatim instructions and the verbatim objections thereto required by Appellate Rule 50(B) in an Addendum to Brief, and these documents shall not count against the word limit of the brief.

**Summary:** (Minimum Qualifications, Caseloads and Compensation of Trial and Appellate Counsel; Ex Parte Experts and Services; Execution Dates; Transcripts) When a Prosecuting Attorney files a request for a death sentence, the request must also be filed with the Indiana Supreme Court Administrator. When a Public Defender is appointed, the trial court must appoint 2 qualified attorneys. Lead counsel must have 5 years criminal litigation experience, with at least 5 felony jury trials and 1 death penalty case as lead or co-counsel. Co-counsel must have 3 years criminal litigation experience, with at least 3 felony jury trials as lead or co-counsel. Additionally, both attorneys must have completed 12 hours of training in capital cases in the last 2 years. The caseload of either attorney may not exceed 20 open felony cases, with no new cases assigned within 30 days of trial. No other cases can be set for trial within 15 days of capital trial. Counsel shall be paid at an hourly rate of \$90+ per hour, with no limitation on the number of hours. The trial court shall provide adequate funds for investigators, experts, and other services reasonable and necessary upon an ex parte showing by counsel. Counties can receive 50% reimbursement from the state of all expenses in a capital case. Computer-aided transcription is required in all cases. The trial court shall set an execution date one year from conviction, which may be stayed pending appeal, but only by the Indiana Supreme Court. Appointed appellate counsel must have 3 years criminal litigation experience, with at least 3 felony appeals within the last 5 years, with 12 hours of training in capital cases in the last 2 years. Compensation is also set at \$90+ per hour with no limitation on the number of hours.

[Adopted Nov. 30, 1989, effective Jan. 1, 1990; amended Oct. 21, 1991, effective Jan. 1, 1992; amended Jan. 22, 1993, effective Feb. 1, 1993; amended effective March 28, 1996; amended Feb. 4, 2000, effective Jan. 1, 2001; amended Dec. 22, 2000, effective Jan. 1, 2001; amended effective March 5, 2001; amended December 21, 2001, effective April 1, 2002; amended May 29, 2013, effective May 29, 2013; amended October 30, 2017, effective January 1, 2018; amended December 17, 2020, effective January 1, 2021]

**Amended December 17, 2020 (effective January 1, 2021)**

- ▶ Makes minor changes directing the reader to different sections of Rule 24 applicable to compensation for appointed counsel and for salaried Public Defenders.

**Amended October 30, 2017 (effective January 1, 2018)**

- ▶ Makes minor changes in name of office responsible for reviewing and adjusting the hourly rates of appointed attorneys to Chief Administrative Officer (CAO) of the Indiana Office of Judicial Administration (IOJA).

**Amended 05-29-13 (effective 05-29-13)**

- ▶ Mandates that the Court take into account the administrative workload of a Local Public Defender before appointment in a capital case.

**Amended 12-21-01 (effective 04-01-02)**

- ▶ Makes minor changes in wording to mirror new wording of Indiana Appellate Rules.

**Amended 03-05-01 (effective 03-05-01)**

- ▶ Rewrote subsection (K), increasing the hourly rate for compensation to APPELLATE defense counsel from \$70 to \$90, and authorizing ex parte requests by APPELLATE defense counsel for authorization of specific activities or expenditures of counsel's time. Requires at least monthly claims.

**Amended 12-22-00 (effective 01-01-01)**

- ▶ Added subsection (B) (3) (d), requiring the local PD to take into account caseload when assigning a capital case, with guidance from Standards for Indigent Defense adopted by Public Defender Commission.
- ▶ Added subsection (C) (4), requiring that salaried public defenders who are assigned capital cases for trial must be paid salary and benefits equal to prosecutors.
- ▶ Rewrote subsection (C) (1), increasing the hourly rate for compensation to TRIAL defense counsel from \$70 to \$90, and authorizing ex parte requests by TRIAL defense counsel for authorization of specific activities or expenditures of counsel's time.

**Amended 02-04-00 (effective 01-01-01)**

- ▶ In subsection (A), substituted "315" for "312" in state House address of Supreme Court Administrator.
- ▶ In subsection (E), added the final sentence requiring the trial court to order immediate preparation of the record following sentencing.
- ▶ In subsection (L), substituted "shall" for "may", "50B" for "8(A)", and "attachment" for "appendix" relating to appellate briefs.

**Amended 03-28-96 (effective 03-28-96)**

- ▶ Rewrote subsections (E), (F), & (G), requiring that an execution date be set within one year from judgment of conviction, and giving Indiana Supreme Court exclusive jurisdiction to issue stay.
- ▶ Rewrote subsection (H), requiring PCR counsel to enter appearance within 30 days of completion of direct appeal and to file notice of intent to file Petition; and upon completion of PCR appeal to notify Supreme Court Administrator of any federal court action.

**Amended 01-22-93 (effective 02-01-93)**

- ▶ Rewrote subsection (G), to require that no execution date be set until final decision of Indiana Supreme Court.

**Amended 10-21-91 ((effective 01-01-92)**

- ▶ Added subsections (B), (C), and (K), and rewrote subsection (J).
- ▶ Added subsection (B) (1) & (2), requiring that two attorneys be appointed for defendant at trial, with lead counsel having at least 5 years in criminal litigation, 5 felony jury trials, 1 prior death penalty case, and 12 hours of training; co-counsel to have 3 years in criminal litigation, 3 felony jury trials, and 12 hours of training.
- ▶ Added subsection (B) (3), limiting the caseload of appointed trial attorney public defender to 20 open felony cases, with no new cases assigned within 30 days of trial, and no other trial settings within 15 days of trial.
- ▶ Added subsection (C), setting the hourly rate of \$70 for appointed trial counsel, with no limits; requiring adequate funds for investigators and experts, with no limits.
- ▶ Added subsection (K), setting similar compensation for appellate counsel.
- ▶ Rewrote subsection (J), setting minimum qualifications for appointed appellate counsel, requiring 3 years in criminal litigation, 3 cases as appellate counsel on felony conviction, and 12 hours of training.

**Adopted 11-30-89 (effective 01-01-90)**

- ▶ Prosecutor required to notify Supreme Court Administrator of death penalty filing.
- ▶ Trial or PCR Court required to use computer-aided transcription.
- ▶ Specific duties given to trial court and parties on the setting of execution dates.
- ▶ Trial defense counsel must be appointed sole or co-counsel for appeal.

# PUBLIC OPINION

## Gallup Polls

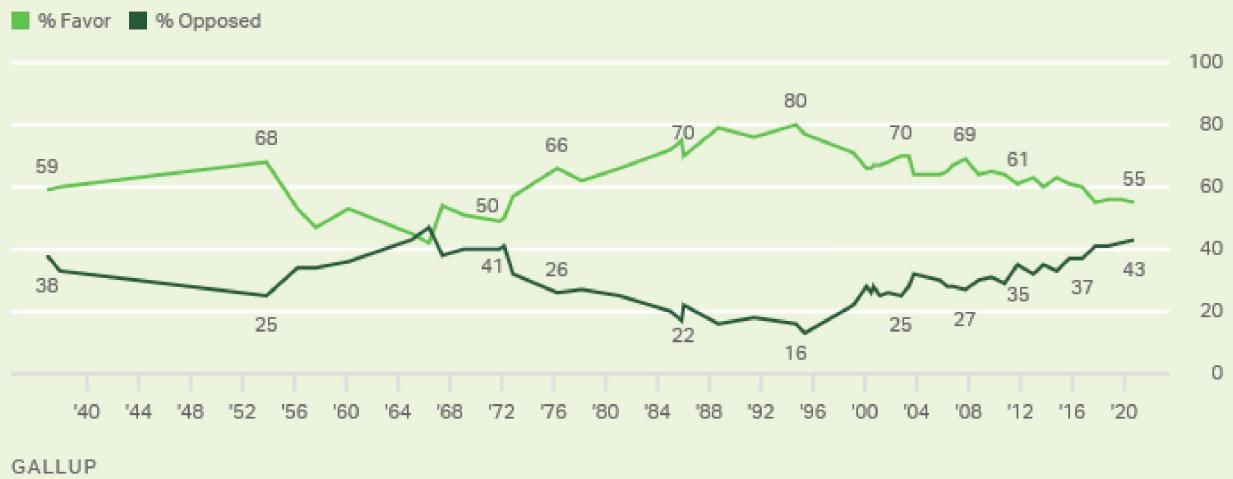
### **ARE YOU IN FAVOR OF THE DEATH PENALTY FOR A PERSON CONVICTED OF MURDER?**

	<u>Favor</u>	<u>Oppose</u>	<u>No Opinion</u>		<u>Favor</u>	<u>Oppose</u>	<u>No Opinion</u>
2020 Sep 30-Oct 15	55%	43%	02%	1999 Feb 8-9	71%	22%	07%
2019 Oct 1-13	56%	42%	02%	1995 May 11-14	77%	13%	10%
2018 Oct 1-10	56%	41%	04%	1994 Sep 6-7	80%	60%	04%
2017 Oct 5-11	55%	41%	03%	1991 Jun 13-16	76%	08%	06%
2016 Oct 5-9	60%	37%	03%	1988 Sep 25-Oct 1	79%	06%	05%
2015 Oct 7-11	61%	37%	02%	1988 Sep 9-11	79%	06%	05%
2014 Oct 12-15	63%	33%	04%	1986 Jan 10-13	70%	02%	08%
2013 Oct 3-6	60%	35%	05%	1985 Nov 11-18	75%	07%	08%
2012 Dec 19-22	63%	32%	06%	1985 Jan 11-14	72%	00%	08%
2011 Oct 6-9	61%	35%	04%	1981 Jan 30-Feb 2	66%	05%	09%
2010 Oct 7-10	64%	29%	06%	1978 Mar 3-6	62%	27%	11%
2009 Oct 1-4	65%	31%	05%	1976 Apr 9-12	66%	26%	08%
2008 Oct 3-5	64%	30%	05%	1972 Nov 10-13	57%	32%	11%
2007 Oct 4-7	69%	27%	04%	1972 Mar 3-5	50%	41%	09%
2006 Oct 9-12	67%	28%	05%	1971 Oct 29-Nov 2	49%	40%	11%
2006 May 5-7	65%	28%	07%	1969 Jan 23-28	51%	40%	09%
2005 Oct 13-16	64%	30%	06%	1967 Jun 2-7	54%	38%	08%
2004 Oct 11-14	64%	31%	05%	1966 May 19-24	42%	47%	11%
2003 Oct 6-8	64%	32%	04%	1965 Jan 7-12	45%	43%	12%
2003 May 19-21	70%	28%	02%	1960 Mar 2-7	53%	36%	11%
2002 Oct 14-17	70%	25%	05%	1957 Aug 29-Sep 4	47%	34%	18%
2001 Oct 11-14	68%	26%	06%	1956 Mar 29-Apr 3	53%	34%	13%
2001 Feb 19-21	67%	25%	08%	1953 Nov 1-5	68%	25%	07%
2000 Aug 29-Sep 5	67%	28%	05%	1937 Dec 1-6	60%	33%	07%
2000 Jun 23-25	66%	26%	08%	1936 Dec 2-7	59%	38%	03%

#### **September 30-October 15, 2020**

Results are based on telephone interviews with a random sample of: 1,035 adults nationwide. The margin of sampling error is ±4 percentage points at the 95% confidence level. Samples are weighted to match national demographics. Each sample includes a minimum quota of 70% cell phone respondents and 30% landline respondents, using random digit dial methods.

Are you in favor of the death penalty for a person convicted of murder?



**IF YOU COULD CHOOSE BETWEEN THE FOLLOWING TWO APPROACHES, WHICH DO YOU THINK IS THE BETTER PENALTY FOR MURDER: THE DEATH PENALTY (OR) LIFE IMPRISONMENT, WITH ABSOLUTELY NO POSSIBILITY OF PAROLE]? [ROTATED]**

(Perhaps the results would be different if the choices were changed to: The death penalty when aggravating circumstances are present, or Life Imprisonment?)

	Death Penalty	Life Imprisonment	No Opinion
2019 Oct 14-31	36%	60%	4%
2014 Sep 25-30	50%	45%	5%
2010 Oct 7-10	49%	46%	6%
2006 May 5-7	47%	48%	5%
2001 Feb 19-21	54%	42%	4%
2000 Aug 29-Sep 5	49%	47%	4%
2000 Feb 20-21	52%	37%	11%
1999 Feb 8-9	56%	38%	6%
1997 Aug 12-13	61%	29%	10%
1993 Oct 13-18	59%	29%	12%
1992 Mar 30-Apr 5	50%	37%	13%
1991 Jun 13-16	53%	35%	11%
1986 Jan 10-13	55%	35%	10%
1985 Jan 11-14	56%	34%	10%

**NEXT, I'M GOING TO READ YOU A LIST OF ISSUES. REGARDLESS OF WHETHER OR NOT YOU THINK IT SHOULD BE LEGAL, FOR EACH ONE, PLEASE TELL ME WHETHER YOU PERSONALLY BELIEVE THAT IN GENERAL IT IS MORALLY ACCEPTABLE OR MORALLY WRONG. HOW ABOUT THE DEATH PENALTY?**

	Morally Acceptable	Morally Wrong	Depends	No Opinion
2021 May 3-18	55%	40%	05%	01%
2020 May 1-13	54%	40%	05%	01%
2019 May 1-12	60%	35%	05%	01%
2018 May 1-10	62%	33%	04%	01%
2017 May 3-7	58%	35%	06%	02%
2016 May 4-8	59%	34%	06%	01%
2015 May 6-10	60%	33%	05%	02%
2014 May 8-11	61%	30%	07%	03%
2013 May 2-7	62%	31%	05%	02%
2012 May 3-6	58%	34%	06%	01%
2011 May 5-8	65%	28%	05%	02%
2010 May 3-6	65%	26%	07%	02%
2009 May 7-10	62%	30%	06%	02%
2008 May 8-11	62%	30%	05%	03%
2007 May 10-13	66%	27%	05%	02%
2006 May 8-11	71%	22%	05%	02%
2005 May 2-5	70%	25%	04%	01%
2004 May 2-4	65%	28%	05%	02%
2003 May 5-7	64%	31%	04%	01%
2002 May 6-9	65%	28%	05%	02%
2001 May 10-14	63%	27%	08%	02%

**NEXT, I'M GOING TO READ YOU A LIST OF ISSUES. REGARDLESS OF WHETHER OR NOT YOU THINK IT SHOULD BE LEGAL, FOR EACH ONE, PLEASE TELL ME WHETHER YOU PERSONALLY BELIEVE THAT IN GENERAL IT IS MORALLY ACCEPTABLE OR MORALLY WRONG. HOW ABOUT ... [RANDOM ORDER]? (2007)**

	Morally Acceptable %	Morally Wrong %	Net Acceptable
The death penalty	66	27	39
Divorce	65	26	39
Medical research using stem cells from human embryos	64	30	34
Gambling	63	32	31
Medical testing on animals	59	37	22
Sex between an unmarried man and woman	59	38	21
Buying and wearing clothing made of animal fur	58	38	20
Having a baby outside of marriage	54	42	12
Doctor-assisted suicide	49	44	5
Homosexual relations	47	49	-2
Abortion	40	51	-11
Cloning animals	36	59	-23
Suicide	16	78	-62
Cloning humans	11	86	-75
Polygamy	8	90	-82
Married men and women having an affair	6	91	-85

**Liberal/Moderate/Conservative - Percentage Calling Each "Morally Acceptable"**

	Liberals %	Moderates %	Conservatives %	Gap
Homosexual relations	83	50	23	+60
Sex between an unmarried man and woman	89	66	34	+55
Having a baby outside of marriage	83	59	33	+50
Abortion	67	39	24	+43
Divorce	87	68	49	+38
Doctor-assisted suicide	73	49	35	+38
Medical research using stem cells from human embryos	84	69	48	+36
Gambling	82	68	47	+35
Cloning animals	55	30	28	+27
Suicide	29	14	8	+21
Cloning humans	22	9	6	+16
Polygamy	19	5	4	+15
Married men and women having an affair	12	5	2	+10
Buying and wearing clothing made of animal fur	52	57	61	-9
Medical testing on animals	52	58	64	-12
Death penalty	54	66	73	-19

**"IN YOUR OPINION, IS THE DEATH PENALTY IMPOSED:  
[ROTATED] TOO OFTEN, ABOUT THE RIGHT AMOUNT, OR NOT OFTEN ENOUGH?"**

	<u>Too Often</u>	<u>About Right</u>	<u>Not Enough</u>	<u>No Opinion</u>
2018 Oct 1-10	29%	28%	37%	06%
2017 Oct 5-11	26%	26%	39%	08%
2011 Oct 6-9	25%	27%	40%	08%
2010 Oct 7-10	18%	26%	49%	07%
2009 Oct 1-4	20%	24%	49%	07%
2008 Oct 3-5	21%	23%	48%	08%
2007 Oct 4-7	21%	26%	49%	04%
2006 May 8-11	21%	25%	51%	03%
2005 May 2-5	20%	24%	53%	03%
2004 May 2-4	23%	25%	48%	04%
2003 May 5-7	23%	26%	48%	03%
2002 May 6-9	22%	24%	47%	07%
2001 May 10-14	21%	34%	38%	07%

**'GENERALLY SPEAKING, DO YOU BELIEVE THE DEATH PENALTY IS  
APPLIED FAIRLY OR UNFAIRLY IN THIS COUNTRY TODAY?"**

	<u>Fairly</u>	<u>Unfairly</u>	<u>No Opinion</u>
2018 Oct 1-10	49%	45%	06%
2017 Oct 5-11	51%	43%	07%
2011 Oct 6-9	52%	41%	06%
2010 Oct 7-10	58%	36%	07%
2009 Oct 1-4	57%	34%	09%
2008 Oct 3-5	54%	38%	08%
2007 Oct 4-7	57%	38%	05%
2006 May 8-11	60%	35%	04%
2005 May 2-5	61%	35%	04%
2004 May 2-4	55%	39%	06%
2003 May 5-7	60%	37%	03%
2002 May 6-9	53%	40%	07%
2000 June 23-25	51%	41%	08%

**"HOW OFTEN DO YOU THINK THAT A PERSON HAS BEEN EXECUTED UNDER THE DEATH  
PENALTY WHO WAS, IN FACT, INNOCENT OF THE CRIME HE OR SHE WAS CHARGED WITH?  
DO YOU THINK THIS HAS HAPPENED IN THE PAST FIVE YEARS, OR NOT?"**

	<u>Yes, in Last 5 Years</u>	<u>No</u>	<u>No Opinion</u>
2009 Oct 1-4	59%	31%	10%
2006 May 8-11	63%	27%	10%
2005 May 2-5	59%	33%	08%
2003 May 5-7	73%	22%	05%

**'DO YOU FEEL THAT THE DEATH PENALTY ACTS AS A DETERRENT TO THE COMMITMENT OF MURDER, THAT IT LOWERS THE MURDER RATE, OR NOT?'**

	<u>Yes</u>	<u>No</u>	<u>No Opinion</u>
2011 Oct 6-9	32%	64%	04%
2006 May 8-11	34%	64%	02%
2004 May 2-4	35%	62%	03%
1991 June 13-16	51%	41%	08%
1986 Jan 10-13	61%	32%	07%
1985 Jan 11-14	62%	31%	07%

**"ARE YOU IN FAVOR OF THE DEATH PENALTY FOR A PERSON CONVICTED OF MURDER?"**  
*(December 19-22, 2012 Gallup/USA Today)*

	<u>Favor</u>	<u>Oppose</u>	<u>Don't Know</u>
Conservative	75%	18%	07%
Moderate	60%	34%	06%
Liberal	47%	50%	03%
Republican	80%	15%	05%
Independent	65%	32%	03%
Democrat	51%	42%	07%
Men	67%	28%	05%
Women	59%	35%	06%
18-34 yr	61%	35%	04%
35-54 yr	62%	32%	06%
55 and older	67%	27%	06%
East	54%	40%	06%
Midwest	66%	31%	03%
South	68%	25%	07%
West	60%	33%	07%
Postgraduate	50%	45%	05%
College Graduate Only	57%	40%	03%
Small College	66%	30%	04%
No College	68%	24%	08%

**"ARE YOU IN FAVOR OF THE DEATH PENALTY FOR A PERSON CONVICTED OF MURDER?"**  
 (October 4-7, 2007 Gallup)

	<u>Favor</u>	<u>Oppose</u>	<u>Don't Know</u>
Conservative	81%	16%	03%
Republican	81%	16%	03%
Over 50 Male	78%	20%	04%
Male	76%	20%	04%
18-49 Male	74%	22%	04%
West	73%	25%	02%
Some College	73%	22%	05%
White	73%	23%	04%
Midwest	72%	24%	04%
High School or Less	72%	23%	05%
Total College	67%	29%	04%
Independent	67%	28%	05%
East	66%	30%	04%
South	66%	29%	05%
College Grad	66%	30%	04%
Over 50 Female	66%	30%	04%
Moderate	64%	32%	04%
Female	62%	33%	05%
18-49 Female	60%	37%	03%
Democrat	60%	35%	05%
Liberal	57%	41%	02%
Post-Grad Education	57%	41%	02%
Non-White	55%	41%	04%

**"ARE YOU IN FAVOR OF THE DEATH PENALTY FOR A PERSON CONVICTED OF MURDER?"**  
 (Combined results from 2001 to 2004 by Gallup Editors)

	<u>Favor</u>	<u>Oppose</u>	<u>Don't Know</u>
Male	74%	23%	03%
Female	62%	32%	06%
White	71%	24%	05%
Black	44%	49%	07%
18 - 29	69%	29%	02%
30 - 49	68%	27%	05%
50 - 64	68%	29%	03%
65 +	65%	26%	09%
Protestants	71%	24%	05%
Catholics	66%	30%	04%
No Religious Preference	57%	38%	05%
Church Weekly	65%	39%	05%
Church Monthly	69%	27%	04%
Church Seldom/Never	71%	26%	03%
Catholic - Church Weekly	62%	31%	07%
Catholic - Church Monthly	66%	25%	09%
Catholic - Church Seldom/Never	77%	18%	05%
Conservative	74%	21%	05%
Moderate	68%	27%	05%
Liberal	54%	42%	04%
REPUBLICAN	80%	17%	03%
INDEPENDENT	65%	30%	05%
DEMOCRAT	58%	36%	06%

- Results are based on telephone interviews with 6,498 national adults, aged 18 and older, conducted Feb. 19-21, 2001; May 10-14, 2001; Oct. 11-14, 2001; May 6-9, 2002; Oct. 14-17, 2002; May 5-7, 2003; Oct 6-9, 2003; May 2-4, 2004; and Oct. 11-14, 2004. For results based on the total sample of national adults, one can say with 95% confidence that the maximum margin of sampling error is ±2 percentage points.

**"WHY DO YOU FAVOR THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?"**

(Based only upon those who responded in favor of the death penalty)

	<u>May 2003</u>	<u>Feb 2001</u>	<u>Feb 2000</u>	<u>June 1991</u>
Eye for an Eye / Punishment Fits Crime	37%	48%	40%	40%
They Deserve It	13%	06%	05%	05%
Save Taxpayer Money / Prison Costs	11%	20%	12%	12%
Deterrent to Others/ Set an Example	11%	10%	08%	08%
Incapacitation / They Will Repeat Crime	07%	06%	04%	04%
Biblical Reasons	05%	03%	03%	03%
Depends on Type of Crime	04%	06%	06%	06%
Serve Justice	04%	01%	03%	02%
Fair Punishment	03%	01%	06%	06%
If There's No Doubt Person Committed Crime	03%	02%	00%	00%
I Support / Believe in death penalty	02%	06%	00%	00%
Can't Be Rehabilitated	02%	02%	01%	01%
Relieves Prison Overcrowding	01%	02%	00%	00%
Life Doesn't Really Mean Without Parole	01%	02%	00%	00%
Other	04%	03%	10%	10%
No Opinion	02%	01%	03%	03%

**"WHY DO YOU OPPOSE THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?"**

(Based only upon those who responded in opposition to the death penalty)

	<u>May 2003</u>	<u>June 1991</u>
Wrong to Take a Life	37%	41%
Persons May Be Wrongly Convicted	25%	11%
Punishment Should Be Left to God	13%	17%
Murderers Need to Suffer/Think About Crime	05%	00%
Possibility of Rehabilitation	05%	06%
Depends on Circumstances	04%	00%
Unfair Application of Death Penalty	04%	06%
Does Not Deter	04%	07%
Other	03%	16%
No Opinion	04%	06%

**"ARE YOU IN FAVOR OF THE DEATH PENALTY FOR A PERSON CONVICTED OF MURDER?"**

(October - December 2005)

	<u>Favor</u>	<u>Oppose</u>
U. S. A.	64%	30%
Great Britain	49%	45%
Canada	44%	53%

## Pew Research Center, American Trends Panel

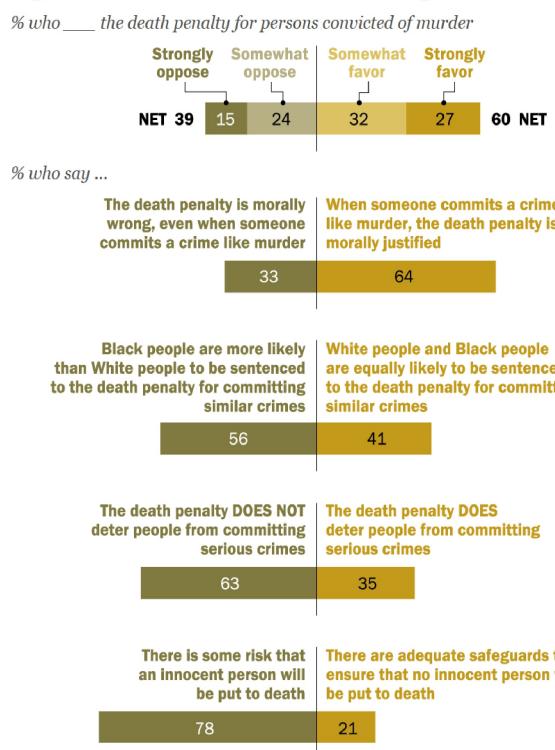
The survey, conducted April 5-11, 2021 among 5,109 U.S. adults on the Center's American Trends Panel.

The American Trends Panel (ATP), created by Pew Research Center, is a nationally representative panel of randomly selected U.S. adults. Panelists participate via self-administered web surveys. Panelists who do not have internet access at home are provided with a tablet and wireless internet connection. Interviews are conducted in both English and Spanish. The panel is being managed by Ipsos.

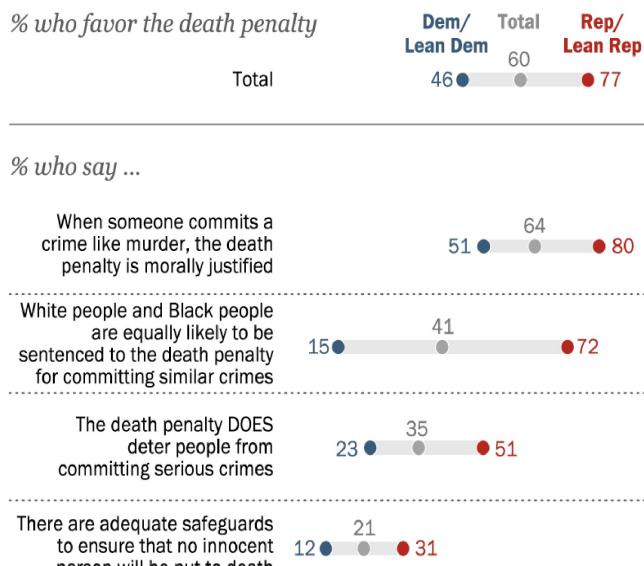
Data in this report is drawn from the panel wave conducted April 5 to 11, 2021, and included oversamples of Asian, Black and Hispanic Americans. A total of 5,109 panelists responded out of 5,970 who were sampled, for a response rate of 86%. This does not include two panelists who were removed from the data due to extremely high rates of refusal or straightlining. The cumulative response rate accounting for nonresponse to the recruitment surveys and attrition is 4%. The break-off rate among panelists who logged on to the survey and completed at least one item is 2%. The margin of sampling error for the full sample of 5,109 respondents is +/- 2.1 percentage points.

<https://www.pewresearch.org/politics/2021/06/02/most-americans-favor-the-death-penalty-despite-concerns-about-its-administration/>

### Majority of Americans favor death penalty, but nearly eight-in-ten see ‘some risk’ of executing the innocent



### Partisan differences in views of the death penalty – especially on racial disparities in sentencing



Source: Survey of U.S. adults conducted April 5-11, 2021.

PEW RESEARCH CENTER

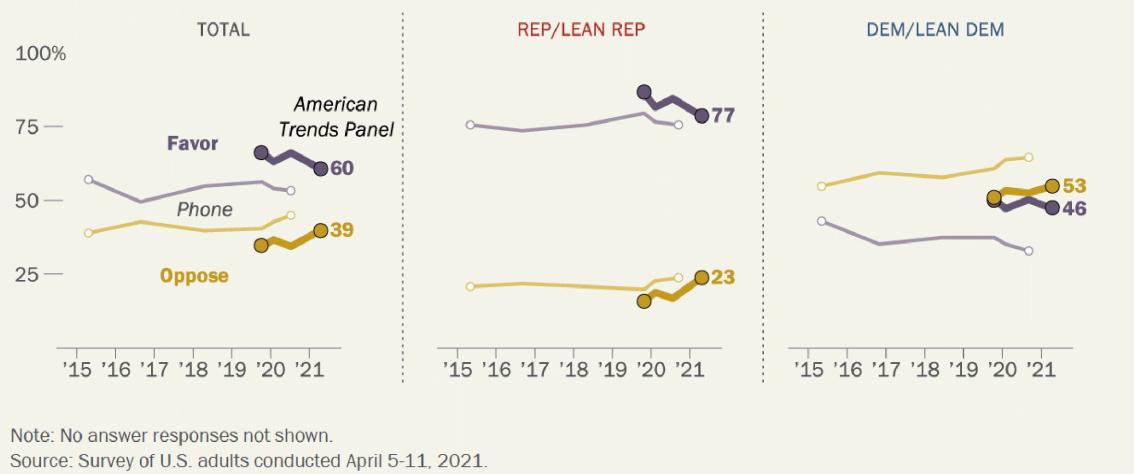
Note: No answer responses not shown.

Source: Survey of U.S. adults conducted April 5-11, 2021.

PEW RESEARCH CENTER

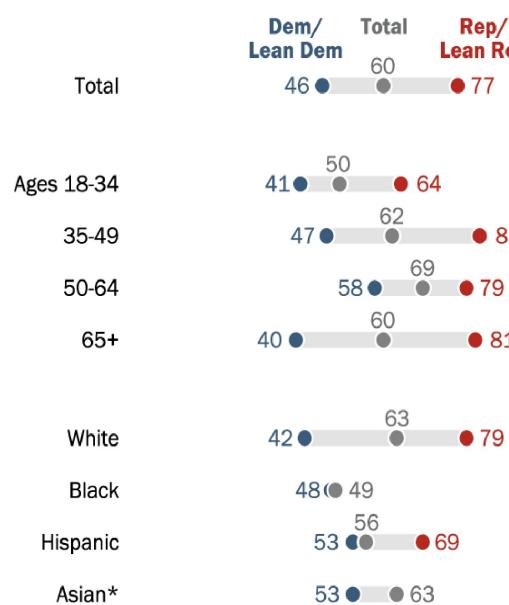
## Greater support for death penalty in online panel surveys than telephone surveys

% who \_\_\_ the death penalty for persons convicted of murder



## Partisan gap in views of death penalty is widest among adults 65 and older

% who favor the death penalty for persons convicted of murder



\*Asian adults were interviewed in English only.

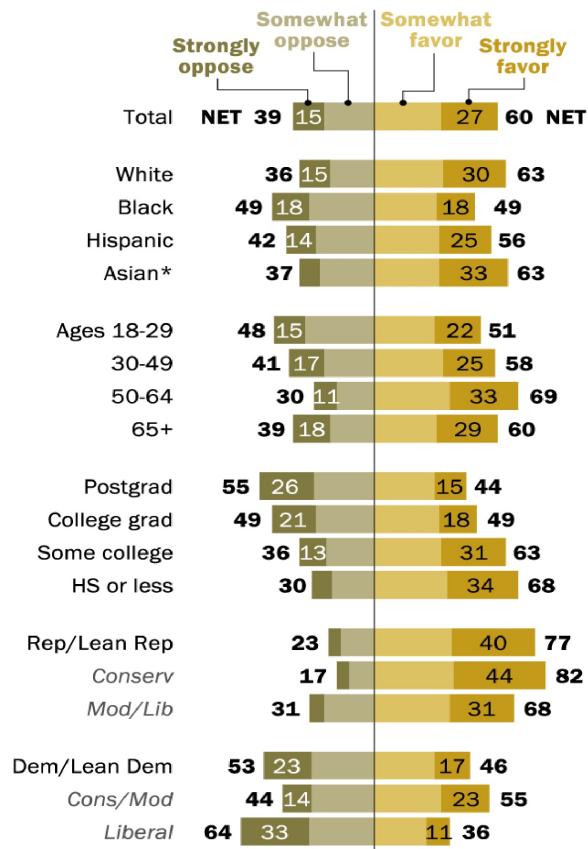
Notes: White, Black and Asian adults include those who report being one race and are not Hispanic. Hispanics are of any race. Black and Asian Republicans not shown due to insufficient sample size.

Source: Survey of U.S. adults conducted April 5-11, 2021.

PEW RESEARCH CENTER

## Ideological divides in views of the death penalty, particularly among Democrats

% who \_\_\_ the death penalty for persons convicted of murder



\*Asian adults were interviewed in English only.

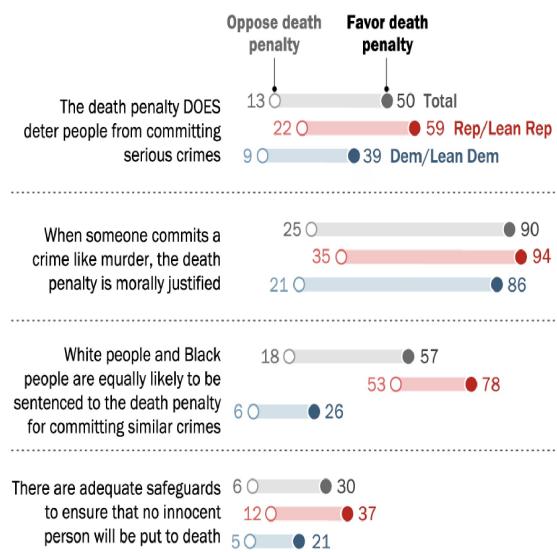
Notes: White, Black and Asian adults include those who report being one race and are not Hispanic. Hispanics are of any race. No answer responses not shown.

Source: Survey of U.S. adults conducted April 5-11, 2021.

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## Support for death penalty is strongly associated with belief that it is morally justified for crimes like murder

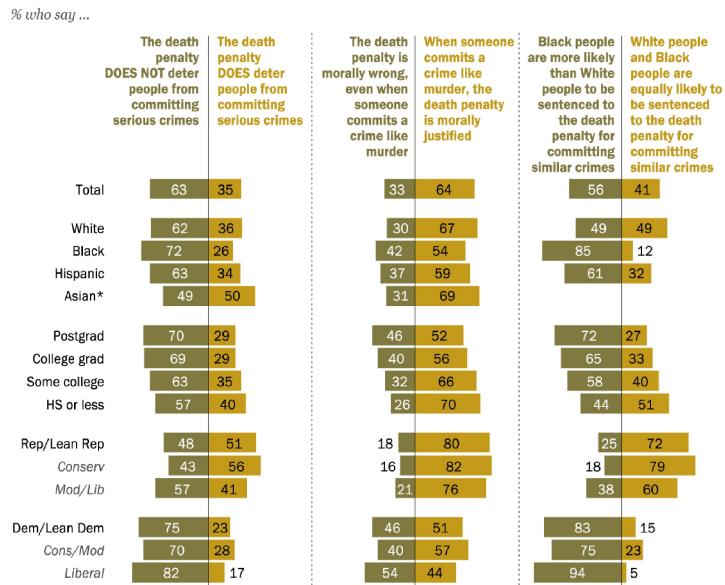
Among those who oppose/favor the death penalty, % who say ...



Source: Survey of U.S. adults conducted April 5-11, 2021.

PEW RESEARCH CENTER

## Overwhelming majority of Black adults see racial disparities in death penalty sentencing, as do a smaller majority of Hispanic adults; White adults are divided



\*Asian adults were interviewed in English only.

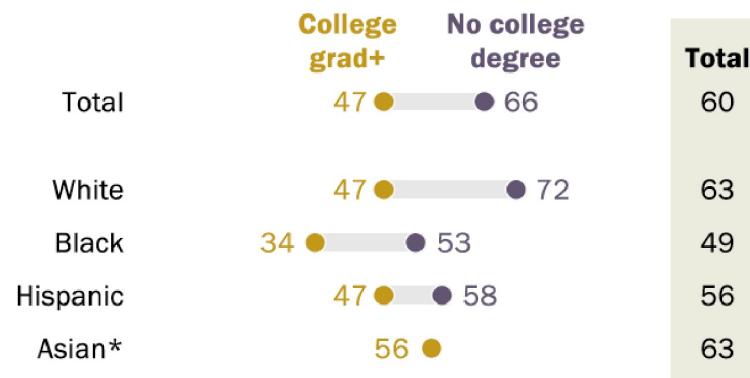
Notes: White, Black and Asian adults include those who report being one race and are not Hispanic. Hispanics are of any race. Asian adults not shown for all questions due to form splitting. No answer responses not shown.

Source: Survey of U.S. adults conducted April 5-11, 2021.

PEW RESEARCH CENTER

## Non-college White, Black and Hispanic adults more supportive of death penalty

% who favor the death penalty for persons convicted of murder



\*Asian adults were interviewed in English only.

Notes: White, Black and Asian adults include those who report being one race and are not Hispanic. Hispanics are of any race. Asian adults without college degrees not shown due to insufficient sample size.

Source: Survey of U.S. adults conducted April 5-11, 2021.

PEW RESEARCH CENTER

### **Quinnipiac University Poll**

July 25-28, 2019. N=1,306 registered voters nationwide. Margin of error  $\pm 3.4\%$ .

#### **"WHICH PUNISHMENT DO YOU PREFER FOR PEOPLE CONVICTED OF MURDER: THE DEATH PENALTY OR LIFE IN PRISON WITH NO CHANCE OF PAROLE?"**

	Death Penalty	Life/No parole	Unsure
2019 Jul 25-28	33%	54%	13%
2018 Mar 16-20	37%	51%	12%
2015 May 19-26	43%	48%	09%
2013 Apr 25-29	48%	43%	09%
2008 Jul 8-13	47%	44%	09%
2004 Dec 7-12	42%	46%	12%

#### **"WOULD YOU LIKE TO SEE THE DEATH PENALTY ABOLISHED NATIONWIDE, OR NOT?"**

	Yes Abolish	No Abolish	Unsure
2019 Jul 25-28	35%	58%	97%
2018 Mar 16-20	31%	64%	05%

### **NPR/PBS NewsHour/Marist Poll**

July 15-17, 2019. N=1,346 adults nationwide. Margin of error  $\pm 3.5\%$ .

#### **"DO YOU THINK ABOLISHING THE DEATH PENALTY IS A GOOD OR A BAD IDEA?"**

	Good Idea	Bad Idea	Unsure
2019 Jul 15-17	36%	58%	06%

### **Pew Research Center Poll**

April 25-May 1, 2018. N=1,503 adults nationwide. Margin of error  $\pm 2.9\%$ .

#### **"DO YOU STRONGLY FAVOR, FAVOR, OPPOSE OR STRONGLY OPPOSE THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?"**

	Strongly Favor	Favor	Strongly Opposed	Opposed
2018 Apr 25-May 1	23	30	13	26
2016 Aug 23-Sep 2	21	27	14	28
2015 Mar 25-29	23	34	13	24

2011 Nov 9-14	28	34	11	20
2010 Jul 21-Aug 5	30	32	10	20
2007 August	29	33	11	21
2007 January	30	34	11	18
2006 March	27	38	08	19
2003 July	28	36	10	20
2002 March	33	34	09	17
2001 March	30	36	10	17
1999 Sept	41	33	07	15
1996 June	43	35	07	11

**CBS News/New York Times Poll**

Sept. 8-15, 2015. N=1,559 adults nationwide. Margin of error ± 3.

**"DO YOU FAVOR OR OPPOSE THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?"**

	Favor	Oppose	Unsure
2015 Sep 8-15	59%	31%	10%
2015 Apr 8-12	56%	34%	10%

**"DO YOU FAVOR OR OPPOSE THE DEATH PENALTY FOR PERSONS CONVICTED OF MURDER?" (2015)**

	Favor	Oppose	Unsure
ALL	56%	34%	10%
Republicans	73%	19%	08%
Democrats	44%	46%	10%
Independents	57%	32%	11%

**"Apart from your opinion about the death penalty, what form of punishment do you consider to be the most humane: the electric chair, the gas chamber, lethal injection, firing squad or hanging?"**

Electric Chair	Gas Chamber	Lethal Injection	Firing Squad	Hanging	None	Unsure
04%	04%	65%	09%	05%	10%	03%

## THE HARRIS POLL

Conducted online between May 7 and 11, 2015 surveyed a nationally representative sample of 2,013 adults: (Margin of Error± 3 percentage points)

***"DO YOU BELIEVE IN CAPITAL PUNISHMENT, THAT IS, THE DEATH PENALTY,  
OR ARE YOU OPPOSED TO IT?"***

	<u>Favor</u>	<u>Oppose</u>	<u>Not Sure</u>
2015 May 7-11	61%	17%	22%
2008 Feb 5-11	63%	30%	07%
2003 Dec	69 %	22 %	09 %
2001 July	67 %	26 %	07 %
2000 July	64 %	25 %	11 %
1999 July	71 %	21 %	08 %
1997	75 %	22 %	03 %
1983	68 %	27 %	05 %
1976	67 %	25 %	08 %
1973	59 %	31 %	10 %
1970	47 %	42 %	11 %
1969	48 %	38 %	14 %
1965	38 %	47 %	15 %

***"IMAGINE FOR A MOMENT THAT YOU HAD TO CHOOSE FOR YOURSELF:  
WOULD YOU RATHER SERVE LIFE IN PRISON OR BE PUT TO DEATH?"***

	<u>Life in Prison</u>	<u>Death</u>	<u>Not Sure</u>
1999 July 16-20	34 %	48 %	18 %

***"DO YOU FEEL THAT EXECUTING PEOPLE WHO COMMIT MURDER DETERS OTHERS FROM  
COMMITTING MURDER, OR DO YOU THINK SUCH EXECUTIONS DON'T HAVE MUCH EFFECT?"***

	<u>Deters</u>	<u>Not Much Effect</u>	<u>No Opinion</u>
2008 Feb 5-11	42%	52%	06%
2003 Dec	41 %	53 %	06 %
2001 July	42 %	52 %	07 %
2000 July	44 %	50 %	07 %
1999 July	47 %	49 %	04 %
1997	49 %	49 %	02 %
1983	63 %	32 %	05 %
1976	59 %	34 %	07 %

**"IN GENERAL, WOULD YOU LIKE TO SEE AN INCREASE OR DECREASE IN THE NUMBER OF CONVICTED CRIMINALS WHO ARE EXECUTED, OR NO CHANGE?"**

	<u>Increase</u>	<u>Decrease</u>	<u>No Change</u>	<u>No Opinion</u>
2008 Feb 5-11	36%	26%	31%	07%
2003 Dec	36 %	21 %	33 %	11 %
2001 July	35 %	26 %	30 %	08 %
2000 July	36 %	22 %	31 %	11 %
1999 July	43 %	21 %	28 %	07 %
1997	53 %	14 %	27 %	06 %

**"DO YOU THINK THAT INNOCENT PEOPLE ARE SOMETIMES CONVICTED OF MURDER OR THAT THIS NEVER HAPPENS?"**

	<u>Sometimes Happens</u>	<u>Never Happens</u>	<u>No Opinion</u>
2008 Feb 5-11	95%	04%	01%
2003 Dec 10-16	95 %	04 %	02 %
2001 July	94 %	03 %	03 %
2000 July	94	05 %	01 %
1999 July	95 %	03 %	01 %

**CNN / Opinion Research Corporation Poll**

Conducted by CNN Research of adult voters nationwide on May 14-17, 2009. (Margin of Error +/- 3.)

**"IF YOU COULD CHOOSE BETWEEN THE FOLLOWING TWO APPROACHES, WHICH DO YOU THINK IS THE BETTER PENALTY FOR MURDER: THE DEATH PENALTY, OR LIFE IMPRISONMENT WITH ABSOLUTELY NO POSSIBILITY OF PAROLE?"**

	<u>Death Penalty</u>	<u>Life Imprisonment</u>	<u>Unsure</u>
2009 May 14-17	53 %	46 %	02 %

**"AS YOU MAY KNOW, ACCORDING TO THE U.S. CONSTITUTION, ANY PUNISHMENT THAT IS CONSIDERED 'CRUEL AND UNUSUAL' CANNOT BE USED ON PEOPLE CONVICTED OF ANY CRIME. DO YOU CONSIDER THE DEATH PENALTY TO BE A CRUEL AND UNUSUAL PUNISHMENT, OR DON'T YOU FEEL THAT WAY?"**

	<u>Yes, Cruel &amp; Unusual</u>	<u>No, Not Cruel&amp; Unusual</u>	<u>Unsure</u>
2009 May 14-17	26 %	73 %	01 %

## **Fox News / Opinion Dynamics Poll**

Conducted by Opinion Dynamics of 900 registered adult voters nationwide on March 29-30, 2005.  
(Margin of Error +/- 3.)

### **"DO YOU FAVOR OR OPPOSE THE DEATH PENALTY FOR PERSONS CONVICTED OF PREMEDITATED MURDER?"**

	<u>Favor</u>	<u>Oppose</u>	<u>Not Sure</u>
2005 March 29-30	69 %	24 %	08 %
2003 June 3-4	69 %	23 %	08 %
2001 June 6-7	68 %	22 %	10 %
2001 April 18-19	66 %	23 %	11 %
2000 June 28-29	68 %	24 %	08 %
2000 February 9-10	67 %	22 %	11 %
1998 January 7-8	74 %	18 %	08 %
1997 June 25-26	73 %	18 %	09 %
1997 April 30 - May1	76 %	17 %	07 %

## **INDIANAPOLIS STAR POLL**

(Conducted by the Indiana University Center for Survey Research March 26-29, 2000. A scientifically selected random sample of 825 adult Indiana residents was interviewed. The

### **"THE DEATH PENALTY IS APPLIED FAIRLY IN THE STATE OF INDIANA."**

Strongly Agree	25.1 %
Somewhat Agree	39.3 %
Somewhat Disagree	11.5 %
Strongly Disagree	14.4 %
Don't Know / Refused	09.8 %

**The Polling Report, Inc.** An independent, nonpartisan resource on trends in American public opinion.  
<http://www.pollingreport.com/crime.htm>

# CLOSING ARGUMENTS IN INDIANA LWOP / DEATH PENALTY CASES

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The arguments contained in these cases were not necessarily chosen because of the oratorical skill of the Prosecutor. The notoriety of the case, the skill of defense counsel, the existence of closing argument issues on appeal, and the easy availability of transcripts may have also played a part. You be the judge. The prosecution arguments included are not approved or recommended for use at trial. It is suggested that trial counsel carefully review West  Criminal Law #708-730 relating to closing arguments at trial.

# CLOSING ARGUMENTS

## State v. Oberhansley Clark Circuit Court #4 2013

**Case Summary:** On September 11, 2014, at 2:52AM, the Jeffersonville Police Department received a call from Tammy Jo Blanton, who explained that her ex-boyfriend Joseph Oberhansley was outside her home trying to gain entry and refusing to leave. Responding Officers located Oberhansley outside the home. He claimed to live at that address. They instructed Oberhansley to leave the area. He was deceitful and complained, but eventually left. Officers checked back and found no trace of Oberhansley. Tammy's co-workers became very concerned when she did not show up for work at 9:00AM. They called her cellphone and a man answered claiming to be her brother. They called police and requested a welfare check at her home.

Officers went there and saw signs of a forced entry at the back door. Oberhansley opened the front door and claimed not to know where Tammy was. Officers observed a fresh injury to his hand and knuckles and found an open folding knife in his pocket. Tammy was found in the bathroom. Her skull had been crushed with brain tissue scattered around the bathtub, with deep cuts to her head, face, neck, and chest. A large portion of her brain was missing. Several cuts to her chest created a large opening and her heart was not inside her chest.

More brain tissue was found in the kitchen with blood and bits of bone in a skillet on the stove and on utensils and dishes. Oberhansley's vehicle was recovered two blocks away. In custody, Oberhansley would at first deny he even knew Tammy's body was in the bathroom. Later, he admitted to stabbing her, mutilating her body, using a jigsaw to cut open her skull, remove a portion of her brain and eating it raw. He further admitted to cooking a section of her brain and eating it. A bloodied electric jigsaw was collected from the home. At trial, he would testify that "two black guys" broke in and knocked him out then killed Tammy.

In court, Oberhansley would at first only refer to himself as Zeus and was repeatedly found incompetent to stand trial over a 6 year period. He filed a notice of insanity defense, but withdrew it, insisting he wanted a chance to be free, not to spend the rest of his life in a mental institution. A request for a DP was originally filed, but was amended to LWOP. In 2020, the jury found him guilty of Murder and Burglary and recommended LWOP.

Oberhanley was earlier convicted in Utah of Manslaughter (of girlfriend) and served ±10 years in prison.

The case was filed in the Clark County Circuit Court #4, Judge Vicki L. Carmichael presiding. Clark County Prosecuting Attorney Jeremy Mull represented the State of Indiana. Public Defenders Brent L. Westerfeld, Bart Betteau, Nicholas Karaffa represented the Defendant.

### **ALLOCUTION BY DEFENDANT:**

Your Honor, as my attorney stated when the jury wasn't presence if anything that he failed me in this case. And I wasn't represented correctly. And I do, I am planning to appeal the decision Your Honor. I just like to say, you got it wrong folks. I was disappointed in your verdict. You heard the Dr. Allen's testimony that I lost sixty pounds. It wasn't because I was worried the food was poisoned. It was because I was eating with black people. You see black people killed Tammy. I never killed Tammy. The jail was mostly and wouldn't eat with 'em black people so they kept having them serve food so in order to starve me. But was about what I wanted to talk about testimony talking about how I lost my weight. I didn't kill Tammy as stated in my testimony in the interview when I refused to sign the confession. And told officers someone else, that someone's name belongs on that confession not mine. See, two black guys that killed Tammy. They need to come forward and confess to killing Tammy. You found me guilty of Burglary. I never broke into that house as I told you in my testimony in the police interview. I'm the one who's being robbed. My two vehicles were stolen. I had a Camaro that was parked in the back yard at the residence. That that somebody stole it after all this happened. And a white ChevyS, my white Chevy Blazer that the police impounded. And they actually lost it in police evidence. If you can believe that. They lost it in police evidence so. And I have never been reimbursed for value for either one of my vehicles that was stolen. So I just want to say I'm not guilty of all three of these charges. I never killed Tammy. I never broke in the house. I never burg, never burglar nothing. Never robbed nothing that was stolen. And I definitely didn't rape her. That is all I have to say. I do, I do I do feel horribly for what happened to Tammy was a horrible thing that happened to her. And I do care about her.

**CLOSING ARGUMENT (LWOP PHASE)  
PRESENTED BY STATE OF INDIANA**

**MR. MULL:** Thank you, Your Honor. If it pleases the Court, and the defense. When you go to deliberate here in a few minutes you will be given a verdict form. The verdict form is going to list, it is going to have four pages. The first few pages will list an aggravating circumstance one and two. The last few pages will be a verdict form where you make a recommendation to the Judge as to what sentence you feel is appropriate in the case. I want to talk about aggravating circumstances once because it is required that I have prove that beyond a reasonable doubt in the proceeding. And the Judge read it probably four times to you when you walked in this morning. And it simply alleges that he committed the murder, he has been convicted of that--by intentionally killing Tammy Blanton. Now the mens rea element on murder as I charged it was knowing or intentional. For this aggravating circumstance you have to come back and say we believe that it was an intentional killing. Now I believe and I submit to you that you found that already, when you convicted him of burglary, and your finding was that he broke into that house with the intent to kill her. So, if you find, in your deliberations that when he was stabbing her all of those times, that it was intent to kill her with that, then that aggravator is met. I submit to you based upon the evidence in the case in your prior verdict.

The second aggravating circumstance is that he knowingly or intentionally killed Tammy Blanton and he dismembered her. And dismemberment is defined in your jury instructions. But I just want to, if you have any doubt about that, to take you back to the autopsy report that was admitted in the case. And specifically, finding I-A-2, where it states that the absence of the majority of the frontal calvarium and brain. Brain was removed. That is dismemberment. The finding of I-D-2, the majority of heart and upper lobe of left lung are absent. So, the dismemberment includes not just one thing, not just two things, but three different parts of her body were cut off. Part of her heart, part of her lung, and part of her brain. And that is the legal definition of dismemberment. So I would respectfully submit to you that the evidence in the case has established those two mitigators beyond a reasonable doubt. If you so find, then your task would be to weigh whether the aggravator or aggravators outweigh the mitigating factors. And the mitigating factors you heard about this morning. That Mr. Oberhansley has a mental illness. I want to discuss with you for a

moment this mental illness-- I don't dispute that he has a mental illness. I don't dispute that to you. But if you look at this crime, you have to ask: Did the mental illnesses involvement and what he did that day, does that mitigate those aggravators to the extent that life without parole should not be recommended in the case?

The psychologist and psychiatrist talked about the statement that he made. That she was going to cut off my head, that sort of thing. If you remember the facts of the case, he went over to that house at o'clock am, was beating on the door, kicking on the door, trying to get in. He's upset that he's been broken up with. He's ran away by the police officers. And then he goes and he parks two blocks away where his vehicle can't be found. Comes in, probably through the back gate, gets back in the house, where he murders her. Now, is that really going to be the action of somebody who is afraid that his head is going to get cut off by the occupant inside? Absolutely not. I brought up the point with the psychologist and psychiatrist and both of those very, very, good professionals, but you heard them say over and over, "I think, I think, it's my opinion;" who knows what was really going on in Mr. Oberhansley's head. But as a matter of fact, he has been diagnosed with malingering psychiatric symptoms, exaggerating his symptoms. That was conceded to. Was conceded to. Whether that behavior in that room was the product of psychic episode or his own efforts, who knows? Maybe both. But when you go back and you look at that crime and you see his actions from the moment that the officers knocked on that door, he came, and he lied. And the psychiatrist said "well maybe he didn't know those were really police officers." Really? Then he is going to step outside. He is going to step outside and comply with them. He was able to at the end of this interview with police to recite the police officers that were at the house at am. Yeah there were four of them, of them were black, of them were white. You know they said they weren't police officers, of course he knew they were police officers. He lied. He tried to get them away from the house. Those were all things that were the byproduct of a guilty conscious. Someone that knew exactly what they did. That picked up that telephone when it rang. He didn't claim to be Zeus Brown that morning when he was on the phone. This started later on when he was in the middle of committing this crime when the phone rang. He had where with this all of this and said, yeah I'm Jason, the victim's brother. And then when he found out that wasn't going to fly with Tammy's friends calling because he recognized his

voice, he switch to it to it's a wrong number. Again, no psychotic voicing some made up name at that point. You look back at really went on that day, do I dispute that he has a mental illness, no. But I do dispute that the mental illness that he has played such a role in this crime that it needs to mitigate the sentence that is applied here.

I want to talk about the aggravators and I want to tell you specifically these aggravators outweigh the mitigated factors of his mental illness. The first aggravator is burglary. And these aggravators are created by the legislature. Our representatives. And burglary is one. Why is burglary an aggravator? Well I submit to you that it is an aggravator because of the sanctity of the home. And of all the chaos in the world. Of all the places that a person has to go to deal with feelings of risk, of heart, of business, of insecurity, there is this bedrock foundation of the United States of America that our home is our castle. And Tammy said "I'm taking my life back" and in her mind that meant taking her home back. She went home. She barricaded herself in that house and he not only murdered her, but he violated the sanctity of that home. And when a citizen is murdered in their own home where they deserve to be safe, where they expect to be safe. The legislature has said that is something that should warrant the person doing it possibly being removed from the streets without ever having the benefit of parole. Because that not only is murder which is serious, but that's murder more serious when it's done in those circumstances.

And that is exactly what happened in this case. Not only did he burst into her home and murder her, but he kicked through a locked door, a chair that was propped up behind it. And a person has to wonder. That morning it's am, the police have left. Tammy told the 9-1-1 operator, you know I have to get up and go to work in the morning. No one will ever know what was in her mind when she laid back down that night, the police were gone, she was going to try grab a couple of hours of sleep before she went to work. I'm not trying to reconstruct the events of that house that morning for you because you can use your imagination as well as I. But one will have to assume since she finally laid down and went to sleep and probably that back door had been kicked so hard so often the first time around it probably gave easily. The second time he went back to it and kicked it and he was probably on her in that bedroom before she ever woke up. And the reason you could surmise that is because she didn't have a chance to get to her cell phone. Because she had said to her friend in the text messages, I've got the phone loaded and ready to call 911 he goes to pull

anything. And somehow he was on her before she had a chance to get that phone out and call a second time. And that tells you that she had probably finally laid down and went to sleep. And I say all of that, not to be emotional, but to say when a person lays down in their home, they've been scared, and they have been terrified, and the next thing they see is the person they are terrified of is standing over their bed. Standing over their bed. You come out of a deep sleep to that, to the fate that is in store for you and somehow she got away and got to that bathroom at some point. But that horror, that terror of waking up out of a dead sleep to find, standing over top of you in your bedroom. That is why it is an aggravating factor and I submit to you that that factor outweighs any problems that Joe Oberhansley has. What that lady experience on that morning. I submit to you that it does.

The dismemberment. Dismemberment has been made an aggravating factor by our legislature. Why is that? I submit to you that dismemberment is an aggravating factor that would justify someone who does that to a murder victim never being let out of prison. Because dismemberment has to do with one word and I have used it before in this trial, and that word is "dignity." Dismemberment and dignity are so closely related. You know, the one thing that I hope that everyone can agree on is that the dignity of even Joseph Oberhansley, has been upheld from start to finish in this case. It started with the responding officers who showed up and were on the porch and dealt with him. And according to their own testimony, when he was slow to comply with what they were asking him to do, they asked him repeatedly. "We need you to do this, we don't know who you are, we need you to do this." They asked him over and over to comply. They were not hands-on with him until he went to reach for the knife in his pocket that he had just slaughtered Tammy with. But they were respectful with him. They were as gentle with him as they could be. When he was taken to the police station and he was interviewed by the detective, you saw Detective Parker talk with him. He was gentle, he was kind to him, he was respectful to him. He asked him if he needed anything to eat. He never insulted him. When it was all over with, Detective Parker said "Joe I wish you the best, I really do." He was treated with dignity by the patrol officers. He was treated with dignity by the detectives. The psychologist testified, she said when he was in jail they could tell he was having a hard time and the response to that was they got a radio out and put it next to his cell so he could listen to some ball games. They got him some phone cards so he could

call his mom. He was treated with dignity while he was incarcerated. In this trial I hope that you feel that he has been treated with dignity. Some may have felt that when he was cross-examined by me that it should have been a spectacle. That I should have provoked him and pushed his buttons and got him upset in this courtroom. Saying the things that we all know would upset him for entertainment. So that there could be a big show. That is not what I did. I asked him just enough questions to illustrate the ludicrous, preposterous story of the fabrications and lies he was making up. I treated him with respect and then sat down. You treated him with dignity when you went back and weighed and deliberated your verdicts. You did not go back and paint him with a broad brush, guilty of everything. You did your duty well and good. You deliberated. You looked at the evidence. You spent hours going over all of that. And when you had a doubt you rightfully, rightfully gave him the benefit of the doubt on a charge.

From start to finish this man has been treated with dignity. And dignity is always the proper response to any human being. But especially one with mental illness-- to be treated respectfully and with dignity. And he has received that. But Tammy Blanton was not treated with dignity. She was cut up. She was cooked and eaten out of her own frying pan. Maybe the same frying pan that she had so lovingly made him dinner with a few days before. Talked about such a good meal in those text messages. What a horrible, horrific irony that the very pan her hands to lovingly made him something with, he ate her for breakfast out of.

The family. The family of Tammy Blanton. At some point they stood somewhere and were told "there is bad news. Your daughter, your sister has been murdered. But it gets even worse than that. Not only was she murdered, but she was dismembered. She was cut apart. But it gets a worse than that, too. Not only was she dismembered and cut apart, but she was eaten by her murderer." That conversation happened. And it goes back to dignity. It is the ultimate, ultimate indignity that could be imagined. That a person's legacy in some senses is that years later we are standing in a courtroom with a frying pan, fifteen feet away from me, and we are talking about how the person was consumed and eaten. Dismemberment is an aggravating factor. I believe this was proved beyond a reasonable doubt. And I believe that the dismemberment of Tammy Blanton for the purpose of cooking her and eating her for breakfast far outweighs any mitigators that are attributable to the problems that this man has.

The crimes he committed that morning where thought out. They were planned out. He parked away. He parked away from the scene. He snuck in the back. He forced his way in. He butchered her. He deceptively got on her telephone when it kept ringing and told lies. He was deceptive with the patrol officers when they showed up: "I don't know where Tammy is at, haven't seen her." He lied in his interview. Made up a story. The psychiatrist said that, he talked about fabrications and lies. And he specifically referred to the "two black men" story. That is the defense's psychiatrist. And absolutely no remorse, true remorse, shown, I would submit to you. Just the continual fabrication, the lies, the reprimanding of you as the jury for getting it wrong in his mind. This is a man that, because of the actions that he took on September 11th in 2014, the things that he did to Tammy Blanton, because of those things he should never ever walk free again.

Tammy Blanton again will never smell another fall candle. She will never watch another football game. She will never take that boat that was in her driveway and spend a summer day at the lake. Not a day ever on the face of this earth will Tammy Blanton get to do the things that people do. And the defense is going to argue to you that because of his problems, he should have the opportunity to do that. To be out on parole at some point. She won't get to do that.

The thing I will leave you with is this. It has been an unusual case from start to finish. I hope you never, ever, see anything like this again. None of us do. But at the end of the day, there is a result that is warranted by this case. It is warranted by the facts. And I submit to you that result is Joseph Oberhansley is ordered to the Indiana Department of Corrections, to a prison, and he is ordered to remain there for the rest of his natural life.

#### **CLOSING ARGUMENTS (LWOP PHASE) PRESENTED ON BEHALF OF DEFENDANT**

**MR. WESTERFELD:** May it please the Court, Mr. Mull, Mr. Betteau, Mr. Karrafa, Mr. Oberhansley. Ladies and gentlemen. Like there is with any homicide there is a lot of emotion. There is another human being that is dead. A human being with promise, with hopes, with desires, with a lot, no doubt. Yes there is dignity. And this case is indescribable in so many ways. And you saw pictures of it and know that no human being should ever have to see. Agreed. But something happened when you were in Allen County, you were selected in

a as a juror. And you were picked, and you swore to follow the law as it was given to you by the Court.

And you know there is something about the law. The law has been around for a long time. And in our society we come up with these laws so we can function. Those laws are written by legislatures. Some of them go back as far as (inaudible). And the wise people, the people who create those laws were seeking to ensure that when judgments are made, when judgments are made, when decisions are made, that we make them rationally, reasonably, and we look at the true facts in making those decisions. And, emotion is put here. Emotion. You can't help but have emotion about what you saw and what you heard. No one whose mind is fine cannot have emotional reactions to what went on during this trial. And what went that on September the 11th 2014. That emotion is here. Your oath is here. You swore to apply the law based on the facts that hear. No where does it say based upon the emotion you feel. You wouldn't be here if that was the law. It would have been over a long time ago.

So I want to start out with that. And you know what, in that first phase, you applied the law to the facts not emotionally. You did not let emotion determine your verdict. You didn't do that. I don't believe that you will do that in this case either. This phase is somewhat like, like I told you the trial that you went through last week. The State has to prove the charge aggravators, each and every element beyond a reasonable doubt. If they don't do that, you can't find the aggravators.

Now I told you there was an elephant in the courtroom throughout that prior proceeding. And that elephant was mental illness. Mental illness, mental disease. Mr. Mull says he doesn't contest that, but then he talks about it being some problems that Joe Oberhansley has. As I told you in the opening statement. Mental illness and the type of mental illness that was described by Dr. Allen and Dr. Galligan. You would not wish upon your worse enemy chaos in your mind. Trying to function with other people when you have that chaos, that disorganization. You are seeing things that are not there. That scare you to death. You saw in that video an individual in a room, in a police department, who was warding off what he was seeing and hearing. That is real.

Judging that is not about emotion. Judging that is about what you saw in that video. Judging that is what you saw in those photographs in that crime scene, the chaos, the surreal scene. Is there some rationality in any of that? Is there any rationality in any of that scene? Water jugs with blood on them.

Frying pans with tissue in them. A woman in a bathtub with a gaping hole in her head. A gaping hole in her chest. And I asked Dr. Galligan about that. And you heard her testimony. No that is not dignity. I would never disagree with that. But remember you are going to get instructions from the Court. You will not see the word dignity anywhere in these instructions in weighing this evidence.

But believe me, we are not saying this was dignified in any way shape or form. We are not saying this was rational in any way shape or form. But mental illness is this case. It explains what happened here. And sadly, yet sadly this emotion that we feel is hard to not know it's there. But you swore an oath to apply the law to the facts as they come to you in this case. am going to speak about Joe for just a second now. You have been able to watch Joe throughout this trial. He's still this socially inappropriate. Even that last statement when he brought up cars, makes no sense. Because even today, he remains severely mentally ill. He doesn't know. He does not have the insight to know it. That's not uncommon for those who suffer from schizophrenia. A severe mental illness that affects perception. That affects what you even sense around you. The world. That affects what is going on in your head. Something that even these doctors who see many many people who are mentally ill. It's nearly impossible to describe what's going on in someone's mind when they have this severe mental illness. I submit to you that when you look at this case rationally. When you look at the facts that you heard and saw. That mental illness explains this case. And when you look at it, it goes to what he thought. What he was able to consciously make decisions about. Just think about it. The stuff that is going on in your head. You are hearing things. You actually believe that you can read the thoughts and know the thoughts of the person you are next to. And you believe that just as sure as you are born on March the 29th; And that is so crazy because Mr. Oberhansley believed that he owned the property because of 32 Locust. That's crazy. You can't make sense of it because you can't make of sense of crazy. We try to do that, we try to do that in Hollywood. They try to do that in the films, but you cannot make sense of crazy.

I'm asking you to read the instructions closely. To listen to the Court give you the instructions. I have a firm belief that when you go to deliberate that you will keep emotion over here. And that you will apply the law as to the facts as you find them. And that mental illness explains this. That the appropriate sentence is not life without parole. That the

appropriate sentence is a term of years to be determined by the Judge. Thank you very much ladies and gentlemen.

**REBUTTAL CLOSING ARGUMENTS  
(LWOP PHASE) BY STATE OF INDIANA**

**MR. MULL:** Mental illness is a sad thing. It's affected probably everyone in some way with a relative, a family member, a friend. It's real. It's sad, and it's nothing you would want anyone to have. Joseph has it. The question for today's proceeding is, "how do you weigh that against what happened here?" I don't think there could be any question that the things that Tammy endured—the indignity of her dismemberment, the violation of the sanctity of her home, and the terror that she felt, not only outweighs, but far outweighs, the mental illness that Joe has.

The verdict forms that the Court will give you, there are four. I would respectfully ask you to find aggravating circumstance one, that he committed the Murder while attempting or committing Burglary. It's proved beyond a reasonable doubt. I would respectfully ask you that you find the second aggravating circumstance, that he committed the Murder and dismembered Tammy Blanton was proven beyond a reasonable doubt. I would ask you to go to the verdict form that talks about imposing a terms of years and I would respectfully ask that you mark the box that says, the jury hereby does not recommend that the Court impose a sentence of a term of years.

And finally, I would ask that you go to the verdict form that indicates life without parole and check the box that indicates that the jury hereby does recommend that the Court does impose a sentence of life without parole.

The defense played some clips for you from Joseph's interview. I have the benefit of a transcript here. So I am just going to leave you with these words from Mr. Oberhansley. This is the interview that was taken in the jail when Isaac Parker and Todd Hollis went back down there to try and find where Tammy's heart was. Where he said he ate it, pretty much filled him up. Joseph Oberhansley said, "I will not spend my life in prison. I will not spend my life in prison." I ask you to tell him otherwise. Thank you.

# CLOSING ARGUMENTS

## State v. Gibson Floyd Superior Court 2013

**CASE SUMMARY:** Gibson was convicted of the murder of 75 year old Kristine Whitis, a close friend of his mother, who recently passed away. Her body was found in Gibson's garage, almost naked and beaten. Her body was in an unnatural contorted position with her genitals exposed and pointed upwards. This position was so unnatural that her back was broken in order to achieve it. Abrasions consistent with bite marks were found on her vaginal area. Her right breast had been cut off postmortem. Located next to her were numerous beer bottles that had the victim's DNA on it. A chain saw and trash bags were located next to the body. A few hours later he was arrested driving the victim's minivan, still in possession of her severed breast, kept as a souvenir. He was planning on disposing of her body using the chainsaw and plastic bags. The State argued that evidence showed a premeditated, sexually motivated murder. Gibson eventually confessed to the murder and directed officers to the body of Stephanie Kirk in his backyard.

The case was filed in the Floyd County Superior Court, Judge Susan L. Orth presiding. Floyd County Prosecutor Keith Henderson and Chief Deputy Steven L. Owen represented the State of Indiana. Attorneys John Patrick Biggs, and George A. Streib represented the Defendant.

In a later trial, Gibson was also convicted of the murder of Stephanie Kirk and again sentenced to death.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. HENDERSON:** Thank you. If it may please The Court, and Mr. Biggs, Mr. Streib, and ladies and gentlemen of the jury, good morning. We're at the final stretch. I'm going to stand up and talk to you for a little while this morning. And then, as we did in phase one, the defense will, and then I'll have the final word with you. And then it's in your hands.

This Defendant, William Clyde Gibson, III, deserves the death penalty. And at the conclusion I'm going to ask you to impose the death penalty. He didn't -- and I should probably rephrase that in that you impose the death penalty because, you see, William Clyde Gibson, III, earned the death penalty. There's nothing you did, nothing I did, nothing the police did, it's what he did.

Now, you were given instructions at the beginning and you will be given instructions at the end on aggravators. And when you retire for your deliberation you'll be given verdict forms. And it has been the burden on the State of Indiana to prove to you the aggravators in this case. And we have done that. The four aggravators that were put up on the board yesterday -- excuse me, on the overhead, one, two, three and four.

Three of the aggravators -- or, excuse me, two of the aggravators involved the sexual assault or, as referred to, criminal deviate conduct, criminal deviate sexual conduct against Christine Whitis. And those are two separate. One is inserting an object, which we showed you was his hand, fingers. Uncontroverted, uncontroverted, that's evidence that's in. There's nothing in to show you that it happened any other way, those facts. You know that -- you already found that he killed Christine Whitis, that he murdered her, that was the first part. Secondly, that he inserted his hands and/or fingers or fist into her. Again, uncontroverted by his own words, as well as by the words of the medical examiner. There's nothing in the record, nothing from that witness stand and no exhibit to dispute that. Those are the first four verdict forms. Those two, murder, and criminal deviate conduct with the hand, and then the second with the mouth, again uncontroverted. By his own words, as well as by the testimony you heard from the medical examiner. That should take a matter of minutes, it happened.

The third aggravator, that during the commission of this crime that he dismembered Christine Whitis. That's the third, out of the four forms that's the third one. Again, you saw the evidence from this, and you heard the evidence from the witness stand, the other exhibits that have been put in, that's uncontroverted, it's now fact. That should take a matter of minutes.

The fourth -- and I told you during our opening it was going to be very brief, our case, because those three had already been put into evidence before you. The fourth was that he was on probation at the time of the murder. And you heard from our witness, the probation officer yesterday, as to that, that he was on probation at the time of the murder. And that's uncontroverted. That was put in through the witness stand and through documents, that's uncontroverted. That should take a matter of minutes. Those are your four aggravators that you find. There's two

forms on each one, you find the aggravator or you don't find the aggravator. I suggest to you all four of those have been proven past beyond a reasonable doubt.

The defense put on witnesses yesterday, and it's the defense's option to put on mitigation. They have nothing to prove, but they have the option to put on mitigation. The State, as you saw in our case, we're limited to what the law allows us to put on by aggravators, there's only certain aggravators we can talk about. And we put those on and proved to you four aggravators. We only need one, we only need to find one aggravator, but we put on four, because that's what existed in this case. Now, during Mr. Biggs' opening statement yesterday, I recall him saying that during this phase two that he was going to show that the Defendant had some problems, to show this mitigation. And that he had problems and that he wasn't -- that he didn't grow up in a good home, that he had a bad childhood, that he had an abusive father. Well, I sat in the same courtroom as you yesterday and I didn't hear that. What I heard was his sister said they had a good childhood, that they had a father, had a mother, had Christmas, had birthdays. And, yeah, it was a little while ago where maybe kids were seen and not heard, but we had a good childhood. That this Defendant, William Clyde Gibson, III, had a good childhood. That's what I heard.

And then when the psychologist testified yesterday and yesterday evening, and he talked about what was told to him by the Defendant, the Defendant told him in addition that he was, in fact, spoiled. That he was spoiled. Well, that's a far cry, I think, from being abusive -- or having an abusive father to being spoiled. So he drank a lot, maybe was an alcoholic, maybe he wasn't, the father. But I submit to you, ladies and gentlemen of the jury, that there is no evidence before you today -- and, again, what I say and what the defense says to you is argument. As I talked to you about even in the first phase of the trial, the only evidence is what has come from this witness stand and what has been submitted here, everything else is argument. There has been no evidence before you to even suggest that this Defendant had a bad childhood through an abusive father. By his own words and by his sister's words, who grew up in the same house with him, he had a good childhood. So, you know, mitigation number one I suggest to you is not.

What else did they talk about. We heard from the prison expert. And, quite frankly, I had a chance to think a little longer about that last night. I'm not certain what he said, other than he was a prison

expert, had credentials, was a very articulate man, had a very impressive resume' in the corrections system, had been in charge of prisons. But as I tried to -- and you heard me ask him on cross-examination what is it that -- what are you suggesting, is it that prison's hard or not hard. You know, at one point my prison, you know, we would -- people are going to comply. But, on the other hand, in order to manage prisoners we have to give them all these other things. I couldn't quite tell what was going on with that.

But let's be clear of one thing as we all stand here and let's be very honest, the death penalty is the ultimate punishment. People fight every day not to be in that situation. Let's not confuse -- if, in fact, that's what that was meant to be, that testimony, let's not confuse that the death penalty is the ultimate punishment.

Then the psychologist yesterday evening, let's be clear about his credentials. And he had a lot of experience, he wasn't a medical doctor, he wasn't a psychiatrist. If you recall, he couldn't prescribe medication, he's a psychologist. He's a doctor, DR, doctor, as in a PhD doctor, but not a medical doctor. But had many good credentials, you know, in his field. But what did he say. He said that this is because of what, he's bipolar, antisocial. And he admitted, yeah, most criminals are antisocial. And because of what, because he had a polysubstance abuse. And he admitted after Mr. Owen went through the DSM-IV book, the bible of the mental health profession as to diagnoses, admitted that, well, bipolar in and of itself wouldn't be an excuse, but maybe if you take all this together. Now, whether or not this Defendant's bipolar, and I think there's a question, because I think the good doctor yesterday -- and, again, I couldn't quite tell what he was saying, but it didn't seem that he was following his own standards in his field, in that he wasn't looking at this two-week period. He said, well, you really can't take a two-week period, you have to kind of rely on what the Defendant says. But later when Mr. Owen said, well, the Defendant says that he had a good childhood. Well, I don't know if we can put weight into that. That seemed to be going back and forth.

But regardless if he is or he isn't -- and I would suggest to you that what's in evidence are records from the Madison State Hospital and Richmond State Hospital, and neither one of them agreed with his diagnosis. One said, yeah -- one did say maybe bipolar, but not the bipolar that's been diagnosed by the psychologist. Bipolar, we can't tell if it's because of drugs and alcohol or if it's because of a mental issue with bipolar, don't know. He seemed to say,

well, that doesn't matter, it's bipolar regardless.

I would suggest to you that this person was impatient, this Defendant was impatient with them. And they were with him a lot longer than the few hours that this person was, this psychologist. And what's the motivation here. The motivation when he was in these two hospitals before was for treatment. This motivation was diagnosis. This motivation was to come in and testify and to attempt to mitigate this sentence that the State has requested of death for this crime. That's the difference, that's why he was here. And that's why the other gentleman in the prison system was here, so -- and that's all I -- that's what I heard.

And I think that's what you heard, starting with the family, abusive father, there's no evidence of that. And even if there was, ladies and gentlemen, the abuse excuse is not a reason to brutally murder Christine Whitis. There's plenty of people from bad homes that don't murder. That's the abuse excuse. But, again, I suggest to you there is no abuse at home and, therefore, there's no mitigation.

As to the mental, you know, it's against Indiana law. As a prosecutor I would not be doing my duty to even bring a case of death where there is insanity, where there's retardation, because it's not allowed. That's not the case here. To suggest that there's a mental diagnosis -- and maybe there is a mental diagnosis. Clearly what he did is not going to be in a range of normal in this society. But I would suggest to you that starting with what was argued last night about bipolar to any other mental condition, that there are many, many people that have something.

There are many, many people who may drink too much, who may take drugs. There are many, many people who may suffer from depression. There are many, many people who drink too much coffee. All recognized in the DSM-IV, that would be caffeine addiction, to be diagnosed in that thick book. There is no preclusion in Indiana law for that to be an excuse. Well, but giving the Defendant the benefit of the doubt, giving him the benefit of the doubt that he is or does have a true diagnosis of bipolar, and I would not concede that, but let's give him the benefit of the doubt, that's the mitigator. And when you get past those first four forms -- eight forms, one says approve the aggravator, one says we didn't. Once you get past those four, then the next two forms deal with whether the aggravators outweigh the mitigators, yes or no, two forms. And I would suggest to you, ladies and gentlemen, that those aggravators far, far -- those four aggravators far outweigh any mitigation as it relates to the testimony of the psychologist last night.

And, again, let's be clear on mitigation. That's all that's been put before you. That's the only evidence that's come from this stand, and that's the only evidence that's been submitted into The Court. That so far outweighs, it's like a concrete block of the four aggravators and a feather on the mitigators. That is so lopsided that the aggravation outweighs the mitigation. So you put that aside, I don't think that's close.

But now you get to the third part. And that third part in the last forms are once you get past that aggravation outweighs the mitigation, then you have death penalty, life without parole or a term of years, and those are the other three forms. I don't stand before you in any way, shape or form and suggest to you that the job you have undertook and are undertaking is easy. It's a serious, serious matter. But you haven't come here alone, because, see, I share your responsibility. I signed the charging document as the prosecutor of this county. I signed the death penalty papers to be put before this Court and eventually before you. And I know, I've watched you, I watched you since last Monday, and I know the agony you have gone through with this case, the anguish and the concern. I know that hasn't been easy. And I in no way want to diminish that with anything I say, that somehow what you have to do in your capacity as jurors is easy, I know it's difficult.

And let's not let this be a discussion on the pros and cons of the death penalty. When I talked to you in Lawrenceburg, and Mr. Owen, for that week of being in your community, remember when we met five at a time in the little room, and we asked you what your views of the death penalty were, and we had your questionnaire, each and everyone of you said that in the right circumstance, yes, you could do this, you could impose the death penalty. Not one of you said you could not do that, because that would have precluded your service as a juror in this case.

Under the right circumstance. And I suggest to you that what happened to Christine Whitis, her brutal slaying, of being drawn into the trap of William Clyde Gibson, III, of being murdered unmercifully, at age 75, in a position of trust, is the worst of the worst. And your duty, your statement to the attorneys that, yes, no one's thrilled to be here, nobody jumped up and down and said choose me. In fact, I'm sure a lot of you would much rather for somebody else to be in these 12, 16 seats than what you are. But that's our system of justice and it's an important one. And in that shared responsibility this is where we're at today.

So this isn't a discussion about the death penalty or not, that's our law in this state. You didn't make

the law; we have the law and it's here for a reason. We have the death penalty in Indiana in appropriate cases, when there exists at least one statutory aggravator. That decision was made by our legislature, by our governors. As you sit here today you're contemplating whether or not to enforce that law.

What have we seen. As we have gone through this whole process the last week or so what have we seen to make this case the worst of the worst. I'm not going to stand here before you this morning, I'm not going to put pictures up, I'm not going to show you the crime scene, I'm not going to show you the -- her breast in the interior of the van, those should always be in your memory. But, ladies and gentlemen, but for the facts that have been put into evidence of this case, if not this case, then what case. What case should have the death penalty imposed. What Defendant should have the death penalty imposed. Whether it's one aggravator, two aggravators, three aggravators, four aggravators, this is the case.

And so this isn't a discussion about the pros and cons of the death penalty. We have the death penalty. We have the statutes, we have the procedures, and the State has the burden of proof, as I discussed earlier, proving it to you, and you found him guilty of murder. And the State has then the burden of proof of proving at least one aggravator to support the imposition of the death penalty. And the State has done that. I told you early on the State welcomes that responsibility. I never wanted you to believe in any way, shape or form that it wasn't anything but our responsibility to present to you the evidence and now the aggravators in this case. And what the defense would do or not do on mitigation was up to them. And they could do whatever -- whatever they thought was appropriate. And you've heard it all now. You've heard it all.

The significance of Christine Whitis' life, in my view, and her memory would be diminished with anything less than the imposition of the death penalty. I ask you, I ask you to do what you said you would do, and that would be, be open to the death penalty if the case was proven to you. I would ask you to uphold that, that promise you made. I would ask that you insure justice is served for Christine Whitis. I would ask that you insure justice is served for this community. And I asked you in my opening statement earlier in the case, I said we're going to be talking about a lot of things. Some of it's technical and some of it not, and just a lot of things, and some of it wasn't going to be easy to see, but let's not forget. And through all the debate, and the

testimony, and the arguments, and the exhibits, let's not forget who we're talking about. Ladies and gentlemen, this is Ms. Christine Whitis. Thank you.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF DEFENDANT.**

**MR. STREIB:** Good morning. Now, you were called upon to decide how William Clyde Gibson dies. Clyde Gibson will die in jail or prison. Does he die by being strapped to a gurney and injected with poison, or does he die behind razor wire and steel bars, that is the decision you will have to make. Now, we are not dealing with an excuse for the murder of Ms. Whitis by Clyde, there is no excuse. What we are trying to explain is how this could have happened.

You will receive written instructions from The Court asking you to consider mitigating circumstances. Please consider the following. The Defendant was under the influence of extreme mental or emotional disturbances when the murder was committed. Bipolar. You heard that Clyde suffered from a bipolar disorder. This was from the testimony of Dr. Haskins. Remember, Dr. Haskins ran numerous tests, even malingering tests, to find out if Mr. Gibson was faking. This is also in the records from Madison State Hospital of 2002.

Polysubstance abuse. You heard Clyde suffered from polysubstance abuse. This, again, was from the testimony of Dr. Haskins, Richmond State Hospital, the records of 2004, and, again, Madison State Hospital, 2002. You also heard Dr. Haskins -- from Dr. Haskins that Clyde suffered from antisocial behavior and borderline personality disorder. It was Clyde's lack of impulse control that is most certainly the result of all these multiple personality disorders. And during the case in chief you heard testimony on this here.

(Counsel played excerpt of interview to jury as follows.) "MR. GIBSON: I took somebody's mother. I wish I could just die. I really do. DET. EAST: You know, they're going to ask me about this. They're going to say that, you know, you called her, and you already thought about this. Because your mom's gone, you're angry, you know, you're hurting, and that you already thought about. MR. GIBSON: No, at the time I called her I didn't, huh-uh. DET. EAST: You didn't think about it at all? MR. GIBSON: No. I don't know what happened, I just snapped."

MR. STREIB: The Defendant just snapped. Now, let's think about the emotional disturbances when the murder occurred. You heard testimony that Clyde's mother died three months before the murder, that Clyde and his sisters had to make the difficult decision to discontinue her life support. You heard

from Brenda, his sister, that Clyde took his mother's death very hard. You heard from his neighbors, Tom Wesley and Rob Getrost, that Clyde began drinking again to numb the pain of his mother's death. You also heard his testimony about how depressed Clyde was over here.

(Counsel played excerpt of interview to jury as follows.) "MR. GIBSON: I was going to hang myself, but I didn't have enough nerve to do it. I should have." MR. STREIB: He should have hanged himself is what he said. "MR. GIBSON: Oh, Lord. I wish I would have just hung myself. Shit."

MR. STREIB: You will also be asked to decide if Clyde had the capacity to appreciate the criminality of his conduct or to conform that conduct to the requirements of law, was substantially impaired as a result of mental disease, or defect, or intoxication. Again, Dr. Haskins testified that Clyde suffers from bipolar disorder, polysubstance abuse, antisocial disorder, borderline personality disorder. It was also shown in the records from Richmond State Hospital and Madison State Hospital. You have heard testimony from Clyde that he drank a half gallon of whiskey the morning before Ms. Whitis arrived at his house. You also heard testimony that Clyde tested .23 on the day of his arrest. This is nearly three times the legal limit. You may also remember this testimony.

(Counsel played excerpt of interview to jury as follows.) "MR. GIBSON: I stayed drunk the whole time since she passed away just about. DET. EAST: Yeah. And then, you know, it just seems like to me, just based on my experience of understanding these things, is that it just kind of snowballed. You know, each day passing, you know, you're wondering why am I doing this, why am I drinking all the time, why is she gone, you know, what -- you know, all this stuff is building, and building, and building, and building."

MR. STREIB: All the stuff building, building and building. There are other mitigating factors worth considering, such as remorse. Clyde has expressed remorse for the killing of Ms. Whitis. You may recall this testimony from Clyde -- or this statement from Clyde.

(Counsel played excerpt of interview to jury as follows.) "MR. GIBSON: I wish I would have just hung myself. DET. EAST: I know you do. MR. GIBSON: I thought about it. My brother committed suicide. I wish I would have done it, too. But now I've wrecked everybody's life."

MR. STREIB: I wish I hung myself, because now I have wrecked everybody's life. Evidence of remorse, words presented by former jail guard

George Johnson, that Clyde attempted suicide in jail in June, 2012. Dr. Haskins testified of Clyde's remorse. Detective East testified of Clyde's remorse.

The mitigator of family history of mental illness. Clyde's brother was bipolar and committed suicide. Clyde suffers from bipolar disorder, polysubstance abuse, antisocial disorder, and borderline personality disorder. Clyde's sister, Brenda, also suffers from depression.

The mitigator of an abusive family life. You heard that Clyde and Brenda believe they grew up in a normal family, sort of like the Brady Bunch. But if you paid attention to the evidence, you will find a family that had Clyde and a brother both attempting suicide. Brenda leaving the house at 14 years of age. Remember, Brenda testified that on one occasion she saw her father raise his hand to hit her mother, and that she felt compelled to physically put herself in between them. You also heard that their father ruined every meal with his verbal abuse, to the point that it affected their older brother. No one blames the family, of course, but the evidence showed how the family coped under stress. Clyde's father drank until he saw the effects it had on his sons. Clyde's brother abused both alcohol and drugs, and eventually committed suicide. Clyde turned to drugs and alcohol, and developed some significant mental illnesses. And Brenda is on medication for depression.

Another mitigator to consider is lack of problems while incarcerated in jail. You heard from James Aiken, the prison expert, and others that Clyde has no disciplinary problems while incarcerated. He did, however, attempt suicide due to his remorse. James Aiken testified, from his 42 years of experience in the Department of Corrections, that Clyde would more likely be at risk of being injured than of injuring others. Another mitigator to consider is proportionality. You heard the prosecutor mention when he was talking with James Aiken that one of the 9/11 hijackers was sentenced to life without parole for literally killing thousands of people. You also heard during that discussion that the prosecutor told James Aiken that Michigan City Prison houses over a thousand inmates who are found guilty of murder, but only 13 of them are on death row.

Now, I'm going to comment a little bit on some of the instructions you're going to receive. Instruction 13's going to talk with you about the credit you receive if you get a fixed term of years. The range of penalty for a fixed term of years for murder, under 35-50-2-3, is 45 to 65 years. That's something to consider when you deliberate. Instruction 15 talks

about a pardon or a commutation of sentence from the governor. Just a little information on that, that during Mr. Biggs' years of practice, he has not heard of or remembers anybody being pardoned or having their sentence commuted who has been charged with murder.

I want you to think about how a human being who is suffering multiple mental disorders, the emotional loss of his mother, being under extreme effects of alcohol intoxication, coming from an abusive family, and any other mitigators that you may personally consider on your own reflection of this matter, and choose that the Defendant, William Clyde Gibson, III, will spend the rest of his life behind bars, reflecting on what he did to his mother's best friend, realizing he will never be paroled and will die in prison. Thank you.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. HENDERSON:** Thank you, Your Honor. Please allow me to address some of the things defense counsel pointed out. Let's go back. I said abuse excuse, abuse excuse is I drank too much. I drink too much, I'm an alcoholic. Oh, I take drugs, that's the reason. I call that lack of accountability. No one poured booze down this Defendant's throat. No one forced drugs down this Defendant's throat. He took a hand and he put it in. The abuse excuse, it doesn't give him a pass to commit brutal murder.

And now I hear in closing, I didn't hear it yesterday, but I hear in closing the grief excuse. Well, I lost my mother, grief overcame me, I'm going to make someone else hurt, the grief excuse. And that's what it is. Everyone's going to lose a mother, that's a certainty, isn't it. Some have, some of us have, and some will, but everyone's going to lose a mother. So is that -- so is that an excuse, when we know that's going to happen. I'm going to go through a tough time, so that's going to excuse the most egregious behavior a human being can have. The most egregious behavior of picking a victim who's 75 years old. The most egregious behavior of someone who thought the world of him and his sisters, you heard that testimony. How can it get any worse. How can this lady in any way, shape or form deserve what happened to her, in any way, shape or form. That he's going to invite her over under the pretense of the grief excuse and do what he did.

The evidence shows that it was a month, a month he thought about this. I suggest to you, ladies and gentlemen of the jury, that's not impulse, that's not impulse. Oh, I just snapped. He didn't snap, there's no evidence that he snapped. He thought

about this a long time before he did this, he planned the crime. He didn't just snap and kill somebody. Whoops, gosh, what did I do, I lost my head. Is that what the evidence is? That's not the evidence. He planned it. He planned it in a very brutal way. He thought ahead of time. He planned it not only through the point of death, but after death. It wasn't a snap, gosh, what did I do, no. It was a snap, that's what he wants to make you believe. And then what, I'm going to go to Hooter's, I'm going to go to bars, I'm going to invite somebody over, have some drinks, take the -- have -- the body of Ms. Whitis is dead at the time, have the body with me overnight. Get up, got a plan on how to get rid of the body, going to use the van. But in the meantime I'm going to go out to Hooter's for a while, have some drinks. Does that sound like an impulse to you?

Whoops, the police are at my house, take off. And just to throw in that other aggravator, we're going to carry a trophy, in his words, a trophy of a breast with me in the van. While I'm sitting at Hooter's, I'm going to have that breast in there and I'm going to carry it around with me, while I have this woman's body displayed in my home, in the garage. So I suggest to you there's no lack of control, there's no snap decision. He had many opportunities, he had many opportunities not to do this. A snap decision where? How about when Ms. Whitis said, Clyde, Clyde, stop, don't do this. She really didn't have a choice, did she. He had the power, he had the choice.

And these videos that you saw, and you saw a lot more of it during the trial. And let's talk just for a moment about the intoxication. There's no evidence that was ever brought before you, there was no evidence to show you that on Wednesday, the 18th, or even the 19th, when he was arrested, that he was intoxicated. Yes, you saw the .23 that was put into evidence about his blood alcohol content later Thursday. That's the abuse excuse. Not the abuse from the family, the substance abuse excuse, the abuse excuse of intoxication. There's no evidence that he was drunk or high at the time he strangled to death Ms. Whitis. His sister said she talked to him that night, sounded fine, talked about the gas bill. Getrost said, yeah, he was drinking, but he was fine, he seemed okay.

Let's go into the next day. Did you hear the Hooter girls say that he was stone drunk or that he was stumbling drunk. They were trained to detect that, weren't they. Because they will lose their alcohol license if not, I think was the testimony, they're trained as bartenders, what have you. Is there any evidence? And I would suggest to you

even if there was, the abuse excuse doesn't work. That doesn't give you a license or an excuse to murder. But there's no evidence that's been put before you.

And I know Mr. Streib spoke -- or misspoke and he corrected himself, there's no testimony here, that was a statement, that was a statement given to police. That wasn't testimony in evidence from the stand, that he said he drank a half gallon of whiskey, or a gallon of whiskey, or ten gallons of whiskey. And I know the defense experts, the psychologist yesterday, wanted to base so much of what his decision was on what he was told by the Defendant. And maybe in their line of work that's what they have to rely on, maybe sometimes they don't have anything else. But there's no evidence of that.

And let's not kid ourselves, this guy is a master manipulator. The ultimate manipulation is that he got Ms. Whitis in that home. He's been through the system. Yes, you've seen his interviews, and you also saw the difference in interview one and two. This was interview one, the East interview. To do what he did and to carry off what he did, think about that for just a moment. That's a master manipulator. That took some planning, that took some cunning, that took a thought process.

And remorse, I don't consider attempted suicide remorse. That's cowardly, that's not remorse. I didn't hear that. And we're back to the abuse excuse, the bad home life again. I suggest to you, ladies and gentlemen of this jury, it does a disservice to the Gibson family and to the memory of the Gibson parents that they were abusive. There's no evidence to that. And I didn't hear anyone say they thought they had a model home based on a television show. I heard them say, yeah, we had a good home. We had a father who drank, but I never heard abuse. And to suggest otherwise does their memory a

disservice. And we did hear from Mr. Aiken, the prison expert, who said he testified concerning 9/11 and all the people that were killed. Well, I don't know about 9/11, I don't know about New York or wherever this case was adjudicated, but I do know about my community, Floyd County. And I guess it's a good thing he didn't do that in Floyd County.

But, really, much like the World Series, you know, that's going on now, in the outfield there's always a lot of chatter to the batter to get their eye off the ball, and this is chatter. Because the issue in the room is the behavior of this Defendant and what he did. And, as I said earlier, you have a tremendous responsibility, we have a tremendous responsibility. But it's not a debate about the death penalty, that's our law. It's not you doing anything but carrying out your duties.

William Clyde Gibson, III, chose on April the 18th and April the 19th to brutally murder his family friend, his friend, 75-year-old Christine Whitis, to rape her, to sodomize her. MR. BIGGS: Your Honor, I'm going to object to that. There's no such evidence before this Court. MR. HENDERSON: He chose to rape her. He chose to orally place his mouth on her vagina. He chose to insert his hand and/or fingers or fist into her vagina. And on those dates he cut off her breast before being caught. He did that. Ladies and gentlemen, William Clyde Gibson, III, deserves the death penalty for what he did. The penalty is reserved for the worst of the worst, and the actions that he did are the worst of the worst. I ask you to do justice, do justice for Whitis, do justice for this community, I ask you to impose the death penalty on William Clyde Gibson, III. Thank you.

# CLOSING ARGUMENTS

## State v. Isom Lake Superior Court 2013

**CASE SUMMARY:** Isom was convicted of the murders of his wife of 12 years, Cassandra, and her two teenage children from prior relationships, Michael Moore (16) and Ci'Andria Cole (13) in their apartment in Gary. The triple homicide was discovered when Gary police raided Isom's apartment after a standoff of several hours. All three victims had been shot at close range with a shotgun and with handguns. A neighbor of the family had alerted police to the sound of gunshots about 10:30 p.m. Isom was found on the floor of a bedroom with a revolver in his waistband and his wife and stepchildren shot dead. He told the police his wife was upset about his unemployment, and had mentioned leaving him a few days before the shootings. Though disputed by the defense, police also testified that Isom said, "I can't believe I killed my family."

The case was filed in the Lake County Superior Court, Judge Thomas Stefaniak, Jr. presiding. Lake County Deputy Prosecutors David Urbanski and Michelle Jatkiewicz represented the State of Indiana. Attorneys Herb Shaps and Casey McCloskey represented the Defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. URBANSKI :** Thank you. Your Honor, counsel, ladies and gentlemen. Presentation of evidence in the penalty phase obviously has concluded. The evidence that's come before you, so you recall and understand, is that which was presented in the exhibits, in the live testimony that came in this phase. But additionally you will recall the State told you, ultimately acted upon it, the Court granted the motion of what we call incorporation.

And the Motion for Incorporation asked the Court to bring forward all of the evidence that was presented, all of the admissible evidence that was presented in the guilt phase. So, in fact, all of that evidence is before you in addition to what's come in this phase. All of that evidence is available for you to use in making your determination of the sentence in this case.

And where we are at clearly is ultimately each of you individually and collectively then as a jury of twelve making a decision about the appropriate sentence in this case. And what that process entails

is using the evidence to make a determination in regard to aggravating circumstance that the State has presented to you along the lines of making your decision.

That aggravating circumstance has been presented to you in somewhat of a technical sense. And it's there in the instructions, from the amended Information that was provided. But taking a step back from its language and its reading on its face is the concept of what the aggravating circumstance is. And the aggravating circumstance in this case, ladies and gentlemen, reduced quite frankly to its simplest reality is that of a multiple killing circumstance.

The aggravator speaks of an individual committing a murder having committed another murder at any time. Clearly our time frame is together. It's focused on the evening of August 6th, 2007.

Inherent within the Corporation Motion and granting by the Court were the verdicts that each and every one of you, again individually and collectively as a group, have already determined. We know in Count I the defendant was convicted of the murder of Cassandra Isom. In Count II, he was convicted, by you, of the killing, the murder of Michael Moore. Finally Count III, all of you agreed, returned a unanimous decision regarding the fact that the defendant killed Ci'Andria Cole. Murdered her.

Those decisions have been made by you. The component or the obligation, your duty, or job at this point in time is to examine those three verdicts as an aggravating circumstance and make a determination if the State has proved their allegation of aggravation.

And the way they read, in terms of the Counts of VIII, IX, and X, again individualized counts, giving uniqueness and identity to each of the deceased in this case. Count VIII: Speaks that Cassandra was murdered by the defendant and the defendant had also committed the murders of Michael and Ci'Andria. Count IX references the murder of Michael, against the backdrop of the killings of Cassandra and Ci'Andria. Ultimately Count X references and speaks to the murder of Ci'Andria at a time when the defendant has committed the murders of Cassandra and Michael.

In one sense, and sadly so, it's essentially a very technical and mechanical evaluation. Your verdicts

already speak to the existence of the murders. And quite frankly it's the facts and evidence that speak to the timing issue that allow you to endorse the fact that the State of Indiana has proven its aggravating factor, the multiple killing circumstance, in each and every one of those counts.

And there is a verdict form for you when you make that determination that the State has proven its aggravating circumstance beyond a reasonable doubt. The State is confident that, in fact, we have done that. Again, inherent in your initial verdicts on the murder counts basically you're simply putting them together at this point in time.

Moving along, you now deal then with the existence of mitigating factors, which each of you independently are provided the opportunity to determine on your own, to speak of collectively as a group.

Upon making the determination, and the State believes you will, of the existence of the aggravating factor having been proven beyond a reasonable doubt, you then deal with the notion of weighing the two against the other. Aggravating circumstance balanced against mitigating circumstance. At that point, it's the State's position that, in fact, the aggravating circumstance, the multiple killing, outweighs any mitigation you may have determined to exist in this matter.

There is a verdict form for that. The State asks that you find and indicate on that verdict form that the State has proven that the charge and the proven aggravating circumstance does, in fact, outweigh the mitigators.

And ultimately, ladies and gentlemen, that determination of the aggravating circumstance over the mitigators now solidly entrenches you in your final decision. The final decision of sentencing in this matter. The options before you, a term of years, life without parole, and death. Ladies and gentlemen, the State of Indiana endorses the penalty of death in this case. The State believes it is the appropriate penalty.

It's the appropriate penalty when you look at aggravating circumstance in this case. The aggravation relative to the multiple killing circumstance. That, in fact, three individuals were murdered by Mr. Isom. Those individuals were a mother, and her two children. That, in fact, those three individuals are family. Multiple killing dictates, tells us Mr. Isom eliminated a family from this earth.

That mother had two children, a 16-year-old son and a 13-year-old daughter. Neither provided, allowed the opportunity to grow and develop into adults. Their lives were terminated on August 6,

2007.

In regard to the aggravation in terms of the facts and circumstances, you will recall from the evidence brought forward Cassandra received that devastating shotgun blast that was put to her head as she was on the floor and evacuated her brain from her skull. That followed, were involved additionally, five entrance wounds from a small firearm, from the handguns, where the wounds were inflicted additionally to her chest, her abdomen, and her back.

Michael Moore also having received the shotgun blast, two additional handgun wounds to the back and flank area along with grazed wounds to his arms.

And finally 13-year-old Ci'Andria. Ci'Andria's reward for being home that afternoon, that early evening was that she was shot with a 12-gauge pump action pistol grip Mossberg shotgun. That she received eight separate unrelated entry wounds from the handguns. One of those wounds to her head. Additional to her arms and her back.

Ladies and gentlemen, the State has proven to you the aggravating circumstance in this case. They have proven it beyond a reasonable doubt. The State has shown and believes that, in fact, the aggravating circumstance in this matter outweighs any mitigation that you may find. And finally, ladies and gentlemen, the appropriate penalty upon concluding your thoughts, your balancing is that a sentence of death deserves to be returned. Thank you.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF DEFENDANT.**

**MR. MCCLOSKEY:** Honorable Court, esteemed counsel. This is the opportunity, ladies and gentlemen, where I get to talk with you about what we proceeded through the last few days. This is my opportunity to summarize what I think have you been observing the last couple of days.

At this point in the trial, we are not trying to excuse. We are not trying to justify. We are trying to explain why it happened. The difficulty for me at this point is that you come to the realization that each of us are built upon a foundation, A foundation of time. From the point that we were born to the point where we die. You come to realize in doing this that the foundation that each of us have are distinct and separate.

Dr. Eisenberg talked to you about foundation. And he used an example of a house. You start at the bottom, which is your framework. I was lucky. If you ask me what it was like as a child, I could tell you the

street I grew up on. Tell you who my neighbors were. Tell you what my dad was doing, what my mom was doing.

But if you asked me thirty years later what block I grew up on, I couldn't tell you that. Thirty years later, this family -- and by the way, it's not easy standing up in front of strangers and bring the skeletons out of the closet to tell what the structure is.

You're going to get an instruction on the credibility of the witnesses. Do you think that from that chair they are happy to say where they lived, what they grew up on, who block they lived on? I grew tired of hearing block three, block seven, block eight. And how is it thirty years later to say who ran block three. Did they even take a gap? It was Vice Lord, Gangster Disciples.

That's the foundation we are talking about here, ladies and gentlemen. That's the foundation. So when we are talking about somebody's foundation, we are talking somebody's life history. We start at where -- we start at the bottom. And what do we know? What was the evidence that was presented?

Well, you heard the name Julia, Grandma Julia. Julia was a -- married to sharecropper down South. The first witness you heard, ladies and gentlemen, was Lula Isom, Kevin's mother. She was born in Arkansas in 1943. She was the youngest of seven children. She is the last one still alive.

What's important is establishing the background, the foundation that someone's life is built on. Lula moved to Chicago. Mother, Julia. And, ladies and gentlemen, their version of Chicago is not my version of Chicago, is not your version of Chicago. They moved from location to location to location. Julia was working as a domestic.

They moved. They kept moving. Everything about this family is moving and moving and moving. Lula at twenty-one, she had Kevin. Oh, by the way, over the last couple of days, you heard from the women. What is interesting about this family and this foundation is that it's all women. There are no men. No fathers, no uncles. Just women who are doing their best. It's not enough.

Kevin was born to Lula at age twenty-one. You know she drank during his pregnancy. When he was about born, he was born at a hospital in Chicago. Oh, by the way, education for Lula ended at eleventh grade. She went to work. She had Kevin at twenty-one. Born breech at the hospital in Chicago. She's by herself. Father wasn't there. Wouldn't even show up to sign the birth certificate.

In fact, as I talked to the family on the stand, you think it was easy for them to say, I don't know whose

Kevin's father is. I can't imagine that sort of life. Kevin lived it. And the Isoms lived it. By the way, father's name is Chester. You didn't hear from him, did you?

Now, you heard from the aunts, cousins, relatives. Grandma Julia was raising Kevin. Grandma Julia was a person that raised Kevin. Lula and Kevin stayed with Julia until Julia passed in 1989.

And what did Miss Stewart Anderson, Yvonne tell us? Told us that when Julia died Kevin stayed in his room until he was dragged out by his Aunt Maebell. Not an uncle, but his aunt.

Why is that important, ladies and gentlemen? It's important because it shows the framework, the ground that had been built by this point on this particular house. It was damaged. His friends were his family.

By the way, family was living at Altgeld Gardens at this point. Now Altgeld Gardens is on the far south side of Chicago. Now you look at the map of Chicago, we're just lakefront at Buckingham Fountain and Michigan Avenue. Well, you head south down 94, go a ways, keep going, keep going, keep going. Go south. You end up at Altgeld Gardens, the Garden.

And I started off the week by saying Altgeld Gardens, and even I started to adopt the Garden. That's what people called the Garden. The Garden is not a pleasant place to live. It's not a pleasant place to grow up.

And you heard from Dr. Garbarino today talking about the south side and war zones. I can't imagine growing up in a place that a school teacher, Miss VeDree, had to bribe parents for a PTA meeting and to buy books, clothing for the kids. Going to school, walking along a wall and seeing a list of names of people that have died.

Now, there are plenty people that grow up and become successful from a single parent home or from the projects. That happens. But what Dr. Eisenberg told you is that there are factors involved. And you can have two different kids in the same house and end up two different ways. Dr. Garbarino told you that as well.

For Kevin, the framework was being leveled. At his reaction, his life is being formed at a very young age in a war zone. Because that is what was. Family moves to Akron, Ohio, at age ten. And at age ten, his friend, his classmate unfortunately dies. Blames it on himself. The family ends up back, back in Chicago. Now That at this point, he's going to Harlan. And he is at Harlan School. And the family told you about there is two different ways to get to

school. You can't walk to school. I can't comprehend that. You can't walk to school. He took a separate bus to go over around certain areas. And that's what Kevin was doing. Kevin was jumped, beaten in an attempt to get him to join whatever gang was running Harlan at the time. Whatever gang that is. You have to stay inside and make sure the bus is right there so you can run right to the bus. Can you imagine living in an area like that? Could you? I can't imagine. When I got on the bus, I walked down my driveway, hopped on the bus, and went to school. But that's what he was doing.

And then family sends him to Piney. He's there for a year. And he ends up right back in the Garden. Right smack dap in the Garden again. Rather than keeping him at Piney, give him a chance to be out of Chicago, they bring him right back to the same spot, to the Garden. And what do we know about the Garden? Well, you can't go block three or block two. You can't go to this. You can't go to that. Especially if you're not a family of a gang. If you're a member of the gang, you can at least hang out in the area. You're okay.

But heaven forbid you're a neutron. That's a term I have learned and I have been doing this seventeen years and I never heard neutron. We learned about it, didn't we? If you're a neutron, means you're a target from everybody. So he's a neutron.

Goes to Carver and graduates. A lot has been made from graduation from Carver. And what did Miss VeDree tell you about Carver, the schools in Altgeld Gardens? Do you honestly believe that he was a straight A student. That it was - that he wasn't just taken his last year into.

Mrs. Isom, in all respect to Mrs. Isom, but to her Bs, and Cs, and Ds are okay. My house, Bs, and Cs, and Ds were not okay. In my house, education was important. How was a child to get an education if they moving every year from location to location to location to location? So now the building is starting to become fuller. For all intents and purposes, Kevin was the man of the house. We have heard that before. He was a homebody. He was expected to be the man of the house at a very young age. He was the only man in the house. And that's an awful hard place to be a man in that environment.

Again, ladies and gentlemen, this a not to excuse. This is not to justify. This is to give you the full picture of what we have here. Because, ladies and gentlemen, you are going to have an incredibly hard decision to make. And it has to be your individual decision.

This is why we presented the evidence that we did to give you the full picture of who Kevin Isom is. You saw part of it in the trial itself. We are giving you the full picture, ladies and gentlemen.

Now, Amy Nguyen provided you some maps to take a look at to sort of explain as a matter of statistics and what the census showed what the Garden in those particular areas were like. And I am sure they are fresh in your minds, ladies and gentlemen. The fact of the matter is Altgeld Gardens is the poorest section of Chicago. It's the most dangerous section of Chicago. It has the highest levels of single family households. Highest levels of dropout. That's what the Altgeld Garden is and that is why we showed you those pictures, those maps.

Now, we know in 1989 that Julia died, the person that he called mom, not Lu or Lula. Mom died. So Kevin and Lu end up moving to Gary, Gary, Indiana. Oh, by the way, part of the reason that we presented what we did is that you learned the family was expanding; his cousins having their own children, were getting married. Everybody was moving on but Kevin. Kevin was living at home with Lula.

Carol moves to Gary in a single story house that we showed you. And she didn't want to be alone. So the family, the family moved. Lu, Kevin, and quite a few other folks were living in one single house in Gary on Second Avenue. The family had one car. Kevin, you know, even though he wasn't employed at this point, provide transportation. He helped out as best he could. He took people to school. He picked people up. He cut people's hair. The families were just congregating on that one house.

We know Kevin became a security guard. That he worked as a security guard until he was - people said laid off. Some people said fired. Irrespective, he lost his job. We do know in 1994 that he met Cassandra. Cassandra had two children, Michael and Ci'Andria, beautiful children. They got married. They remained married for twelve years.

So August 6th of 2007 -- by the way, this was the first time that Kevin had a family of his own without Lu. And if you remember Yvonne said, I thought he was playing. I thought he was playing that he had a girlfriend. Strike you odd. Playing because he had a girlfriend. Because he never left the house, ever.

We know he hides in his room after Julia passes, after Maebell passes. He disassociates himself from the stress, of the event. Ladies and gentlemen.

So he gets married. Twelve years. And then the night happens. Three people die that night. And the question you have to ask yourself, ladies and gentlemen, is what happened that night that resulted

in the event? Because we know that Kevin doesn't have a criminal record. We know he does not spent a day in jail. Yes, he does drink. He does self medicate. We know he has back issues. He medicates himself.

What happened that night? Because I believe it was Mr. Aiken who said that he is a model prisoner after. So what happened that night that resulted in the death of three people?

Well, you heard from Dr. Parker. And Dr. Parker testified twice. He says that Kevin doesn't remember what happened. He says he's not malingering. He had an initial diagnosis of PTSD. But that cleared up. It doesn't answer the question. He then, based upon his testimony, tells you it had to have been an extreme emotional disturbing event. It had to been that. Because Kevin doesn't malinger. And based upon his social history and everything presented to him, including the statement that was given to Detective Bond, everything fits with extreme emotional disturbance. Ladies and gentlemen, the position of the defense was that it was extreme emotional disturbance.

Now we heard from Dr. Gelbort. Dr. Gelbort told us very important things. And I know that you paid attention to what Dr. Gelbort had to say. Dr. Gelbort was the neuropsychiatrist that examined Kevin. And he discussed the limitations that Kevin has. You remember the foundation we talked about, ladies and gentlemen. That's why that was important. That's why we painstakingly called member after family member. It wasn't to generate sympathy. It wasn't to generate anything but to lay the groundwork for why these doctors found what they did.

And Dr. Gelbort tells us that he's got frontal lobe limitations and impairments. That the deficits are present at all times and limits his capacity to adapt in situations requiring active and efficient cognitive endeavors in information process. Dr. Gelbort took you through Kevin's abilities to react, abilities to comprehend. And a big deal was made about, well, what's mild? A mild cancer is how he explained it. Less than five percent of the population explanation. The fact the matter is Kevin has significant issues in his brain. And Dr. Eisenberg explained to you how that happened. It's not something you're born with. It happens over time. Over time this has been building. Quite honestly, ladies and gentlemen, this event, this life that Kevin has led up to the point, and we heard unremarkable. It's unremarkable to me. That he basically was a homebody his whole life. Sheltered. When he got out, it was a dangerous and cruel world. And that is the way he looked at life.

Ladies and gentlemen, you are going to be allowed to consider in mitigation factors. You will receive an instruction on this. And I am not going to insult this jury and suggest to you, because, ladies and gentlemen, it's your individual determination, your individual, individual determination as to what mitigation you want to look at and what the aggravation is.

And, of course, the State is held to the burden of beyond a reasonable doubt to the aggravating factor. The standard is a little different in mitigation. That's called a preponderance standard. A preponderance standard is more probable than not.

And I am going to propose to you that there are quite a number of mitigating factors. And there going to be listed in the instructions. But what is clear in mitigation, ladies and gentlemen, is an extreme emotional disturbance. There is no question about that. The evidence presented, the argument is made. We are all talking about anger, we are all talking about leaving marriage, losing a job. Those are all, to someone of Kevin's makeup, is devastating. This is the man that locked himself in a room over the death of a family member.

We talked about terms like death of a thousand paper cuts. Well, that's what this is. This is a thousand paper cuts over and over and over again. Again, I am not offering it as an excuse. To explain what happened. His no absolutely history of any prior criminal conduct. Those are two of the three statutory mitigators we are asking this jury, each one of you, to make a determination. And there are suggested non statutory mitigators that you may consider. And they are 1 through 29.

I know, ladies and gentlemen, you have been paying attention throughout this entire trial. And first of all, I want to thank you. This has been a long road for all of us. You know it's taking us out of our lives, out of our family's lives going on five weeks. And I appreciate and I thank every one of you from the sacrifice that you had. But please understand, we all have been working as well. We all gone through this journey together.

And I know that the instructions that the Court will give, that you will, in fact, read, you will digest, and come to a conclusion. The State is suggesting that you sentence Kevin to death. I am suggesting that you sentence him to a term of years.

He's 47 years old, ladies and gentlemen. You will receive an instruction as to what the penalty is for a murder case. He will die in prison. He's not going home. The question you have to ask is what is enough? There is nothing you can do today that will bring back these three people who are now dead.

You have to ask yourself, not knowing why you are in jail for the rest of your natural life beyond the fact that you presented -- you pronounced guilt on him, not knowing what happened on August 7th, 2007, August 7th, 2007, can you imagine living like that. Because that's Kevin's world. He will spend the rest of his live in jail. That's enough, ladies and gentlemen. Miss Gonzales testified yesterday. And I was very appreciated that a correctional officer was willing to come over and testify for Kevin. What did she tell you, ladies and gentlemen? She said we give on the fourth floor of the Lake County jail, give an hour opportunity to go to the range. She also told you that Kevin rarely takes advantage of that.

So for the past six years, he's lived in a six by eight cell, locked down twenty-four hours a day, seven days week. If you're going to create a problem or be an issue, you would you have done it in that time frame.

Mr. Menchaca testified, and again, I thank him as well, correctional officer. He went through all the Spillman report on the record. Didn't find one sort -- Didn't have one incident. Not one write up, nothing. And what did Mr. Aiken tell you based upon his review? That he could be housed. Ladies and gentlemen, I am asking you on behalf of Kevin to sentence him to a term of years. Thank you.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. URBANSKI :**

Ladies and gentlemen, the question, point belabored by defense counsel to some degree in the course of their opportunity to speak with you this morning, what happened in the apartment, we just don't know. How are we ever going to figure that out? Kevin has this memory loss. And we just don't know.

Well, ladies and gentlemen, we do know. The evidence tells us what happened there. And the evidence told us very clearly that Kevin Isom, the owner of the 12-gauge shotgun, a .357 magnum, and a .40 caliber handgun, used each of those weapons in the course of the evening hours to slaughter his family.

That is not up for dispute. Each of you have decided that for yourselves beyond a reasonable doubt. The question of what happened is not up for dispute. The facts speak for themselves. The State presented them. You evaluated them. You made a determination. You rendered your verdict of guilt beyond a reasonable doubt against the backdrop of the presentation of those facts.

Kevin Isom today, as we moved forward, is a

convicted murderer. Kevin Isom murdered his wife and the two children. That is not for dispute.

One thing that is up for dispute is in a sense the picture created during the penalty phase of who Kevin Isom is. And there was a parade of family members and experts who wanted to tell you all sort of things about Mr. Isom in particular, relative to the family members and their personal knowledge. The experts have no personal knowledge of the life of Kevin Isom. And they basically presented for you a model of what their work would show or their investigation would show, their studies would show.

And defense has embraced for you the fact that the model created by the experts is the person who is Kevin Isom. That is not reality. The fact is Kevin Isom is not the person created through the drumbeat of the expert witnesses.

Dr. Parker today told you that Kevin had good family support. Granted absent a father. That the women in his life raised him. He was raised by his mother. If you recall repeatedly defense asked the questions over and over to the cousins and the family members, who raised Kevin, who raised Kevin? Was it Julia? The answer was always no to Grandma and Julia. Same person obviously. But the answer was always Lula. He was raised by his mother. Clearly entrenched with the aunties and grandma.

But the bottom line out of Dr. Parker's mouth today, good family support. No history of psychiatric problems. And ultimately spoke of a solid and unremarkable life. A solid life emerging from Kevin's existence. And actually taking it one step further in that regard, kind of fusing that notion of Kevin's education, which it was interesting that the school teacher that came in here and told you about the circumstances where she taught and the experiences of her children had, Kevin never attended that school.

It's little hard to imagine the relevance of that. But again, the supposed model that is being created, not Kevin. And bringing the educational component home, Kevin was a high school graduate. As the State understood the testimony, he was essentially the first male in the family to accomplish that goal, a tremendous goal in that sense. And bringing you back to Dr. Parker, Dr. Parker said that, in fact, Kevin as of average intelligence. Actually I think what he said, if I recall correctly, that he was at the low end of average intelligence. Nonetheless, average.

But most important the point that he hooked to it was that Kevin's average intelligence was

supported by the testing of Dr. Gelbort. So Gelbort, regardless of what he wants to say, establishes Kevin as a reasonably intelligent individual.

The most remarkable sort of image that defense attempted to create in one sense that certainly diverged from the model probably most uniquely I believe was Dr. Eisenberg in his discussion. And he went through all of these risk factors that one would expect to see in the context of a life of a person experiencing the reality that Kevin was experiencing.

Dr. Gelbort -- or excuse me. Dr. Eisenberg spoke of the risk factors. And when he fused them with Kevin's life, he was completely dumbfounded. Completely dumbfounded. And actually the word he used was troubled. Because, in fact, none of the risk factors that would explain future behavior coincided with Kevin's life. None of -- his words were, I believe, they didn't manifest themselves in his life. And the comment that he actually said, if you recall in summing up Kevin's life, he actually did pretty well. Those were his words. Their expert talking about the fact Kevin in the context of his life was doing pretty well.

So in that sense, ladies and gentlemen, the foundation in one sense that you can look at is the fact that Kevin had good family support, had achieved educational goals that no one in his family had previously seen, and that he had a total void of any prior psychiatric history. That's the foundation. Those are the bricks upon which you can analyze the aggravating and mitigating circumstances.

Something else you could look at is the credibility of witnesses. Dr. Parker, the defense's own witness, essentially impeached the testimony regarding Kevin's job status. Prior to Dr. Parker testifying, we had heard stories of Kevin being laid off and receiving severance packages. Not the reality from Dr. Parker, who, in fact, got his responses from an interview with Kevin. Kevin words were that he was terminated over a dispute where Kevin was discontent with the fact he did not receive a raise over the course of the last several years. Wildly diversion.

I believe it was that same witness whose testimony was impeached in regard to the job loss, which by the way if you recall, she had the opportunity to go to the employer who, of course, was willing to talk to with her about terminating one of his employees. Because that, of course, in today's world has so often. The reality of that same witness, her testimony was later impeached

by one of the State's witnesses that was called on rebuttal. A second defense witness' testimony rebutted by the State. Each of them impeached.

And you know, ladies and gentlemen, again the decision the State is going to ask you to make is to return a verdict of death. And asking you to return that verdict because it is appropriate. In terms of analyzing the appropriateness of that penalty, ask yourself, kind of take the big step back, in terms of the existence of the death penalty in the State of Indiana, and, you know, does it exist. On theoretical grounds of proportionality, does it exist for retribution? Does it exist on a deterrence level, whether generally or specifically from controlling people's conduct?

Ladies and gentlemen, simply in regard to answering that question, the State represents to you that the death penalty is in a sense -- in one sense a manifestation of community. And what the State means by that is that the death penalty is not a arbitrary penalty that is handed out.

The reason the State says is that the death penalty and its existence is controlled in a sense by the legislature. The legislature, as we know, our people elected into office expressing the will of the people. They're voted into office. They are maintained in office for the purpose of carrying out the functions of their constituents. Constituents disagree, they take people out of office.

The fact that, that penalty exists is an endorsement of the community. And in the fact it exists, it exists for the fact that there are circumstances under which that penalty should apply. Again, regardless of its existence or not, when someone commits a criminal act and is convicted of it, a penalty should attach and will attach. And in determining that penalty, for either the smallest crime, there is a range. And in this context, ladies and gentlemen, under the circumstance of the multiple killing and the State proving its aggravating circumstance, the availability of the most extreme penalty for death is available.

And it's the State's contention that the act performed, the aggravating circumstance proven, which is that again multiple killing relative to Cassandra, Michael, Ci'Andria, is that it was an extreme act, it was a brutal act, it was a horrific act, and it was an act carried out solely and consciously by the defendant.

And in making that evaluation in terms of the balance, there is a very distinct point I believe that emerges in understanding and providing guidance. And in getting to there, there are two

circumstances, two sort of realities that unfold here under the notion of Kevin as protector and provider. And as a protector of his family, the physical components of his condition, the back, basically creating him the notion that he has failed and failing in that regard.

In terms of a second avenue, is that of provider. We know he was fired from his job. He is no longer providing. So he is no longer a provider; he is no longer a protector. That's against the backdrop of his troubled marriage.

And what now, ladies and gentlemen, is the tipping point in your determination? And quite frankly we will borrow from Dr. Gelbort in that examination. Because what emerged from Dr. Gelbort, the one sort of shining component that Gelbort put forward in regard to Kevin's decision making was that he did best in making slow and deliberate decisions.

Ladies and gentlemen, the State proposes to you that, in fact, those acts of murder, of killing, of slaughtering his family were the a culmination of Kevin Isom slowly and consciously and deliberating making those decisions. Retrieving his weapons, making sure they were loaded, and repeatedly firing them into his wife, and the children.

And that's the best that Kevin Isom's decision making comes to. And, ladies and gentlemen, that is what supports the notion of aggravation outweighing mitigating circumstances. And, ladies and gentlemen, that's what provides you the opportunity, the solace, and the intestinal fortitude to return the verdict that these facts demand. And those facts demand death.

Because ultimately, ladies and gentlemen, Kevin Isom failed Cassandra as a wife and as a life partner. He failed the children as a father. He failed himself as a man. He failed his mother as a son. And he failed the community as a productive and constructive member of that community.

And for what he did, under the constraints that you're given of balancing aggravating and mitigating facts, ladies and gentlemen, death is appropriate. And understanding Kevin Isom, he loved Cassandra and the children to death.

In his final acts, his show of love for Cassandra and the children, again to take his weapons, his shotgun, his .357, his .40 caliber, and repeatedly, consciously-- remember the open phone line. It was boom, boom, boom, repeatedly.

And, ladies and gentlemen, that understanding and that appreciation for the aggravation and the multiple killing circumstance relating to Cassandra, Michael, and Ci'Andria lay at your feet and dictate the appropriate verdict of death. Thank you.

# CLOSING ARGUMENTS

## State v. Wilkes Clark Circuit Court 2007

**CASE SUMMARY:** Wilkes met and befriended Donna Claspell while they were enrolled in an in-patient drug rehabilitation facility in Evansville. After completing treatment, Wilkes moved in with Donna and her two daughters, 13 year old Avery and 8 year old Sydne. Shortly thereafter, Wilkes began molesting Avery. While intoxicated, Wilkes murdered Donna in her bed, beating her with a hammer and wooden level which resulted in multiple skull fractures. He also cut her throat with a knife. Wilkes also attacked Sydne in Donna's bedroom, beating her with the hammer and level, causing massive skull fractures. Wilkes then went to Avery's bedroom, strangling her with a sports bra and leaving her naked on her bed with her hands tied behind her back and one of her legs tied to the footboard of the bed. Wilkes confessed to the crimes, but claimed at trial with the aid of an expert, that it was a false confession.

The case was filed in the Vanderburgh Circuit Court and venued by agreement to Clark County. Vanderburgh Circuit Court Judge Carl A. Heldt presided at trial. Prosecuting Attorney Stanley M. Levco and Deputy Prosecutor Donita F.M. Farr represented the State of Indiana. Attorneys Barbara Williams and Kurt Schnepper represented the Defendant.

At the penalty phase of the trial, the jury hung 11-1, but in written findings unanimously found that the State had proved the aggravators beyond a reasonable doubt, and that they outweighed the mitigators. Judge Heldt later imposed a death sentence.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MS. FARR:** May it please the Court, counsel, members of the jury. There are three questions that you're going to have to answer today. The first one of which, did the State prove aggravating circumstances? By virtue of your verdicts, we know that they've already been proved. Arguably, one of the four, the murder of Donna and one other person, Sydne or Avery, two, the murder of Avery and either Donna and Sydne, three, the murder of Sydne and either Donna or Avery, and the fourth one, which

technically we didn't -- you didn't find but we proved beyond a reasonable doubt but it's uncontested, and that's the fact that Sydne was under the age of 12. So that's -- those have been -- we had the testimony from Sharon Shamo and also from Dr. LeVaughn that Sydne was eight years old.

The second question is, do the aggravating circumstances outweigh the mitigating circumstances, and that one has been answered as well, too. In opening statement, defense counsel stated that no mitigators outweigh the aggravators, so that has been answered, too, we know that the aggravators outweigh the mitigators.

The third is the final one, and that is, does Daniel Wilkes deserve the death penalty or life without parole? Basically, does he deserve your mercy, that's the question.

The Judge read to you the instructions and you don't have the verdict form yet, but I just want to -- it took me a couple of times to read through this and I just want to basically explain when you get back to the jury room what they're going to look like. There's a total of six verdict forms that you're going to have and whichever foreman you elect will be the one that signs it, and of the six verdict forms, the first four are stapled together and it's the verdict form for the charged circumstances.

The first one is -- like I said before, the first three, really, are the multiple murders. The fourth is whether or not Sydne was under the age of 12, so that will be - those have been proved, and that's the first section, that the State has proved them. And again, by virtue of your verdict on Wednesday, we know that's been done. The fifth one -- the last two are not stapled together, and the fifth one is the verdict form for aggravating circumstances and mitigating circumstances and the balancing test that you're going to be doing. The top part says that the State of Indiana has not proven, the bottom part is that the State of Indiana has proven. So defense has already agreed that we have proven those and that they outweigh, so it will be the bottom part.

And then the final one is a verdict form for recommending one of three choice, the first one

is term of years, the second one is life without parole, and the bottom one is death penalty. So I just wanted to explain that to you. This is the last chance that Donna, Avery, and Sydne will have to speak -- excuse me -- and this is what they're saying. What he did was unexcusable and unavoidable. It was violent. It was cruel. It was evil. It was painful. It was terrifying. The experts that we heard yesterday said that Daniel Wilkes needed love, attention, and affection, and I'm -we're not minimizing that, he had a terrible childhood. There's no question about it, he had a terrible childhood, but remember this, he had Aunt Norma. How cute was she, 77-year-old Norma. She's a loving, kind, caring person. You could tell that from the stand. You wanted to go up and hug her when she was up there.

Her dad, the defendant's grandfather, was a mean drunk, abused her, and sexually molested her, and it's interesting. She's 77. Whether it happened 60 or 70 years ago when she was molested by her father, the defendant's grandfather, how painful it was for her to talk about that and to admit that to you in court, and that's the horror of child molest, how it lasts for decades upon decades on a victim, but Norma survived the abuse and the torture that she was subjected to as a child and she chose to make good decisions and she became a good person and she raised a family, she's still raising her grandchildren at this point, and she cared for the defendant. She visited him when he was in the Soldiers' and Sailors' Home. She took him fishing with his cousin, I believe is what she said. She was a loving influence on his life.

The defendant also had love and affection and attention from somebody else in his life, and that was his sister, his older sister Lea Ann. Lea Ann survived the Gospel according to George's Christ, as she described it, George, their father, the defendant's father and Lea Ann's father. She survived the dirty home, the neglect, the abuse that she was subjected to and all of the kids were subjected to in that horrible home. She made good choices. She made good decisions. She went through medical school -- or not medical school. She went through nursing school. She's now a nurse at the Department of Corrections, and she offered her love and attention and affection to the defendant as well. But eventually the defendant turned on her, too. She told you how the defendant had taken advantage of her and her family even though she welcomed him into her own home and allowed him to be around

his -- her children, and she acknowledged that drugs had ruined her family and she even told you that the defendant needs to be punished. She acknowledges that.

The last person to offer love and affection and a home to the defendant was who? It was Donna. How did he repay her? He brutally massacred her and her entire family. Excuse me. A place where someone should feel safe and secure is your own home, in your own bed. He is a manipulator. The defendant is a manipulator, make no mistake. When he was at the youth home, the United Methodist Youth Home, he was described as a young man sneaky in his behavior. When he went to Stepping Stone, Southwest Mental Health records, he manipulated women and he told them he -- I don't want to say bragged about it, but he openly discussed how he would meet girls at work, move in with them, and when his drinking got bad, they would either kick him out or he would find somebody else who had better drugs and move in with them.

He wants you to have sympathy for him and for his 13-year-old daughter. The defense showed you pictures of her baby photo. She's now 13, I believe was the testimony, but yet he chose to re-enlist in the National Guard and take that 14 grand and blow it on drugs instead of taking care of his own daughter, yet he's using that and manipulating that photo.

The defendant told his own mitigating expert one year after the murders when he had been clean for a year and without drugs that he still doesn't remember anything about the murders and told yet another lie about Michael Baker and Donna and concocted the story about them getting into a fight on the porch. And probably the worst manipulation of all, he manipulated Avery in every sense of the word, and not just once but numerous times. He blames everyone else. It's everyone else's fault.

Is he taking responsibility for his behavior and his actions? His father was mean. His mother was inattentive and neglectful. We had experts come in and say that he should have been on medication earlier, there should have been an intervention. The treatment -- yes, he had treatment, but his treatment should have been better. The CHINS petition was dismissed too early. He was dismissed from the youth home at the age of 16 when it should have been 18. And Dr. Engum said if he had been raised in his home, that he would have been married with

a house and a couple of kids, but is the reverse true? We know it's not true. Lea Ann is proof positive of that, you know. She grew up in that horrible home, that horrible situation. She kept her bedroom clean. She grew up and became a productive member of society.

But the blame game comes down that he had the audacity to blame Avery for this situation and for what had happened. He said that Avery is the one who came onto him, he was sleeping and she came in and was hunching him. She didn't look like a 13-year-old, but she's the motive, and but for her coming onto him, he wouldn't have had to kill Donna because she wouldn't have found out about it. He's still blaming everybody else. He had a choice and he's had choices, like all of us do. As an adult, he made the right choices and he has the ability. We know that because he went into the National Guard. The first time -- he was in there twice, but the first time he got promotions and he did well for years, and this is as an adult, so we know he has the capabilities of making good choices and good decisions and he got his GED.

Tabula rasa means clean slate. Every one of us are born with a clean slate and it's by the choices and decisions that we make in life is how that slate is filled up. He chose to do drugs. He chose to be sober but he also chose what he did on April 23rd and 24th, 2006. It was his choice. This was not a spontaneous drug-induced rage. It was not. It was a cold, calculated cover-up.

He tip-toed into Donna's room, opened the door and flicked on the light real quick to see the positioning of her body. He had to have had that weapon in his hand when he walked in and said, quote, I felt where her head was with my hand real soft, and then I hit her and broke her eye socket and cut her ear and slit her throat. What did it sound like when he took that hammer and crushed Sydne's skull on both sides of her head? At what point did she cover herself up with her little hands when she was subjected to the 27 impact injuries on her head, her face, her neck, her shoulders, and her hands? It wasn't spontaneous when he took off his bloody clothes and went back into Avery's room because he knew she wouldn't have done it, you know, messed around if she had seen that. He chose to fill his slate with the brutal and selfish murder of three people, a family, a mother and two girls,

The defense said in their opening that we're going to show you photographs, a lot of photographs, and it was to shock and awe and

that these photos are going to be etched in your brains forever, but I ask, of those 80 or so photos, that you remember three, Donna (indicating), Avery (indicating), and Sydne (indicating).

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. SCHNEPPER:** May it please the Court, Your Honor, prosecution, defense. Members of the jury, this is probably the toughest morning you'll ever have in your entire life. It's the toughest morning I've had in my entire life. Today you're being asked to make a decision on whether someone lives or dies, and like I said in the first phase of this trial, I don't envy you.

The first thing I would like to talk to you about is the separation of phases and the fact that we're here for mitigation or what exactly is mitigation. The Court's instruction Number 4, I want to make it very clear to you, Mr. Levco asked a question to Dr. Smith whether or not Danny's intoxication, his drug use was being offered as an excuse or a justification for what happened. There is no -- there is no excuse or any justification for what happened to Donna, Sydne, and Avery. It's not possible. Mitigation has nothing to do with an excuse or a justification for the crimes. Instruction Number 4 that the Judge read to you, a mitigating circumstance can be anything, anything about the defendant. It lists age, character, education, environment, mental state, about his life, his background, or any aspect of the defendant that you, as an individual juror, might consider or think justifies giving him a sentence of life. Anything, We're not offering excuses or justifications for what happened.

They're three innocent people that were brutally murdered and there's a weighing that the Court has instructed you to do. When you take those three lives that were taken, there is no -- there is no mitigating evidence, there's nothing about Danny's past or his upbringing that can possibly ever outweigh those three lives that were lost, but the important thing about mitigation and about the instructions and what you're going to be instructed to do is that no matter what the weight of these two circumstances are, the aggravating and mitigating, no matter what weight is assigned to either, you have an absolute right at all times to choose life, an absolute right to choose life for whatever reason even though the aggravators

outweigh the mitigators. That has no impact on how you should vote.

A mitigating circumstance can be something that you heard during the first phase of this trial, during the second phase of this trial, something that you thought about but didn't hear, something that Norma said, something that Brenda said, something that Lea Ann might have said, or any of the doctors might have said. It can be something you just thought about it, it could be something that you didn't hear about. Anything that you can find within yourself that you think is a reason to choose life as a mitigating circumstance. Anything. It could be a feeling, as simple as a feeling, something that you can't even put into words for a reason not to put Daniel to death, and this is your own individual moral assessment, your own opinion as to what his sentence should be.

Like I said, no matter what, you are never required, never required to come back with a sentence of death under any circumstances. As jurors in this second phase, you have certain rights, duties, and obligations. You have an absolute right to choose life over death under any circumstances, an absolute right. You have an absolute right to your own moral opinion, your own individual assessment as to whether Danny should live or die. You have a right not to have that opinion criticized by other members of the jury. You have a duty not to criticize or bully anyone else because of the opinion or the beliefs that they've found. You have a duty to return only the sentence that is your personal moral opinion and a duty to stick to that opinion and not return to this -- to this courtroom with a unanimous verdict or sentence of death unless that sentence reflects your own moral opinion. You have an obligation to choose life. From everything you've heard, if you find one mitigating circumstance, if that is your own personal belief, that is something that you heard, something that you feel, it's just what you want to do, you have an obligation to return with a life verdict.

I want to remind you again that the State, the State of Indiana and its laws never in any circumstance ever requires the death penalty, even in the worst cases,

You need to ask yourself, why was Danny at Donna's house? There had to be something about Danny, and after working with Ms. Williams and Mr. Wilkes, Danny, for the past year and a half, there is something about Danny. Donna saw

that. He's likable. He's lovable. He's funny. She invited him into her home not knowing what she was getting into. There was something about him that made Donna trust her -- trust him, and that's still there today. Danny, please stand up, (Daniel Wilkes stood up.)

Our message to you is that Danny is not the worst of the worst. The Danny that committed these crimes is not the true Daniel Wilkes, not the true Daniel Wilkes that I've gotten to know over the past 18 months. I submit to you and my message to you is that this is the Daniel Wilkes that myself and Barbara Williams have gotten to know. The Daniel Wilkes that committed these crimes is not reflected here today, was not reflected during the first phase. That is a Daniel Wilkes that no one has ever seen before. He has no prior criminal history of any violence whatsoever. He's never hurt anyone before in his life. He went from drunk driving to triple homicide, and like Dr. Aiken said, he just -- he had to come meet him, he had to come sit and talk with him because he didn't fit the mold.

I ask you to find one reason, just one reason from anything that you have heard, seen, or felt during these past two weeks, find that one reason, that one mitigating circumstance, just find one, give that one reason weight, give that one reason, that one mitigating circumstance weight and assign it the weight of life. Thank you.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT.**

**MS. WILLIAMS:** Your Honor, prosecutor, ladies and gentlemen. Like Mr. Schnepper, this is a very difficult morning for us, not anywhere near as difficult as it is for you. We've been together now for nine days and you've heard all of the evidence in both trials. It's now your decision to recommend life without parole or that Danny be executed. Like Mr. Schnepper, on Mr. Wilkes' behalf, we are asking that you choose life for Danny Wilkes.

The Judge has read the instructions and, quite frankly, I wish there was a way that this legal information could be presented in a more logical way. Even having done this for years and years and we're sitting there going through instructions, it's confusing, but I think we need to remember that you folks who are going to make this decision this morning are in a very rare and unique position. The decision of whether to recommend that Danny Wilkes be

executed and killed or to recommend that he receive the sentence of life without parole which will ensure that he never walk out of a prison alive is only made in circumstances where, as the Court has instructed you, you may only consider recommending the sentence of death or life imprisonment without parole if you unanimously find that the aggravating circumstances outweigh the mitigating circumstances.

And, ladies and gentlemen, as I told you in our opening statement of the second phase, as Mr. Schnepper told you and as I will tell you one more time, we do not believe that there is any mitigation that we could -- that there could be that could ever outweigh the tragedy of the loss of these three innocent people's lives. We offer no excuse for the conduct that resulted in their horrific death, as Ms. Farr described, but you've found him guilty of that and we acknowledge that the basis for bringing this charge that we'll ask you to recommend to the Court that Danny Wilkes be executed is based on the aggravating circumstances that more than one person, three people, two of them children, but more than one person and one of those people under the age of 12, that's what the aggravating circumstances are in this case, and we think there is nothing worse than that.

But as you know and as the Court has instructed you, now the decision is do you recommend that he be killed or do you recommend that he spend the rest of his life in prison, and that's where, as Mr. Schnepper talked to you about, we're going to talk about mitigation.

We talked about that in jury selection. We talked about it a little bit in the opening, and as Mr. Schnepper pointed out, mitigation, and as the Judge told you at jury selection, is anything at all that you think individually would permit you to weigh Mr. Wilkes' life in such a way that you believe that he does not deserve to be killed, but that rather you believe that life without parole is a sufficient punishment for someone like Mr. Wilkes.

By its definition, ladies and gentlemen, this phase of the trial is about Mr. Wilkes' background and you've all agreed, in fact, you've all promised and the Court has instructed you and will instruct you again, that mitigation must, must be considered and that mitigation is anything at all including the defendant's character, education, environment, mental state,

life, background, and any aspect of the offense which you believe weighs against the sentence and, ladies and gentlemen, as Mr. Schnepper indicated, we believe that there are many mitigating circumstances that each of you could take into account and recommend that Mr. Wilkes' life be spared and that he serve the rest of his entire life in prison.

We believe, Your Honor -- we believe, ladies and gentlemen, that justice -- the interest of justice can be served by giving Mr. Wilkes life without parole. The reason, ladies and gentlemen, that we presented the evidence that we did was to -- as I said in opening, to tell you about Mr. Wilkes' life. Now, you've heard the prosecutor in questions -- and, once again, Mr. Levco will be able to talk with you after I sit down and I won't be able to respond. You've heard the prosecutor ask questions and talk about the excuses that Mr. Wilkes has made and I'm just going to emphasize this one more time. Our information about Mr. Wilkes is not offered as an excuse. Mr. Wilkes has been convicted of this crime. We acknowledge that. He must be punished, and if the sentence is going to be life without parole or the death penalty, you need to look at the issues that we've -- the issues considering mitigation.

The reason we presented the mitigation that we did, ladies and gentlemen, is not -- it is not to make an excuse. We hear this all of the time. Oh, he's making excuses, he's blaming everybody. Ladies and gentlemen, if what happens in someone's early life isn't important, then why -- why do we all in our community, wherever we are, direct so much attention at trying to make sure that children are parented in a proper way, are clothed, fed, nurtured and loved? I think we all know the reason why, it's because it does matter. It matters -- it's the most important thing that matters in terms of how each of us live our lives.

Most of you when we talked about that issue and when we read that questionnaire -- most everybody on their questionnaire answered the question do they believe every family is dysfunctional, I think most of us would agree that there is something maybe a little dysfunctional in every family. Some of you, myself included, may have members of your family that grew up in the same household and made different decisions, but the fact of the matter, ladies and gentlemen, what's really important and the reason we presented the

evidence that we did on behalf of Mr. Wilkes is that from the moment he was born, he was treated worse than an animal. He was kicked to the curb, so to speak. By who? His father.

I submit to you, ladies and gentlemen, that if someone is the worst of the worst in this case, it's George Wilkes, and you heard -you heard Lea Ann talk about Danny got the worst treatment than anyone, and was Aunt Norma around? She was around for part of the time, and did she survive a horrible childhood and is she a remarkable person? Of course she is. But, ladies and gentlemen, do you know what George Wilkes did? Did you hear Norma tell you that she -- she did go to visit Danny when he was at the Indiana Soldiers' and Sailors' Home, and then a few months later -- he was there for a year or a few months -- a year and a few months and then he was back in Vincennes and then he was put in another institution for more than a year, I don't remember exactly if it was 17 months or 18 months, they sent him to the Methodist Youth Home for Children in Lebanon, and did you hear Norma tell you that it wasn't until a few weeks ago, a few weeks ago when we were talking with her about her relationship with Danny that she learned for the very first time that in 1982 and 1983 Danny was at the youth home where she could have gone to spend time with him and George deliberately didn't tell her that Danny was there, and she regrets that. She regrets that she didn't have that time with Danny. Could she be of help to him? Of course she could be.

The information that we talked to you about, about the trauma, the childhood trauma that Mr. Wilkes lived through, the long-term depression, the addiction to the drugs and the controlled substances, that's not an excuse, ladies and gentlemen, that's -- that was the reality of his life. He's had to contend with that. For some parts of his life, he's contended with that without -- without getting in trouble with the law. He has -- as Mr. Aiken indicated and as Mr. Schnepper indicated, he has, for whatever reason, been able to operate or go through life without having any criminal behavior except the stuff that we talked about, 1994, 1992, 1997, almost 15, 16 years ago, but are we suggesting to you, ladies and gentlemen, that because he doesn't have a serious criminal record that he is someone who you consider a role model in the community or someone that you would want your son or daughter to turn out like? We're not suggesting that, ladies and gentlemen, He was involved in

using illegal drugs, We're not saying that he should get a citizens of the year award. We're saying that given the circumstances which were outside of his control in his childhood, he was functioning without being -- without being a criminal.

Does that mean that he was -- that he was making good decisions every day of his life? You heard Dr. Engum say that he was making decisions that would permit himself to become intoxicated or become drunk or high in an effort to sort of passively close off -- or to passively commit suicide. He didn't -- you heard testimony from witnesses who said that if he took enough drugs or alcohol that he didn't wake up the next day, that would be okay with him. Now, that's not -- that's not -- we're not suggesting that he was -- that he was someone who was -- had gotten his education and was making good decisions about what his life was going to be. He was doing the best that he could and he wasn't moving forward the way any of us would want our own children or our own brothers or sisters to move forward, but he hadn't -- he hadn't become a criminal, and as I talked with you earlier, the problem of the methamphetamine, the uncontrol- -- the un- -- the unlimited supply of methamphetamine that was available, that was made available by Mike Baker that he and Donna and Danny were ingesting was unbelievable.

You heard the talk about -- or the discussion about -- the testimony that was presented about the problems with what methamphetamine is. I've been doing this for a long time and I've had lots of people -- I've represented many, many people who have problems with methamphetamine. I -- you -- I don't understand, I don't understand how anyone could put that substance inside their body, but people do it and we know that these three people did and it had a horrific, horrific result.

Is Danny Wilkes responsible for the decision to consume and ingest methamphetamine in the last few -those days and weeks and months in the year before or years before? Of course he was. That was the wrong decision. He never should have done that. Should he have gone out and tried to find a way to pay his child support, get back in the National Guard and live a better life? Of course he should have. There's no excuse for that. He was addicted to drugs and alcohol. Did he try to

get some help? Many times. Should he have been in a long-term care facility? Of course he should have. Are we saying it's Stepping Stone's fault? No, we're not, but has Danny Wilkes, who's made the effort to try to deal with some of these problems, is he the personification of evil who's just making excuse after excuse after excuse? We don't believe that about Danny Wilkes.

The prosecutor asked one of the witnesses if it was manipulative for him to sign up for the National Guard and not spend that bonus on his daughter. He probably should have done that, of course he should have done that, but for someone who is addicted to drugs, who didn't do that, is that going to be a reason that you're going to say that Danny Wilkes should be put to death? Of course he shouldn't have done that, but has Danny Wilkes any redeeming qualities? You heard Mr. Aiken say that he believes that -- he believes all human beings have redeeming qualities but he believes that Mr. Wilkes would make -- has made a good adjustment to incarceration, that he would probably be the kind of person who would be in prison for the rest of his life and ultimately be someone who would teach another inmate to write a letter home or teach another person to read at the first grade level. He's not the personification of evil. What happened was evil. It was evil what happened. It is unforgivable. In opening statement, ladies and gentlemen, I talked about the fact that by definition, murder is almost impossible for us to imagine because it's one human being actually taking another human being's life. It's so impossible to imagine. It is so horrific to imagine. I can't imagine it. But we know, ladies and gentlemen, we know, that human beings kill each other -- kill others.

I haven't heard much news in the last few days. I know it's snowing out west and it's coming east. I know that in -- where is that place? In the mall in Omaha, since this trial has begun, some young man went into the second floor of a department store during the middle of December, the busiest time of the year, and started shooting a gun and I think eight or nine people are killed. I can't imagine that, ladies and gentlemen. I can't imagine how another human being can do that, but human beings -- that's what murder is. They talked about that young man, he's been in and out of homes. There's no excuse for that, but that's what murder is, and the law, as I said a couple -- yesterday, the legislature who sets the

requirements and the availability of this penalty, of the death penalty, the legislature recognizes how horrific murder is, and as I said a few moments ago, you can't even consider life without parole as a penalty until you've decided that the aggravating circumstances that the prosecutor has alleged in this case are proven beyond a reasonable doubt, and the legislature in this State has made sure -- has -- the law says, based on what the legislature has provided, that if you choose to give life without parole in this case, that -- that penalty is sufficient. You can't choose life without parole until you decide that these horrible, horrible aggravating circumstances exist. In fact, if you read that instruction, if you were to go back there and decide that the State had not proven its aggravating circumstances, you couldn't even consider life without parole.

We're asking you, ladies and gentlemen, to give Mr. Wilkes the punishment that the legislature says can only be given in a case where the prosecutor has filed charges of murder and then filed aggravating circumstances on top of that, and that's this case and we believe that the information that's been provided to you through these witnesses should convince you and will convince you that Mr. Wilkes deserves to spend the rest of his life in prison. Thank you very much.

**CLOSING REBUTTAL (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE STATE.**

**MR. LEVCO:** First, on behalf of Vanderburgh County, I want to thank you for serving in this case. I particularly want to thank the alternate jurors. I think being an alternate juror has got to be one of the worst things to do, you've got to sit and hear all of this evidence and then you don't get to discuss it, but it's not that your service is not important. I've had a number of cases where at the last minute an alternate juror does have to serve and without you being here, you never know whether we would have been able to go with that and -although it certainly appears at this point that you're not going to be serving.

Mr. Schnepper said that -- this morning, this is the toughest morning you're ever going to have in your entire life, and he also said in his closing argument that he didn't envy you because of the seriousness of this decision. Well, I don't feel that way at all. This may be a difficult decision but this is an opportunity for

you to do the right thing in a difficult situation. Almost every one of you said when I asked you, and that was the reason I asked you, would you like to serve on this case or not, I can't say for certainty all of you did, but I know most of you said that you wanted to serve on this case, and I'm sure you did not take that lightly. Maybe some of you are second guessing that decision now, I hope not, because you're in a unique position to make a significant decision whichever way it is. No one is in a better position to decide this case than you and your recommendation, if it is for the death penalty, will be totally justified by the evidence and you can take satisfaction in doing a job well done in a difficult situation.

Now, I want to talk first about Mr. Aiken since he just testified this morning. A couple of things he said, that Mr. Wilkes didn't fit the mold, and he meant that as to his prior history, but you heard that on death row now, there are roughly 15 people and of the 15, there may be three that have committed as many murders, so although I don't think he meant it, but in some way he doesn't fit the mold because he would be one of the worst people on death row or at least have committed one of the worst crimes on death row.

He also -- I want to talk about the costs a little bit and tell you that I don't think you should recommend the death penalty to save money. I don't think that -- it may be a factor but I think it should be a minor factor. I don't suggest that saying we're going to save some money here so we ought to execute him is a good reason to recommend the death penalty, but I thought Mr. Aiken's testimony about the cost, I think, was a bit hard to believe.

First of all, if you -- if he does get a term of years or life without parole, he'll get to appeal this case over and over again just as he will with the death penalty. Now, I don't want to suggest to you that the appellate costs for life without parole and the death penalty are the same. The death penalty probably would be greater in appellate costs, the appeals probably would go on longer, but it stands to reason that if somebody is going to spend the rest of his life in jail, particularly someone 37 years old, we could be talking 30, 40, or 50 years, and isn't it strange that this guy with all of these qualifications and head of the Indiana prison system has no idea how much it costs to keep a prisoner in the prison system for a year? When Ms. Farr suggested 20, 30,000, he has no idea. Well, I'll tell you -- I'll suggest to you why, because if he committed himself to a

number of 30,000 and you multiply that by 40 years, you come up with like a million and half, and there's no way you can say that -- I don't think that he could say the appellate costs would be that great. So my point is simply this, not that you should recommend the death penalty because you're going to save money but you shouldn't recommend against the death penalty because you think you're going to save money.

Now, I want to talk about the mitigating factors. As Ms. Williams said, mitigation must be considered and that's true, but that doesn't mean you have to give mitigation any particular weight or that the mitigation has to outweigh the aggravating circumstances. The ones they've asked you to consider are three, the defendant had no significant criminal history. That may be true. I mean, he's had -- it depends on how you define significant. He's had some DWI's, he's had some public intox, he's had the child support. Although, my guess is, if you talk to that mother and child whose child support hasn't been paid, particularly when he blew \$14,000 on drugs after re-entering the military, I'm guessing they'd tell you that's a pretty significant criminal history. And Ms. Williams says that alone is not a reason to put him to death. Absolutely.

I'm not asking you to put him to death on that reason alone, but I think that reason does tell you a lot about his character, and that was when he was in his 30s. That was not when he was 16 years old and in the Sailors' home, that's when he was an adult he does that. And also, she actually talks about criminal activity, so not only do you have the DWI's, the child support, you've got his history of illegal drugs, but I wouldn't dispute that you can certainly argue he doesn't have a significant history of criminal activity, particularly in the violent sense.

The other two factors that she wanted you to weigh are he's under the influence of extreme mental or emotional disturbance and substantial -- he had a substantial impairment to conform his conduct to the requirements of the law as a result of intoxication, essentially the drugs made me do it or I'm not totally responsible because the drugs made me do it, and I had written a note out to myself, totally out of context, but let me say it now so I don't forget. I know she didn't intend to mislead you, I'm sure she didn't, but I just want to make sure when she said -- talked about life without parole, there something about saying that that's the punishment that can only be given when the aggravators outweigh the

mitigators, and I'm sure you know by now it's not if the aggravators outweigh the mitigators you can only give life without parole. If that's the case, you can give life without parole or the death penalty or a term of years, which term of years has seemed to have gone by the wayside, so it seems pretty clear that we're talking about either life without parole or the death penalty.

Let me talk about drugs just for a minute. They may well have been a factor in this. If he hadn't taken those drugs, he may well not have committed the crime, but we don't know anything about Avery. Was he taking drugs during the time he repeatedly molested Avery? And even if so, he ingested those drugs voluntarily. He's totally responsible for his behavior from what the drugs did to him. You heard Dr. Engum say that he was psychologically addicted to drugs as opposed to physically, which essentially means it's more of his own choice. It's not his body telling him you have to do it, it's his mind saying to him I want the drugs, and this -- he committed this crime after going to rehabilitation, after being dried out, after having no physical addiction to the drugs, and after being given medication to make him stop taking drugs, he took the drugs and stopped taking the medication because the drugs were interfering with his enjoyment of his alcohol and illegal drugs.

Now, is he going to get rewarded for voluntarily taking these drugs particularly so soon after he's gone through rehabilitation? On the question of guilt, you know, the law says voluntary intoxication is no excuse for a crime, and I submit to you that voluntary intoxication should not give him a free pass to get out of the death penalty in this case either.

I want to talk to you just briefly about the process, Ms. Farr did too. We've got three forms. Essentially there's no question that you've -- we've proven that there are aggravating circumstances. They've essentially said that they admit that the aggravators outweigh the mitigators, but let me suggest to you, you need to independently come to that conclusion. Even though they've said it, I think you need to at least think about it because -- at least you ought to -- just like the mitigators, you need to think about it. I think you need to think about whether that's true, but after you've thought about it, I don't think that there is any question you will come to the same conclusion, that the aggravating circumstances do outweigh the mitigators, and that being the case, then you have any of three

penalties to recommend, the death penalty, life without parole, or a term of years.

In this case, you have four different legitimate reasons to give him the death penalty, the three multiple murders and killing Sydne, a child under the age of either ten or 12. You get all of these instructions. I can imagine what it's like. Aggravators, you must weigh the aggravating circumstances against the mitigating circumstances, all what that means, and it's difficult to plug in a formula when you're talking about whether to decide whether or not to recommend death or life without parole to someone.

Justice Potter Stewart had a case many years ago when pornography was more of an issue than it is today, and they had to define what pornography was, and Potter Stewart says, I can't define it but I know it when I see it. Now, in jury selection you were all asked what do you think a good death penalty case would be, who would you give the death penalty to, and a lot of you had difficulty answering that question, I think properly so, and I think probably you could have quoted Potter Stewart at that time and said, I can't define it but I'm going to know it when I see it.

The defense has said the death penalty should be reserved for the worst of the worst, and I would agree with that, and he's -- we've already shown he's not the worst of the worst, he's worse than the worst of the worst because of 15 people on death row, he's worse than 80 percent of those. If this case doesn't warrant the death penalty, what case does?

Ask yourself this question: What entitles Daniel Wilkes to receive a lesser penalty on what he inflicted on the three victims? We didn't have to prove motive in this case but we did, we proved it was because Donna caught him, and, you know, I don't know, maybe killing a woman and two children, maybe there are some circumstances where that wouldn't justify a death sentence in every case, but almost any other motive you can imagine would be better, that is, better for him, than this one.

Maybe this case would be a little less worthy of the death penalty if he and Donna had been married and he caught Donna cheating on someone. Not that that would justify it, but at least it would be a little less meritorious of the death penalty. Maybe it would be a little less meritorious of the death penalty if he was in the middle of a robbery and somebody came after

him and tried to stop him from robbing and he shot three people and killed them. Again, it would still be a terrible thing but it would be a little better argument against the death penalty. But, how could you possibly have a worse motive? She catches him molesting her child so he beats her to death and he beats the eight year old to death and then he strangles and strips Avery naked. No wonder he can't think about it or he doesn't want to think about it. You could not have a worst motive in this case.

Since April 26th, 2006, everything has been done to make sure Daniel Wilkes' rights were protected. These past two weeks have been all about making certain Daniel Wilkes' rights were protected. He had two attorneys who vigorously defended him. He had expert witnesses who were being paid tens of thousands of dollars to testify on his behalf. He had a fair judge. He had a fair jury to make sure he was afforded every protection of the law to guarantee he get a fair trial, and he got his fair trial, and the presumption of innocence that he had to begin with has been removed and you've properly found him guilty based on the evidence.

Finally, finally, after 20 months, 600 days, it's no longer just about Daniel Wilkes and his rights. Now it's time to start talking about the rights of the victims. Members of the jury, today belongs to Donna Claspell and Avery and Sydne, and on their behalf and on behalf of the State of Indiana, I ask you to return the only fair verdict in this case, and that's the recommendation for the death penalty. Thank you.

# CLOSING ARGUMENTS

## State v. Baer Madison Superior Court 2005

**CASE SUMMARY:** On the afternoon of February 25, 2004, 26-year-old Cory Clark and her youngest daughter were alone in their home near Lapel. Her 7-year-old daughter was at school and her husband was outside the state. Baer entered the residence and used a knife to slit the throat of Cory, then chased down 4-year-old Jenna and slit her throat as well. Baer had attempted to rape Cory before her death. Baer had been working at a nearby construction site that day, left work, committed the murders, then returned to the job. The apparent motive was to feed a drug habit and a deviate sexual appetite. Baer also faces Rape and Burglary charges in Marion and Hamilton Counties.

Madison County Circuit Court Fredrick Spencer presided at trial. Prosecuting Attorney Rodney J. Cummings and Deputy Prosecutor David L. Puckett represented the State. Attorney Jeffrey A. Lockwood and Bryan R. Williams represented the Defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. CUMMINGS:** Ladies and gentlemen, Fredrick Michael Baer has earned the right to be sentenced to death. Because of the choices he made on February 25, 2004, to commit those horrible acts of violence that you already know about, to commit the murders against Jenna and Cory Clark, he's earned the right to be sentenced to death by the choices that he has made.

Mr. Lockwood said in his opening statement, We reserve the death penalty for the worst of the worst. Is this defendant so much among the worst of the worst that he deserves the death penalty?

In my career in law enforcement in this community, we have had at least 125 murders. That's a conservative estimate. Maybe even more than that. Three of those defendants have been sentenced to the death penalty and sentenced to die. Of those 125 or so, no murder

even comes close to the murders committed by Fredrick Michael Baer. Not even among the three men who have been sentenced to death. The depravity, the horror, I would challenge you to think, have you ever heard of a murder that you've heard in the news or seen in the news that was more heinous and more deserving of the death penalty than this case. You might say 9/11 because of the 3,000 or so people that died there. Maybe the Oklahoma City bombing because of the numbers.

But think about the violence, the horrific nature of this crime where Cory Clark was laying in her bedroom with her throat cut in the last few moments of her life while she's bleeding away, and her brain is still functioning, this defendant is chasing her four-year-old girl through the house, her four-year-old daughter through the house to cut her throat and murder her. I would challenge you to think of a crime you have ever heard of that is more horrific than that and more deserving of death penalty than the facts in this case. Is there anyone that deserves the death penalty more than Fredrick Michael Baer? I can't believe you will think of a single defendant that is more deserving than he.

The aggravating circumstances. I apologize while we adjust this just a shade. Can you bring that down just a little bit. There are five aggravating circumstances that the State must prove to you beyond a reasonable doubt. Did he kill two people? There's a number -- not every murder qualifies for the death penalty in our state. There's aggravating circumstances that must exist. I think they want that light back on. Aggravating circumstances that must exist that qualify a particular murder for the death penalty. If you kill more than one person. If you kill a person and kill another person at any time, whether it was 20 years or in the same crime, that qualifies you to be considered for the death penalty. If you commit a murder while you commit a rape, if you commit a murder while you commit a robbery, if you commit a murder of someone under the age of twelve, if you're on parole at the time you commit a murder. Any one of those -- not all five of them -- any one of

those qualifies this defendant to be considered for the death penalty. The State is only obligated to prove one of those aggravating circumstances exists and all five of them exist.

There are five aggravating circumstances that qualify Fredrick Michael Baer to be executed. Five. They're all there. We have to prove to you beyond a reasonable doubt. Well, you've already determined he committed both murders, and you found him guilty in the guilt phase, so that clearly exists. You found him guilty of robbery. That clearly exists. Jenna Clark was four years old. That clearly exists. He was on parole. You heard from the parole officer at the time. That clearly exists. All five of those factors, ladies and gentlemen, have been proven to you beyond a reasonable doubt, and we only need to prove one. But all five of them exist. There are five reasons why this man is eligible to be executed in this state.

You have to find that. When you look at the questionnaire, and you'll see it back there, you have to make a check; you have to make that determination. Are they proved to you beyond a reasonable doubt? That should not take you a matter of minutes. They're all there. You've got to make a check list, and you've got to sign the form and have to sign off on it. You can't forget to do that. But the evidence is overwhelming and the State has proven its burden beyond any reasonable doubt that those aggravating circumstances exist. Those are the only aggravators that the State is permitted to talk about. Under our law we can't say anything else to you. We prove that and then we sit down. That's all we're allowed to do in this portion of the trial. We can't do anything else. And we did that. The evidence took a few minutes. We were done, and that was it.

And then the mitigating circumstances. The defense is permitted to say anything they want. That's why we're here for seven or eight hours yesterday listening to Dr. Clark (sic) because anything, anything, anything, anything, can be presented to you, and you can consider it. Whatever you think is important, whatever you think is relevant to you as an individual that mitigates that, that somehow justifies, explains, diminishes culpability. You heard what Dr. Clark (sic) said, My job is to define and explain morale culpability; reasons why you should think he's not responsible to the extent that he should be found to be responsible to the extent that he should receive the death penalty.

Did you hear anything that justifies the behavior that occurred on February 24, 2005? I mean it's like throwing a feather on a scale with a brick.

The abuse excuse. And that's really what it is. He had a tough childhood. Well, is this the first guy that ever had a tough childhood? Let me see. Drugs, huffing, meth; he did drugs. Did it to himself. He did drugs and that caused him problems. Faulty wiring, fetal alcohol, toxic parenting, bad report cards, inattentive, impulsive. His mother had chemotherapy. His sister got killed. Somebody was a stripper in a bar. I mean it's one issue after another. Did you hear anything, anything, anything, that diminishes the culpability for this kind of crime? Anything?

You know if you were paying attention and really listening to what Dr. Cunningham was saying, all of his studies were about kids. All of his studies were about childhood problems and how they impact kids. This is not the first person that's ever had a tough childhood. There's millions and millions and millions of kids that are in horrific environments. Lots of them in this community. And they don't commit this kind of crime. How many people in his family -- did you see those charts with all the people in this family? Hear anybody else cutting four-year-old's throats? Did you hear anything about that? Kids.

I think it would be more understandable if he were fifteen or sixteen or if he were eighteen or if he were twenty-two when this happened. I mean I think you'd really have to think about that. If this was a teenager or a young adult, you know, he hadn't had much time to get out of that parental environment. He hadn't had much time to break away from those horrible things that happened in his childhood. And if he were much younger than he is, maybe you give more weight to this. Because this -- you know, all the information you heard yesterday is about childhood problems, about how the choices are more difficult to make. Where in the world does that end? He was thirty-two when he committed these horrible crimes. Thirty-two. He wasn't sixteen or eighteen or twenty. He was thirty-two years old. And he's still using his mother as an excuse and -- I mean it's one excuse after another. He's thirty-two years old. When is that gonna end?

One of the things that you didn't hear from

Dr. Cunningham -- he omitted everything, everything, that demonstrated that this defendant could conform his behavior to what society requires or demands. He can conform it when he wants to. He can conform when he chooses to.

He got a GED. 1995 he got a GED. He was a tutor at a Learning Resource Center. Successfully completed anger management, 1994. Successfully completed anger management in '98, I believe. Yeah, February '98. Successfully completed the prison fellowship. Another prison fellowship. Substance abuse program in '95. Bible Correspondence Study Course. Pre-Release Program in July of 2003. He can conform his behavior when it's in his own best interest. He can do it when he wants to. He can do it when there is some benefit in it for him.

This was a letter that he wrote to a judge in the case. I believe it was in 2002. "Your Honor, I realize that I have been a burden on society, but I am not the same person. I know talk is cheap, but I can say honestly that I have been walking the walk." He knows just what to say, he knows just what to do when it's in his interest. He is capable of conforming his behavior to the demands of society when he chooses to. You know another thing about Dr. Cunningham, every single thing that he told you about yesterday occurred at least seventeen years ago, and some of them were over twenty years ago. Except for the substance abuse and being in prison, there hasn't been any problems in his life at all. None that were commented on in the record in this case. And not a single act of violent behavior, not a single act of violent behavior, not a single act of violent behavior. Now he committed some crimes, but he didn't hurt anybody. He did not hurt a single person until he was thirty-two years old.

This is called the abuse excuse. I had a tough childhood, so don't sentence me to death. It's the same thing that's been running through this case since it started. How do I get myself out of the problem that I'm in? How do I make my penalty the least it can possibly be? He's thirty-two years old when this crime was committed. Isn't it time for him to take some responsibility for his own behavior. When does personal responsibility and choices, when -- when do we become responsible for that? When do we stop crying about what a tough childhood we have and suck it up and deal with

the situation that we're in?

Choices. A really important part of what Dr. Cunningham said yesterday; choices, choices. The defendant absolutely had choices. It's not the same choice as someone who had a good childhood.

You know what, that's tough. You know, I've got a -year-old daughter who watches MTV, and she wonders why she can't have her own jet and why she doesn't have a house like the rappers on MTV. Life's tough. You know what, deal with the situation that you're in. And because he had a tough background, it was harder for him to make choices. He still had a choice. He wasn't compelled to do anything. It was a harder choice to make. So what. A harder choice to make. It was a harder choice to make not to cut the throat of a woman and her four-year-old child. Is that a hard choice? That's not breaking into a house and stealing something. Nothing explains that. Nothing explains that. Nothing explains that. Not that. Not that.

Increased risk of violence - not inevitable. That means he had a choice. And now he doesn't want to be held accountable for the choice he makes. He wants you to say, I had a tough childhood, don't sentence me to die. And that's what it comes down to. That's what this case is all about. He is responding to his surroundings. You know, I had trouble seeing that one, because the way this case started, remember, he worked as a flagger. Somebody just didn't cross his path. He went out looking for someone to assault. He walked off his job and was seeking someone to attack. That's not responding to your surroundings. He had a choice to make. He made it. He wanted to rape somebody and he did. For whatever reason that only he knows, it didn't go the way he wanted, and he cut that woman's throat.

And a little girl was there seeing it happen and running for her life, and he chases her down, and he cuts that little girl's throat. And he had a choice.

Even the person they hire and bring in here said to you he had a choice. He could have chosen not to do that. It was harder. So what. It was harder. He had a choice, and he's looking for one of you to bail him out of the bad choice he made because he does not want to be executed for the crime he committed, and he's hoping that one of you are going to believe this abuse excuse and cut him some slack and vote

for life without parole or the term of years. This is something not taking responsibility for the choices he made. Nothing you heard, ladies and gentlemen, mitigates that. Nothing. And the burden is on them to prove to you that there is more mitigation than aggravation. We don't have to prove anything.

These lawyers have to prove to you that the mitigation is here and the aggravation is here. Did you hear anything, anything, yesterday in that seven or eight hours that causes you to think that there is enough justification in this background that happened seventeen, twenty years ago that outweighs all of those horrible crimes that he committed on February 25, 2004. They have to prove to you that there is. And if they don't -- and if they don't, the aggravators outweigh the mitigators.

Tough childhood and the five aggravators. Are they even close? Are they even close?

Fredrick Michael Baer has earned the right to be sentenced to death. Every one of you said you were capable of imposing that sentence after hearing all the evidence. Every one of you. Every single one of you said you could do that. Every one of you said you can look at that man, and you can tell him he does not have the right to live, if that's what you believe. Every one of you said that. I'm certain I asked every single one of you that question. You all said you could do it. And if you're not persuaded that those -- tough childhood outweighs those aggravators and that heinous behavior on February 24, 2005, then you need to do what you said you would do. This man has earned the death penalty, and you should vote to impose it. Thank you.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. WILLIAMS:** Thank you, Judge. You know, when I listened yesterday, I think I had a different view than Mr. Cummings. Some part of me felt a little sense of responsibility, some sense of shame, some sense of embarrassment. I'm not going to talk in terms of us versus them, the way Mr. Cummings did. This is us. Welcome to America. This is our government. It's not the government versus us or the government versus them. We elect the government of the people, by the people, for the people. This is us.

When I was looking at Michael Baer's family tree yesterday, I felt a sense of responsibility.

It's not my fault that he killed on February 25th. It's no one in this room's fault except Michael Baer's. What the hell happened? What went wrong?

I'm not so arrogant and ignorant to stand before you and say that my childhood didn't affect me standing here. I'm guessing if my name was in that family tree somewhere, I wouldn't be standing here as an attorney. I'd be willing to bet on that. Would I be sitting where Michael Baer is? I sure hope not. Hopefully, my wiring is a little bit better than that. But I sure know I wouldn't be standing here. That's the responsibility I feel. We didn't create Michael Baer. The sense that I got yesterday, the sense that I got as we watched slide after slide in the family tree, and I looked at Michael sitting over here, and I listened to his mom crying, the sense that I got was for the first time in Michael Baer's life, somebody was paying attention.

Finally. Finally the government is interested in him, our government. Finally we're interested in him. We're interested in his family tree. We're interested in him being in the hospital. We're interested. Where were we when he was thirteen? I know where I was. I was a junior in high school getting ready to go to college. Where were we when he was seventeen? It wasn't helping him. You know why. You've got a good life. I have a great life. I'm not so arrogant to stand before you and say I did this on my own. Mr. Cummings stands before you and says Michael Baer did this on his own. Grow up. He's thirty-two. Grow up. Guess what, I'm thirty-eight, and I'm not so arrogant to stand here and say, "I'm an attorney and have done well on my own."

If I stood here and did that, if I said, "I did this on my own," my mom who is sitting out there would slap my face when we were done. She did some pretty good work. I'm not so arrogant to ignore that. Mr. Cummings said, Your childhood doesn't affect anything. So what. Never has the arrogance of our government been so clear as Mr. Cummings mustering everything he has to stand before you and look at you and say, "So what." That's us. That's our government. It's not Mr. Cummings' fault. It's not your fault, it's not your fault, it's not your fault. Would Michael Baer be sitting here if he had been raised by one of you in your homes? Maybe. It's pretty unlikely. Mr. Cummings' response to that is, "So what." So what that he had the misfortune to be born into that family.

So what that they didn't have the resources to get him the help he needed. So what. Let's kill him. Oh, my gosh.

Do you remember in jury selection Mr. Cummings said the only reason you're looking at the -- Mr. Baer is looking at the death penalty, the only reason you'll only be considering it is because I signed my name. I did that. I'm the elected prosecutor. I made that choice. When I signed my name saying this is the worst of the worst, I made that choice. Today he lays Michael Baer at your feet, each of you, and says, Kill him. Kill him.

It was a long night last night, a long day yesterday. The only person not here was Mr. Cummings. There must have been something more important last night on a Thursday evening than hearing evidence about the person he wants to kill. The person he lays at your feet and says, Please kill him. You, please kill him. Please kill him. But I have something more important to do. He said we were here for seven or eight hours. Some of us were. That is the arrogance of government. The government that we created. The government that instilled arrogance in us. Do we all have some arrogance about us? Sure we do.

Because I can stand over here with you and say, There is not one chance on this earth that that would ever be me. That's the arrogance I have about me. That's the arrogance that our government has because we elect our government. It's the arrogance that our government instills in us. There's a subculture out there. And until that subculture affects our lives, we'll ignore it. That's what happened yesterday. Finally someone paid attention to Michael Baer. It's a little too late. The first time we hear his entire history, we, and I say we as a society. I don't mean we in this courtroom. The first time we as a society hear anything about Michael Baer, his long history, that family tree, suicide attempts, we don't know Michael Baer. The first time that becomes important is when we want to kill him. Worst murders, the worst of the worst. Mr. Cummings said he's been around for 125 murders, I think he said. And this one is the worst of the worst. I don't know why. It's horrible. It's tragic. I wish I could do something for the Clark family. I can't. What happened to that family has changed them forever.

A few years ago in this county, a man stood outside his girlfriend's window and fired an

AK-47 14 times executing his ex-girlfriend and her boyfriend in her home. In the next bedroom were her children, sleeping. Of course, the gunshots woke them up. "Mom, Mom." They found her body the next morning when they got up to go to school. I can't do anything for them. He didn't face the death penalty in this county, though he could have. Somehow he's better than Mr. Baer. Mr. Baer is worse than that.

More recently, a guy stood outside of an apartment and fired a shot, two shots in fact, because he was angry at the guy inside. That shot hit that man's wife who at the time was holding their baby. And killed her while she was holding their baby, while he was standing next to her, and then their four-year-old ran into the room. Please don't misunderstand that I'm trying to justify anything that Michael Baer did, but for Mr. Cummings to stand before you and say this is worse than that, I don't know how. It's all tragic.

There's a case pending in this court right now where a man is accused of setting his own house on fire, killing his wife and his son. Killing his own family by means of fire. He doesn't face the death penalty. But this is the worst of the worst. You've seen the pictures. We tried to describe them. You can't. It's horrific. I can't imagine the horror. I can't imagine the grief. I'm not capable. But don't be misled to believe that this murder is somehow more tragic than any other murder. I hate killing for any reason. There are soldiers killing each other. We have police shooting people. We have people shooting people. That's okay. It's justified. I hate killing.

I guess as a society what we try to do is get better. We try to make ourselves better. We try to make our kids better. We try to make our families better. We try to make people around us better. If killing Michael Baer makes our society better or makes any of you better, then do it. Then do it.

I would suggest as a society we learn something from yesterday. We take something from yesterday. What good can come of this? I'll tell you what good can come to me. When I saw that family tree and listened to what Michael Baer grew up in, I'll tell you what good is coming of me. When this is done, I'm going to go back and hug my mom and tell her thanks. That's what good can come of this. Look around you. Look around your family. Look around your parents. Take a look at the people who you were raised by, the people you're raising and

thank them, after what we saw yesterday. Thank God I was born into a decent family. Thank God my mom had the good sense to knock me around when I got out of line. Thank God she guided me the right direction. Please do not have the arrogance that our government has in this particular case and say, "So what." Because it's exactly the same thing. I can look at my mom back there and say, "So what that you raised me well." Do you know how arrogant and ridiculous that sounds. But Mr. Cummings asked you to do exactly that. So Michael Baer had a tough childhood. So what. It doesn't affect him as an adult. Get over it. Grow out of it. Suck it up. That's arrogance.

If you believe that killing Michael Baer will make us all better or make the Clarks better, make us better as a society, as a state, as a county, that's your choice. What Mr. Cummings apparently doesn't know because he wasn't here last night is those certificates that he put up in front of you and act like, well, he could conform himself -- what Mr. Cummings doesn't know because he wasn't here to hear the testimony was where did everyone of those happen? Every single one happened while Mr. Baer was locked up. He can conform when he has to.

Mr. Cummings probably didn't realize what we all learned last night that between age sixteen and thirty-two, Michael Baer was either in treatment or locked up eighty-five percent of the time. Of course, our government says, So what. Let's kill him. If we can't use the death penalty now, when can we use it? If this case isn't good enough for the death penalty, what is? That is a disgusting question. Let me rephrase that question. We have a death chamber, and we're ready to use it. Can we? Because if we can't use our death chamber now, when can we? Come on.

As a person who helps choose who our government is, I felt better about the Department of Justice survey, I'm sorry, the study, I feel better about my government saying what is causing all of these violent offenders. That's the kind of question we should be asking. Not when do we get to kill somebody. Come on. We're anxious to kill somebody.

How about a drunk driver, a drunk driver who kills a family. That's less tragic? Is that less tragic? Are there less victims? Do victims take it better then? Drunk drivers aren't even considered murderers in Indiana. Why? Why?

Because we choose our government to represent us, and our government says that's not murder. Why? Because that could be one of us. That's why. That could be somebody we know. That could be somebody we like. That could be somebody in our family who has a few too many drinks and kills a family. It's not even murder. So, of course, it's not eligible for the death penalty. Why? Because that could be one of us. This is your choice. Michael Baer today is laid in front of you. And it takes all twelve of you. It takes you and you and you and you and you, you, you, you, you, you, and you to say, let's kill him. There's no division of responsibility. If you, considering your life versus Michael Baer's life, think we need to kill him, that's your choice. We didn't do much for him growing up, but we're ready to kill him. That's your choice.

And don't be misled if you simply find aggravators outweigh mitigators, that he's getting the death penalty. You can find no mitigation and all the aggravation and still vote against the death penalty. That's your choice. You don't ever have to recommend the death penalty. But it will be your choice. And if you with your backgrounds being what they are, your childhood, your history, your professions, if you believe after a lot of thought, a lot of premeditation, that you're ready to kill Michael Baer, then do it.

I suggest to you Michael Baer is going to die in prison regardless of what your answer is. You saw the numbers. He's facing 233 years. Life without parole or the death penalty. He's going to die in prison. But if you believe in your hearts, we need to kill him sooner to make our society better, to make ourselves feel better, to make the Clarks feel better, that's your choice. I suggest to you that our society is better served if while Michael Baer spends the rest of his life in solitude, in silence, caged up, I suggest to you that while he's dying that way in a long, caged death that the way with the society and we're all better served as individuals, as neighborhoods, as communities, if we all learn something from this case. We all know families who have problems. What are we doing to help? That's what we take from this case. We hope for the Clark family, we think about them, and we figure out what we can do to help to make sure this kind of tragedy stops happening. And if you think that killing Michael Baer will change our society and make it better, then do it. Thank you. I think Mr. Lockwood has a few words.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. LOCKWOOD:** Thank you, Your Honor. I was just sitting there listening to these gentlemen argue, jotting down a few notes because that's the first time I put pencil to paper about my final argument in this case. You and I have something in common I think. None of us are likely to be involved in another death penalty case. I'm sixty years old this year, and I'm not dead, but I can tell that I'm closer to the end than I am to the beginning. I don't want any more of this litigation. So let me just speak to you from my heart for a minute.

Because it has been my business, I have made a study of the history of crime and punishment in England and the United States. If you get some time after you're finished with this trial, it would be well spent to go to the library and just read a little bit about it. It's fascinating. Read Colin Wilson. It's fascinating.

There was a time when executions were always carried out in a high place on a hill. Because then the good and the godly, you see, would pass by and be scared into realizing why they were good and godly. Centuries, through all manner and sorts of torture and devices, we taught to scare people into being good. The problem was that the good and the godly people that passed by the execution site weren't committing the crimes. At one time in England, there were 158 crimes punishable by death. The minimum age of execution at that time was ten, and so England was hanging ten- and eleven-year-old boys for stealing gentleman's pocket handkerchiefs, street urchins. And do you know what stopped the nonsensical practice of hanging orphans? Juries. Not lawyers. Not even judges. Certainly not prosecutors. The people who were on the juries in England -- thank God for the jury system -- realized that there was absolutely nothing to be gained by killing small children.

Now don't get me wrong, it was the lawyers and the judges and the legislators who were quick to take credit for no longer killing little children, but it's never the lawyers who are in the forefront of mercy. I don't know why that is, but it's never true. There was a time when, in this country, you know, we hanged old women as witches if they didn't drown first. If they could hold their breath long enough to survive the dunkings that were being imposed upon them, that proved they were a witch, and we hanged

them. I guarantee you, you can read about this, there wasn't a lawyer or a judge or anyone in authority in Massachusetts who did not believe that the life of the Commonwealth depended upon hanging old women for a crime that never existed.

I have represented hundreds of criminals, and I can tell you that not one of them thought about the punishment before they committed the crime. They think of it after. But they never think of it before. And you know this. I tell you only what you already know. Because has the death penalty in this country really been a deterrent to violent crime? It didn't prevent this crime. It has never prevented crime. And I submit to you that if you take just a few hours of your time, you will realize that no one who has ever taken the time to study the subject will say that it is a deterrent.

At one time most of the police chiefs in the United States believed that it was necessary to protect the lives of their officers, and, even now, through their organizations they are coming to realize that that simply is not the case. And the reason is obvious to all of us. How much news do you think Michael watched either growing up or when he was an adult? How much thought do you think he gave? How many family discussions do you think there were in his family about the brutality of murder and how wrong it is and how, my goodness, you can be punished by death if you commit it? I mean, yeah, there's a vague knowledge, obviously, of everyone who commits these crimes and other crimes, that there's punishment out there, but I tell you that we used to -- now we have lethal injection. We used to have the electric chair. And even something as lurid as being fried alive in the electric chair did not cause people to stop committing murder.

So all I'm saying to you is that there are reasons, and legitimate ones I think, to impose the death penalty. Deterrents, I submit to you, is not one of them. We have thought, many people think, that it is cheaper to execute than to imprison for life without parole. The fact is that the latest study in Indiana shows that it costs almost four times as much to keep a person in prison for his life than it does to execute them. And not all that extra cost is defense cost. The cost of prosecuting death penalty cases is 67 percent higher than defense costs in the same cases. Don't take my word for this. Go look it up. Okay. So I submit to you that there's room

for a legitimate thought that a little extra money is worth it in order to rid ourselves of people whom we despise.

Let me tell you what I believe is justice -- justifies the death penalty and its revenge. Because that's what it is. You know, the legislature can get together in Indianapolis and pass statutes and debate mitigating circumstances and aggravating circumstances. I'm not going to talk to you about those today. I wish they would meet and say, We have the death penalty in Indiana because it makes us feel better. It makes us feel safe. Even if it doesn't make us safer, it makes us feel like we're okay. But basically what it does is it scratches that primordial, primitive part of us who wants to kill out of self-defense and out of what that emotion that we call revenge. And the reason I think that that's a legitimate purpose for the death penalty is because it's an honest emotion. It's almost dishonest to do it because we think it's a deterrent. It's almost dishonest to do it because we think that it saves money. But it is not dishonest to vote to take a person's life because of what that person has done.

Another legitimate reason to take Michael's life is that you may think that it will heal John Clark and his family, and I guarantee you that if this was my family, I would want you to impose the death penalty. I don't know that. I probably know more about it than I should. So I might not. There are a couple of reasons I might not, and I'll speak to you about those in just a second. But, for a while, I think Mr. Clark would feel better, but it will not heal him, and you all know that instinctively. It will not heal any of us to add a killing to these killings.

I think, and I'm the only one I think that shares this opinion that the death penalty is counter-productive and counterintuitive. Because the few criminals that I've ever met who were hardened, thoroughly dangerous criminals that did not act in a moment's passion, but planned out their torture and their activity, their attitude was always it's you folks out there against me. I know what's going to happen to me. You're going to kill me if you catch me, and, therefore, I'm going to be as brutal as I perceive that society has been to me. It's amazing to me that some of the attitudes that criminals have.

For example, I have a watch here, and there -- I know many times people have -- will look at this -- whatever I have. And the attitude is, you know, you -- that's my watch. You have

that watch because you and those like you have conspired against me all my life to keep me down. But that's really my watch. I deserve it more than you do. And if I have to kill you to take that watch, then that's no problem. That's one of the reasons that the death penalty is not a deterrent.

I don't know that there's any healing to be done in this case. I'm sure there is not. But I'm equally sure that what will not heal is a killing by the State. Because of all kinds of killing, whatever they are and whatever the justification or excuse, killing by the State is the most ceremonious. It's ceremonious. We make it into a ceremony. There will be endless appeals, there will be endless news articles, there will be endless news stories, there will be endless arguments, there will be endless PCRs, there will be endless federal habeas corpus. And then when we really get down to it, we have the show. And that's what it is, the circus of those who oppose the death penalty and those who are in favor of it -- none of whom, of course, know any of the parties -- getting together with their signs and their flashlights, standing outside Michigan City waiting for 12:01 on the day of the execution.

I don't know. Maybe that doesn't bother you, but I find that to be an abhorrent kind of conduct to engage in as an organized society. So I confess to you today for those reasons I am against the death penalty. You all have -- you certainly qualified to impose the death penalty. If you were not, you would not be on this jury. Nobody who said that they could not or would not impose the death penalty is in this panel. They cannot be by law. So I just want to leave you with one more thought. I know what responsibility you have, and I know how heavy it is on your shoulders. I would not be in your situation, but I can tell you someone who deserves the death penalty more than Michael in this courtroom if they had committed the same crime. I do. I say that with all sincerity to you. Because I had parents, I had coaches, I had aunts, I had uncles, I had mentors, I had friends, I had sports, I had school. I had -- was not rich, ever. I had every opportunity to make choices, same kinds of choices that Michael made. If I decided to do something like this or even if I decided to use my good fortune in ways that were contrary to the good of society, then I submit to you I am the worst of the worst, and that Michael is way down on that list, given what

we know now about how he got from the birth canal to today.

Please ponder those things seriously. It's easy for the prosecution to stand before you and say kill, kill. Kill is the answer. Because, you know what, you don't have to think about it. If you are to take the responsibility individually of saying on behalf of society, kill Michael, please be sure that you understand exactly why you want to do that. If the answer is because you want to make the Clark family feel better, fine. If the answer is that you believe there's a place in American justice for vindictiveness or for revenge, that's fine too.

You will probably -- it's a -- it's strange for me to stand up here in cases like this, and, especially this case, and argue for Michael's life when you will not be doing him any favor. If you want vengeance, make him go to the sleep in the same place as 1,500 other men every night for the rest of his life. Make him stay in a five-by-eight cell with a toilet with no seat, twenty-four hours -- twenty-three hours in, one hour out, or twenty-two hours in and two hours out. Make sure that he lives in an environment where before he is middle-aged, his ankles and his knees and his hips will begin to deteriorate because he never walks on anything but concrete. Make sure that he never draws an easy breath because he's a baby killer. And because somebody is going to fashion a shive out of a chair leg, and he's not going to see it coming.

I should be asking you to vote to put him to sleep like a puppy. But I can't. Because it's wrong. In this case, it's wrong. I don't know about other cases, but, in this case, I submit to you, it's not the thing to do. You have renewed my faith, once again, in the willingness of the Americans to get together and do hard labor on juries. If it wasn't for that, we would have no chance of carrying on this system. Thank you very much for making the long trips and paying so much attention to what's been going on in this trial. God bless you in your decision.

**CLOSING REBUTTAL (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF STATE OF  
INDIANA.**

**MR. CUMMINGS:** You just heard what lawyers call a smoke screen. You didn't hear a lot of conversation about the facts in this case. You know I have trouble understanding Mr. Lockwood. Do my client a favor and give him life

because some inmate in Michigan City is going to stab him when he's not looking.

Do you really believe that's what they want? I said this to a few of you when we spoke before, so I heard some jurors say, Well, you know, I think maybe life without parole is a tougher punishment. You know who doesn't think that? Him and the other 52 -- whatever the number is -- people on Death Row because every single one of them wants to live, and they fight every day to stay alive. They would prefer to be in Michigan City with life without parole. Every one of them are fighting to stay alive. So that is a ridiculous argument to make.

You know, taking about orphans and England. Was there any orphan -- we didn't have any orphans in this case. It's called a smoke screen to try to distract your attention. Now, the only person killing orphans, the only person that's killed any children around here is sitting right across the courtroom over there.

Now, Mr. Williams and Mr. Lockwood both said a lot about their family and what a great upbringing they had. I didn't know Mr. Williams' mother was in the courtroom. I love her. And I'm sure before I leave today, I will go over and hug her. I usually do when I see her. She's a wonderful woman.

My mother is not here. She was a prostitute who died of a drug overdose. I got convicted of a felony when I was eighteen and spent time in jail, and I had a worse childhood than this man did. Maybe that's why I say, "Suck it up." If you lived in this community, you would know that because the people back there all already know it.

I had a tougher childhood than he did, and I somehow managed to become a lawyer and got elected prosecutor in this community three times now. And me and other people who overcome tough circumstances like that get sick to our stomach when people like that sit around and cry about how tough they had it and don't suck it up, and don't say, maybe there's a time when I have to stop crying about how life dealt me a tough blow, and I've got to start doing something for myself. And that's why I told you, if he were sixteen or eighteen or twenty or twenty-two, maybe that's something you should give serious consideration to. I got convicted, I spent time in that jail right over there that you probably go over. Had a much tougher time than this guy did. And it would be understandable if he were a teenager. You

should probably give some consideration to that. But when, when, when, do you stop using a tough childhood as an excuse? When do you stop using it as an excuse, a crutch, to explain and get over and get by, and in this case try to save your life? I had a tough childhood, so don't execute me. He's thirty-two years old when he committed this crime. Way, way, past the time he should start sucking it up and start figuring it out and start working. He had a job that he walked right off of to commit this crime. Yeah, I do say, "Suck it up." And for him to use this as an excuse is an insult to me and all of the other people that come from tough backgrounds and make their way and succeed.

Now Mr. Williams talked about a few other crimes. You know, we -- I suspect you know we have a lot more crime in this community than you have up in Huntington, and it's a little difficult for us to talk about. But I'm telling you, there's at least 125 murders that I've been around for. The crimes Mr. Williams is talking about are crimes he prosecuted when he was my chief deputy.

He didn't file the death penalty. He didn't come to me and say, "Rodney, we've got to file the death penalty on this case." We filed the death penalty. We've been around here eleven years, and we've done that. We've had -- this is not the first time we've had to face this problem in this community since I've been the prosecutor and when he was on this staff.

And I am telling you that firing an AK-47 into a house where you're in a domestic relationship. You know, some guy thinks his girlfriend is sleeping with some other guy. Setting a house on fire, you know, we have lots of -- a guy walks into K Mart and shoots his estranged girlfriend in the head in front of a lot of people. We've had teenagers that break into a house and rape and murder girls. We have a lot of serious crime in this community. None of those cases are as bad as this. None of those cases even come close. None of those cases are in the same league. Walking into a home where people have a right to feel safe. Sexually assaulted, cut a woman's throat and chase her four-year-old down in the house and cut her throat. There is no way any of those cases come close to that.

We are not anxious to file the death penalty. We are not anxious to do it. The cost is unbelievable. Who knows what it's going to cost our community. Probably a half a million dollars.

We've got people getting laid off. It's not something you do haphazardly. It's something you do to seek justice in a community.

Talked about the Clark family. We would not be here if that's not what the Clarks wanted. Mr. Lockwood talked about the Clark family. How will they feel? Will they feel like justice is served? The death penalty is in our laws, and we've reserved it for the worst of the worst. We're not killing orphans and witches. We're talking about a man who walked into a home, sexually assaulted a woman, cut her throat with a knife and chased her four-year-old daughter down and cut her throat. Those are the kind of cases that we reserve the death penalty for. Nobody is anxious to do that. Nobody is anxious to do that. I can't imagine any one of you are anxious to do it.

But I bet every single one of you say, if we have the death penalty, this is the case where we impose it. This is the worst of the worst. And when you do something like that to a woman and her young child, we as a society have to say that's wrong as loudly as we possibly can, and we're not going to have that. And justice -- if we're going to have the death penalty in our society, it is reserved for this kind of case.

I would challenge you -- you heard -- Mr. Williams said other cases. I would challenge you to test your memory of any case you've ever heard of that's worse than this. Any case you've ever heard it.

That doesn't mean we reserve the death penalty for the one person who's the worst of the worst. It's a category of cases. Beyond that, we reserve it for people who have earned that sentence with choices they make and behavior they engage in. This man chose to commit these acts, even out of his way to commit these acts. He walked right off his job searching for someone to rape. Walked into a house and committed this. There is no explanation for how this could happen. None.

And every single one of you, every single one of you said you could vote for the death penalty if you believe it was appropriate. And what you heard from Mr. Lockwood through that whole argument is why the death penalty is not the right thing to do. Well, that's irrelevant in this discussion. That's a smoke screen. Because you're all already past that. And people who don't believe the death penalty is an appropriate sentence should not be on this jury. Should not be here.

You all said you could impose it. In fact, we went beyond that, and I looked at every single one of you, and I said, Can you look at that man and tell him he should not live? He should die for the crime he committed. Every single one of you said you could do that, every one of you.

His mother is back there, his sister is back there, and you said you could look at them -- if that's what you thought was the right thing to do, you could do it. And this argument about why, well, we shouldn't -- it's money, it's -- the death penalty is not right. It's called a smoke screen.

Fredrick Michael Baer has earned the sentence of death. We reserve it for the worst of the worst, and he is the worst of the worst. No other person except the worst of the worst could walk into a stranger's home, assault them with a knife, cut the panties off, cut her throat, chase her four-year-old down as she's running through her life -- running for her life through that house and cut her throat.

Ladies and gentlemen, that is the worst of the worst. And you're here to do justice. You said you could do justice, and you said you could impose the death penalty. Before I ask you to do that, I want to make something really clear. It's kind of important. I might have misstated -- I said there's a burden of proof, and I'm not really sure the law requires them to prove anything. I want to be sure that's true. We're required to prove to you beyond a reasonable doubt that those five aggravators exist, and you have to do a balancing. I think I might have said there's a burden over there. I'm not clear that's the law. There's a burden of proof.

There's a weighing that goes on. There's a weighing that goes on. You just have to weigh the aggravators over the mitigators. They don't have the burden of proving anything. I just want to be clear. The Judge will read the instruction to you.

But a lot of this is about -- I mean really what this comes down to, I mean if you look at it, and those aggravators are overwhelming, the facts in this case are horrific and horrifying. Really when you come down to it, it's just what's the right thing to do? What is the right thing to do?

What is justice in this case? Is this the worst of the worst? I can't imagine that there is one of you sitting right here that doesn't believe this man is among the worst of the worst because no one has committed such a horrible crime.

You took an oath. You said you could look at him. We prepared you for this crowd that was going to be here. You said you had the courage and the strength to do that. Every single one of you. You've heard the evidence. I told you when we got to the end of this, I would be asking every one of you to vote to execute Fredrick Michael Baer, and I am doing that right now.

Do it because it's just. Do it because it's the right thing to do. Do it because he made bad choices. He chose to commit horrific acts, and he has earned the death penalty. You should not be ashamed of what you do. You should not be ashamed of what you do. Serve our community and serve justice and vote to execute Fredrick Michael Baer. Thank you.

[The jury unanimously recommended a death sentence for Baer, who was sentenced to death by Judge Fredrick Spencer on June 9, 2005. Direct Appeal is pending]

# CLOSING ARGUMENTS

## State v. Ward Spencer Circuit Court 2002

**CASE SUMMARY:** 15-year old Stacy Payne and her 14-year old sister, Melissa, were home alone in their rural Dale, Indiana home when Ward entered and attacked Stacy with a knife. Melissa had taken a nap upstairs and was awakened by Stacy's screams. From the top of the stairs Melissa saw Ward on top of Stacy. She called 9-1-1 and heard Stacy pleading, "Stop!", while Ward said, "You better be quiet." Ward was still at the scene, covered with blood and pocket knife in hand, when police arrived. Stacy Payne's torso was nearly sliced in two, her throat was cut to her windpipe and her wrist was slashed to the bone. She was nevertheless alive after transport to the hospital. Vaginal bruising and Stacy's DNA on Ward's genitals supported the Rape and Criminal Deviate Conduct charges. Ward was on probation for a Burglary in Missouri at the time of the crime and had a dozen prior convictions for Public Indecency/Indecent Exposure.

Spencer County Circuit Court Judge Wayne Roell presided at the trial. Prosecuting Attorney Jon A. Dartt and Deputy Prosecutor Jack Robinson represented the State. Attorneys Barbara Williams and Scott Blazey represented the Defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. ROBINSON:** Your Honor, Defense Counsel, ladies and gentlemen, we've had a long journey and we're getting close to being done. I'm doing the first part of the final argument, the shorter part, and Mr. Dartt is doing the other part; and I'm going to commence. Thank you.

This is Phase II, the penalty phase, the closing and final argument. There's three areas that I'm going to cover with you. First, they say that he is responsible, but they blame. You'll recall that Mrs. Williams came before you and said: We accept your verdict; we understand; we expected it. We're not offering excuses. And I want you to recall as I go over that portion of the argument. The evidence shows four

aggravating circumstances and I will go over that; then the third part is the State's request.

They say he's not responsible, but then they blame. Remember there was a breach birth, but no doctor ever said it caused any damage to Mr. Ward. I wondered where they were going with that; nothing ever happened to it. They blamed his lack of education, but he completed his GED in prison, completed a literacy course and his IQ test, administered by Dr. Engum, came out at 91, which you have people going to college with an IQ of 91. Ward's hyperactivity as a child, they blame that. I'm sure everyone here knows or has had a child who is hyperactive. I don't know how that leads to violent behavior, but that somehow seemed to be an excuse. Trooper LaRoche for not arresting Mr. Ward at a rest area simply because Mr. Ward was behaving suspiciously and all of the witnesses had left the scene. Well, you have to do something before you can be arrested.

Detective Belcher, because he didn't turn in the investigative report to the Perry County prosecutor for a few days or faster on a misdemeanor charge. They said that the Perry County Probation Department was to blame for not filing a motion to revoke the probation even though there was no proper grounds to do so and it would be up to the probation department of Cooper County, Missouri, to actually revoke his probation. They blamed the Harrison County Probation Department for not somehow forcing Ward into a treatment program he was not too keen on participating in, according to the young lady that testified about that, and for not starting his jail sentence soon enough.

They blamed the multiple treatment centers he attended for not fixing him even though Dr. Engum testified that 30 percent of all offenders have no response to treatment. Dr. Davis indicated there is typically no response to treatment. And the other thing to remember on that is, you know, you have to want to be fixed or cured. They blamed exhibitionism caused by stress. Ironically, he never exposed himself at home or to his parents, and over two weeks into this trial, he hasn't exposed himself once. He can control it when it's in his own self interest to

do so. They also ignored numerous other non-sex criminal offenses such as burglary, theft, forgery, check deception. The name for that a lot of times is a career criminal.

The family lacked resources to get him help. Again, he was treated in several centers, but treatment doesn't work in 30 percent of all cases according their own expert. It's common sense that many centers do not cost money as they are Court ordered or have fees on a sliding scale based on income such as our Southern Hills Mental Health Center.

They blame Stacy indirectly by appearing to argue that he went to the Payne house to burglarize it and something set him off. We know better because he left the burglary tools in the car and took a knife and a string with him into the house and removed Stacy's clothing. And then they started blaming Stacy directly -- and this was in the penalty phase, if you recall -- making an outrageous accusation through Dr. Davis against Stacy.

And in that connection, I just want you to remember --and I don't have this on the board, but just remember the testimony of -- in that case. Melissa woke up to screams, went to the top of the stairs, saw a man on top of Stacy; both parties had on their clothes; thought Ward had on long pants, probably because he was kneeling; statement given by Melissa at the scene; screams continued until shortly before Matt Keller arrived, which means her throat wasn't cut immediately as the account that was given to Dr. Davis said. But just keep that in mind in evaluating his testimony.

And then they blamed his lack of education; however, he completed his GED, his driver's license, a certificate of literacy, performed well with Dr. Engum's tests. He's not mentally retarded; he can take engines apart and put them back together. They blamed his lack of employment; however, he worked at several jobs, including a sod farm for three or four years, a veneer factory with race cars. He had a job in Florida building bridges that he lost due to stealing. He was also performing community service by painting a fence for a church in Perry County at the time of the murder.

They blamed his dependency on his parents; however, they testified he had been married for a couple of years and at times lived on his own such as when they were living in Florida. And I don't blame his parents in this

case at all. That man is responsible for himself. Mental illness, they blame that; however, Dr. Engum, their witness, testified he's not insane; he's not incompetent, not psychotic, not schizophrenic, not retarded, has no organic brain damage. One of the tests that he gave was a test designed to test for organic brain damage. He doesn't hear voices; he's not hallucinating. And I'm going into the second part of the argument, what the evidence shows.

Aggravator number one: Ward tortured Stacy Payne while she was still alive. Remember he tied her up, an arm and a leg. The ligature marks, I'm sure you recall that. He hit Stacy Payne with his fist and a barbell, sexually assaulted her, cut her open with a knife while she was still alive. He cut Stacy almost completely in two while she was still alive, including reaching --and this is a sickening part here --reaching through the front of her abdomen and cutting on her backbone.

Stacy was subjected --and this is continuing the torture part. Stacy was subjected to this by Ward for approximately ten minutes and then continued to show reaction to pain for the next 44 minutes as a result of Ward's action until she was given a sedative at the Deaconess St. Joseph's Hospital in Huntingburg at approximately 1:16 p.m., according to the medical records there that are in evidence, according to Dr. Rod Edwards. Stacy's defensive wound included a cut to her left hand. Stacy was conscious reacting to stimuli and answered questions with hand squeezes, head nods and had a gag reflex, as you recall, where they put the tube down her throat. Continuing the torture part, I want you to recall the testimony and observations of Dr. Donna Hunsaker, Dr. Rod Edwards, forensic nurse, Carol Smith-Rupe, EMT Murray Stout and Officer Matt Keller.

Now, also, a part of aggravator number one, Ward mutilated Stacy Payne while she is still alive. I shouldn't have to go over this with you, but I'm going to. Stacy's neck, hand, abdomen and back areas were cut open to the point that she was cut almost completely in two while she was still alive and conscious. She was left with her intestines lying on the floor. Stacy had internal injuries, including a severed trachea, vocal cords, a jugular vein vena cava, ureter. Mutilation is not defined by law. Use your common sense on that and remember the brutality of her injuries and how they looked.

Remember that under the mutilation part, Dr. Edwards called this a carving.

And that wasn't something that I suggested to him that he testify; that was something that he testified to. Dr. Hunsaker called this cutting her almost completely in two. Dr. Hunsaker found a four-point-two-inch incised wound to the anterior, which is the front part of the central neck, a 24.5-inch horizontal incised wound spanning her central abdomen and extending to the central back region consistent with a subtotal corporal hemisection and a two-point-one-inch gaping incised wound to Stacy's left hand. That's aggravator number one.

I want you to remember that torture is an appreciable period of pain intentionally inflicted and designed to either coerce the victim or for the torturer's sadistic indulgence. Put another way, torture is a gratuitous infliction of substantial pain in excess of that associated with the commission of a crime. Remember that mutilation has not been defined by law and you should use your common sense on that.

Aggravator number two is: Ward intentionally murdered Stacy while committing rape. You found him guilty of murder and rape. The same evidence satisfies this aggravator that the murder was purely intentional.

Aggravator number three: Ward intentionally murdered Stacy while committing criminal deviate conduct. You found him guilty of murder and criminal deviate conduct. The same evidence satisfies this aggravator that the murder was clearly intentional.

Aggravator number four --and this pales in --I mean, this seems like a minor thing in comparison with what had gone on before, but it is one of the aggravating circumstances. Ward was on probation after receiving a sentence for the commission of burglary in Missouri at the time the murder was committed. Perry County probation officer, Jim Rice, testified Roy Lee Ward was being supervised by Rice on probation for the crime of burglary in Missouri. Roy Lee Ward was out of prison on probation for that crime and probation was transferred to Perry County where Ward lived when he murdered Stacy Payne. And in regard to that, remember, also, the testimony that he spent seven years of his life in prison. He's 30 years old; 29 at the time this happened.

The State is seeking the death penalty and proven the existence of the four aggravating circumstances as follows: Roy Lee Ward

tortured Stacy Payne while she was still alive and he mutilated Stacy Payne while she was still alive; Roy Lee Ward committed the murder by intentionally killing Stacy Payne while committing or attempting to commit criminal deviate conduct; Roy Lee Ward committed the murder by intentionally killing Stacy Payne while committing or attempting to commit rape. This is my first time using Power Point. Roy Lee Ward was on probation after receiving a sentence for the commission of a felony at the time the murder was committed.

You're also to consider the follow mitigating circumstances if you find them to exist: The Defendant was under the influence of extreme mental or emotional disturbance when the murder was committed. When asked if Ward was under the influence, Dr. Engum did not seem to be convinced and was only able to say "Essentially, yes." You're also to consider the following mitigating circumstances if you find them to exist: The Defendant's capacity to appreciate the criminality of his conduct and to conform that conduct to the requirements of the law was substantially impaired as a result of mental disease or defect. Once again, Dr. Engum does not appear to be convinced, saying that it only appeared to be the case. Virginia Ward and all of the experts testified that Roy Lee Ward knew the difference between right and wrong.

And another mitigating factor is: Any other circumstances appropriate for consideration, including but not limited to such mitigating factors as the Defendant may show during this procedure. There has been a lot of suggestion and insinuation but no hard evidence that it's the fault of the police officers, probation officers and it's the result of a number of unfortunate circumstances or it's the result of some vague and undefined mental defect. There is little supporting evidence and these excuses rank very low.

The law requires that all jurors agree to the existence of one or more of the charge of aggravating circumstances before any recommendation on death or life imprisonment without parole may be made to the Court. As we have shown you, the evidence clearly shows the existence of four aggravating circumstances beyond a reasonable doubt.

With respect to mitigating circumstances, your findings need not be unanimous, as we've also shown you. Dr. Engum said that one

mitigating factor appeared to be the case and a second one essentially exists. These two factors and the other excuses put forth pale in comparison to the overwhelming weight of the aggravator proved to you beyond a reasonable doubt. There is no equilibrium here on when you start balancing these two. The State has proven beyond a reasonable doubt the existence of four aggravating circumstances and, further, that the aggravating circumstances outweigh the mitigating circumstances; therefore, one of three possible sentencing recommendations is available to you.

You may recommend that the Defendant be sentenced to the death penalty. The State of Indiana believes that this is the appropriate punishment for Roy Lee Ward and is requesting that you recommend the death penalty to the Court. Or you may recommend that the Defendant not be sentenced to life --be sentenced to death and receive instead a sentence of life imprisonment without parole. The State believes that the seriousness of these crimes and the life of Stacy Payne would be significantly diminished by the imposition of life imprisonment without parole and that Roy Lee Ward deserves no less than a sentence of death. You may recommend that the Defendant not be sentenced to either the death penalty or life imprisonment without parole and that the Defendant be sentenced instead to imprisonment and be eligible eventually for parole. Even the Defense concedes that Roy Lee Ward should never be allowed to be eligible for parole.

The State's request: Find the existence of at least one of the four aggravating circumstances - I believe that you will find the existence of all four--find that the aggravating circumstances outweigh any mitigating circumstance and recommend that the Defendant, Roy Lee Ward, be sentenced to death. It looks like we misspelled a sentence. I want you to keep in mind the young lady that was caught up in this. Remember --just remember. Thank you very much.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MS. WILLIAMS:** Judge Roell, members of the prosecution team, Mr. Blazey and ladies and gentlemen of the jury, I'm going to talk with you for a few minutes. As I said from the very beginning, this is a momentous and powerful,

very powerful place. As I said when we opened this part of the --of the trial, I knew you realized after last week how powerful this place is, and after the last few days, what a powerful important undertaking you all have.

As I told you when we went through jury selection, I've been doing this kind of work for --well, I've been a lawyer for 23 years and I've been doing criminal defense work for most of that part of the time. And it's never easy for any of us to take a case, any kind of criminal case, from the beginning to the end. It's always very difficult, but it is a magnificent and powerful process that only works in this country because we have you, the Judge's role, the Defense role, the law enforcement role and the prosecutor's role. This process doesn't work if one of those is missing.

I would share Judge Roell's comments with you that he made this morning. I have always admired jurors who have taken the time to serve in a case, and I thank you for your service and I admire you for your service; and I know that each of you now completely understands what I meant when I said during voir dire that this powerful process places us and now you, very soon, in a position where your decision is going to determine whether or not Roy Ward lives or dies. You have the little bird in your hand and only you can decide what's going to happen.

This part of the trial --I told you at the beginning, we accept your verdict. We expected to get to this point, and I told you at the beginning of the penalty phase that I --we expect that your decision will revolve around whether or not to recommend a penalty of life without parole or the death penalty; and as you've been instructed and as you will be instructed, I think it's important for us to talk about that process. We talked about it during voir dire; we talked about it at the beginning of this phase, and the Judge is going to instruct you about it.

We wouldn't be here today if you hadn't already decided that Roy Ward knowingly killed Stacy Payne. That isn't the issue today. The issue is what should the punishment be, and as Mr. Robinson pointed out to you, you've got some choices to make. You won't get to the point where you decide between life without parole versus the death penalty until you've decided that the aggravating circumstances outweigh the mitigating circumstances. I told you at the opening of this section that we

expected that you would come to that point.

This has been a very difficult case for all of us, and I want to say, before I start to talk about the process of representing Mr. Ward and the work that Mr. Blazey and I have done, that nothing, and I want to repeat, nothing that I said, none of the evidence that we are presenting is in any way, shape or form presented as an excuse or is it in any way, shape or form presented with any intent to blame anyone. I said at the beginning of this case, the beginning of our opening, Roy Ward is to blame for the brutal senseless murder of Stacy Payne.

We've said that since the very beginning. I'm going to talk about a little bit the process of representing Mr. Ward and what we've done, and it's been a difficult process, but I also want to say that we are, and have been from day one, aware that this process is most difficult for the Payne family. The decision that you are about to make will be a decision that each of you must live with all the days of your life. We know that you are residents of Spencer County and you will meet and continue to be part of it. You'll meet the people of Spencer County. We respect that; we understand you're part of this community. We're all part of this community.

And one of the things I want to say, also, about that is, that the only volunteers in this courtroom are you folks. I know you're getting your room and board and I know you're getting a little bit of a --of a daily stipend, but all the rest of us who here are being paid for the work that is being done. But I also want to say that we have tried to be cognizant of the difficulty and pain that the Payne family has suffered through this senseless loss of this child, this murder of this girl.

And in representing Mr. Ward, I'm going to talk a little bit about this case. The photographs that have been shown in this case --I even talked about this during the voir dire. We talked about this, ladies and gentlemen --they are the most gruesome photographs I have ever seen, and I have known since sometime in December of 2001 what those photographs are and how showing photographs like that affect people. I know that perhaps you think that Mr. Darrt and Mr. Robinson and Mr. Blazey and I didn't react to those photographs; it may have been difficult for us to be looking at those photographs and not have the same visceral reaction that each you had every time those photographs were shown. I would ask you, ladies and gentlemen,

to understand that part of our job, part of my responsibility requires that I'm able to put a little bit of distance between some of that stuff so that I can walk into this courtroom and make an effort to be here with some dignity and some poise that professionals are supposed to have; but please don't misunderstand that my reaction and Scott's reaction to those photographs is every bit as visceral and sickening as yours is. And I think I told you that when I -- we talked about jury selection. These photographs make me sick. And I'm also a parent, ladies and gentlemen, like most of you are, and when I saw these photographs and when I read about this case, if this was my child, I'd want to kill him. There's no doubt in my mind I'd want to kill him (indicating), but that's not what our system is all about, ladies and gentlemen.

And then I talked about first impressions when we did some jury selection, and I don't know if all of you were here because we talked at different times, but I talked about the story about the Vietnam veteran who, when he went to Vietnam as a young soldier, probably ten-foot tall and bulletproof like most of were in our younger days, heard about another soldier who had his legs blown off. The first thought that went into his mind was, I'd rather be dead than not have my legs. Just a few days later, when he's leading his men into battle, the very first day that he was going into battle as a young man, little did he know that a few minutes later he wouldn't have his legs. And as I told you, this is a true story of an individual who has used that experience to become a motivational speaker and he talks about how that changed his life. And he talked about the instant that he was hit, he knew that his legs were gone and the thought never occurred to him from that day on that he would rather be dead than have his legs. And ladies and gentlemen, that's how sometimes a first impression --our first visceral reaction may not be the same after we know a little bit more about whatever it is that we reacted to.

Since day one, ladies and gentlemen, this case, as far as Mr. Blazey and I have been concerned, has been about the guilt -- the penalty phase of this case; it's never been about the guilt phase. We've never said or tried to present any testimony or evidence that Mr. Ward didn't know that he killed Stacy Payne.

Now, we could talk about Dr. Davis, and if you question why Dr. Davis didn't come in

during the first part of the case and tell Roy's story during that first part of the case, if you question that, blame me or blame Mr. Blazey. That was my decision; it was our decision. We didn't have Dr. Davis come during the first phase because we knew the evidence of guilt was so strong that there would be a finding of guilty.

Mr. Blazey said he's guilty in his opening statement. He's responsible. We believe that the physical evidence with respect to Count II and III was weak enough, so weak that there was a possibility that there would be a finding of not guilty on those two counts. You found him guilty of those two counts. It doesn't change my decision with respect to calling Dr. Davis in the second phase. As I told you in the opening phase, opening part of this phase, we accept your verdict. We know that you did your jobs and you considered the evidence. You came to a unanimous verdict and we respect that and we accept your verdict.

Thirdly, in deciding to call Dr. Davis in the third --in the second phase, Scott and I believed, we decided strategically that that testimony and that evidence related more to mitigation than to guilt, and that's the strategic reason that we presented that testimony in the penalty phase.

We talked about the different factors that have come together, that have converged together and, as a result, this horrendous crime occurred. Not in any way, ladies and gentlemen, do I suggest that any police officer or, for heaven sakes, that Stacy has any responsibility or blame in this matter, but the law will tell you, the instructions will tell you that in order to --in order to come back with a decision recommending death, you have --you're obligated to look at all the circumstances. And the Court will tell that you're obligated to look at the circumstances of Roy's --surrounding Roy's life and surrounding Roy's background. And some of the evidence that was presented --and I'm going to talk for a minute about the evidence with respect to the police officers.

Do you know what it's like, ladies and gentlemen, to meet someone like Mr. Ward and find out that he has over 50 criminal convictions? How do you even --how do you even deal with that? How do you --how do you --how do you even classify that. He's been arrested and convicted more than 25 times for public indecency. He has many other criminal

convictions for other crimes, as you know, burglary, forgery, on probation for burglary, check deception. He has some possession-of-controlled substance convictions. I've been doing this for a long time and I can usually take somebody's record and within a few days or weeks of being that person's lawyer, I can have in my mind a classification of they had three felonies in that year and they had this in that year so that you can start to sort of put it all together. I've yet to be able to do that with Mr. Ward. He has a terrible criminal record. Now, why do we talk to the police officers about the days and events leading up to July 11 or July 10 --July 11? Ladies and gentlemen, every --not everybody. I'm not going to say everybody, but Roy Ward was, in some parts of Southern Indiana, a well-known public nuisance, and in Perry County and Harrison County, he was becoming a well-known public nuisance.

The police officers knew that he was an exposer. The reason we presented that testimony, ladies and gentlemen, is not to blame Sergeant Belcher --or Detective Belcher. It's not to blame any of the police officers, but to show you how these events come together. And what we know, ladies and gentlemen, was that Roy Ward gets out of prison in Missouri in early February of 2001 and he gets the people in Missouri to agree to let him serve his probation back here in Perry County where he can live with his mom and dad. That doesn't happen in every case. That only happens if a probation officer like Jim Rice agrees, because that creates additional work for Jim Rice. He's got --he's got plenty of other people on probation who commit crimes right here --well, right there in Perry County, but they agreed to let him come back. And he was doing okay, everybody said.

He was doing his community service at a church with a day care. Nobody thought he was a homicidal rapist ready to rape, commit this horrible crime. No one was worried about that. After he gets back here from Missouri, Missouri probably didn't even know this, and one of the reasons that Missouri probably didn't even know that he had these cases in Harrison County is because they were for misdemeanors, probably. I mean, it's possible that if Missouri knew that he had these holds on him from Harrison County, they might not have even permitted him to have an early release, much less have his probation transferred back here to Indiana. But in any event, Harrison County has these other

cases and they are 1999 charges, old charges of public indecency and harassment and one check deception, I think, where he didn't show up when he was supposed to be in court back in 1999 because he was in jail in Missouri.

But, eventually, they locate him here and they find those warrants and he goes over --on June the 21st, he goes over and pleads guilty in Harrison County to these two charges of harassment and public indecency, and on that day, he finds out -- he's been doing community service with -- under Mr. Rice's Perry County supervision since some time in April. He finds out in June that he's going to have to serve more time in jail that's different than what he thought --or June 21 he finds out he's going to have to serve time in jail and he's going to be on probation and he's going to have to go to a sex offender class. And so what does he do the very next day on June 22? He exposes himself three different times, once in Kentucky and twice in Indiana.

Just a few days after that, there's another report, and Detective Belcher is concerned enough by June 29 or June 30 that he calls and asks Roy to come in. And one of the things that I think was unrefuted and pretty consistent was, every time Roy does this, he does it in a position where he knows he's going to be caught. He's either driving around so his license plate can be seen or he comes back or he's standing by the car. There's no doubt about who it is, and Det. Belcher knew that. Roy Ward didn't have to come in and talk to Det. Belcher on July 2, but he came in.

The next day on July 5, what was Roy doing over at that rest area? He was trying to find people he could expose himself to. July 6 Diane talks to --Diane Harrison talks to Jim Rice and they decide that he needs to get into these sex offender classes, and so Ms. Harrison calls Roy in and he comes on July 9. And on July the 9th, ladies and gentlemen, he finds out that the jail sentence he thought he was going to get on June 21 was going to be different than what he was going to get July -- when he talked to --when he was placed on probation on June 21.

The reason we told you all that, ladies and gentlemen, is not to excuse what he did, but to say that --the doctors who have testified about what this condition say that it is increasingly debilitating and it doesn't go away and that it's triggered by stress. And Roy is under a lot of stress right here. Now, I'm not saying that

Detective Belcher or any of these police officers made a mistake, but we've been able to see and to know with documentation the pattern of increasing stress in his life. And all of this was known to the prosecutor when they filed this charge. This information about what the police officers did came straight from the records in the evidence that we received from Mr. Dartt.

And, you know, what does Dr. -- Detective Belcher say about public indecency? He Bays, yeah, it could be anything from urinating on a parking lot to exposing himself. And this is why I talked about the differences between crimes against persons and the differences against --the crimes against public health, order and decency. Public indecency is over here in the list of crimes as pollution, gambling, racketeering, loan sharking, consumer product tampering, criminal gang control, stalking, abusive coerce, code graphing devices, unauthorized use of telecommunication, unlawful solicitation and money laundering.

Now, ladies and gentlemen, please don't misunderstand. I'm not saying it's okay to commit these kind of crimes; I'm just trying to illustrate that these kinds of crimes aren't in a category of violent crimes. They're crimes against the public order and crimes against decency. Roy Ward was a public nuisance. No one thought before this happened that he was a sexual predator or homicidal maniac. If they thought that, they could have --there are --they could have found a way to get him off the street. You heard Detective Belcher. He wasn't worried about it. He talks to him on the 2nd, does his report on the 5th, and on the 10th, he calls the prosecutor. I'm not blaming Detective Belcher; I'm just trying to show that at this point there were no indicators that Roy Ward was a homicidal rapist and murderer waiting to happen.

Why is this important, ladies and gentlemen? It's important because it helps to explain. It helps to explain how Roy got to this place. Now, what I've --what I've said and what I've tried to say, ladies and gentlemen, is, up until this time, Roy had never done anything violent before. I guess I need to say that on July 11, 2001, he did --he did the most unspeakably violent thing that any human being could do, is he brutally murdered an innocent 15-year-old child, and we've never, never said that he didn't commit that brutal senseless murder.

The mitigation that we presented and the focus that we've had has been to look at Roy's background, as we are obligated to do, and see if there is any circumstance in his prior --in his life that will justify not killing anyone. And that's why we presented, ladies and gentlemen, the witnesses that we presented. And the witnesses that the State presented, Dr. Hunsaker and Ms. Carol --the nurse, Ms. Smith-Rupe, Ms. Susan Laine, in attempting to determine how to cross-examine them, Mr. Blazey and I decided to split it up, and I took the pathologist and the nurse and Mr. Blazey took the --how to understand the DNA. And I consulted with a friend of mine who is a doctor to try to get some help to understand what this pathologist report meant, and I reviewed Ms. Rupe's report, Dr. Hunsaker's report, and all --everything I could find out about the way they conducted this autopsy and that sort of thing, and then I tried to show some inconsistencies in the some of the results that were reported.

And if you think back to Mr. Blazey's questions of Ms. Laine and Dr. Krane, Dr. Krane and Ms. Laine's results were exactly the same. The only thing that Dr. Krane testified about was about the phenylethylene stock substance. There was cross-examination of that one area, but the bottom line results were the same.

And let's take a look at what the prosecutor did with respect to the witnesses that we presented. Now, cross-examination of witnesses, that's how trials progress. I mean, you know, they present a witness and we have to --we have to ask some questions; we present a witness and they have to ask some questions. And the effort is always directed toward trying to undermine the substance of what the testimony is but in this particular case, Jon Dartt and Mr. Robinson's cross-examination of all of our experts was an attack and it was an ambush. And what was it an attack and ambush of? It was an attack of their credentials. Now, how is that helpful or relevant in any way to the issues presented and how does that help you when you have to do the job that you have to do in just a few minutes? You know, I would suggest that the proper way to attack or undermine expert testimony is to demonstrate that the data or the information that's presented is wrong, the substance of that, and the best way to do that is to put up your own data that shows that the data we presented is wrong or different; and if you --if you can't present data that's contradictory or

different, then at least there should be an effort made to contradict the data or substantively question the data that's presented, and if you can't substantively question the data or the information that has been presented --then what did prosecutor to? Then they ridicule the data; they made fun of it. But it is not enough to ridicule the data; then they go on to ridiculing the credentials of the messenger.

In every single one of our witnesses, what did Mr. Dartt and Mr. Robinson talk about? They went after the money; attacked our witnesses because they're being paid, because one of our witnesses has filed bankruptcy. That's why I say, ladies and gentlemen, everybody in this room is being paid; we're all being compensated for being here. And you are the volunteers here and, ladies and gentlemen, in a very real sense it is the citizens of Spencer County who are going to bear the financial cost of this process and the citizens of this county are also going to bear the emotional and the moral and the psychological cost of killing Roy Lee Ward.

Now, it's obvious that what our expert testimony was about is not a secret to Mr. Dartt. He was obviously familiar with many witnesses' testimony. He asked them specifically about testimony they gave in prior cases, but if he knew that, why not focus his cross-examination on the substance of the data, but he didn't do that, not in a single instance. He savagely attacked and ridiculed the credentials of each expert and he went after the money. And, ladies and gentlemen, it is an extraordinarily unequal contest. The witness doesn't have a chance to answer. He's firing questions without taking a breath, cuts off questions, asks compound questions, asks questions that are impossible to answer, demands that the witness answer a question either "yes" or "no" and asks the question in such a way that even makes the Judge appear angry at the witness.

You know, the question he --the question he asked to Dr. Cunningham: So, Doctor, when did you declare bankruptcy and was that the year you began jetting around the country testifying in death-penalty cases? And when he tried to clarify his answer, the Judge said: It calls for a year. Doctor, answer the question. The problem with that compound question, ladies and gentlemen, is, that's not correct. He filed bankruptcy in 1973 and didn't start testifying in cases --

MR. DARTT: I'm going to object. That is not in the record. Now, Judge, I've been very patient. I never said anything about jetting. In 1973? The bankruptcy was in the 1990s, as he testified to.

MS. WILLIAMS: I misspoke myself with that.

MR. DARTT: 1992. That is improper.

MS. WILLIAMS: Sorry, Your Honor.

THE COURT: Continue.

If I said 1973, I meant 1993. The question that Mr. Datt asked to Dr. Cunningham is, did he file bankruptcy in 1993. I apologize if I said 1973; I do that a lot. And he didn't start testifying in death-penalty cases until 1997 or 1998. Beating up and attacking someone's witnesses in that manner is outside the common boundaries of decency. It can only suggest to me, ladies and gentlemen, that there is a desperation about the death worthiness of this case, because that's been the prosecutor's tactic with every single mitigation evidence and witness that we presented. Character assassination; shoot the messenger; ignoring all of the data. Ladies and gentlemen, he wants to believe that you can be distracted by attacking the messenger. He wants to believe that by ignoring the evidence that we presented and misleading you, that he doesn't think that you're smart enough to understand the data that was presented.

Nothing, none of the evidence that we presented with respect to mitigation was refuted, disputed or substantively questioned. He didn't present a single witness to contradict a single bit of the mitigation that we presented. Now, ladies and gentlemen, if this crime, this offense, is so hideous and so deserving of the death penalty, then you're going to go ahead and vote for the death penalty, but, ladies and gentlemen, the mitigation evidence is here and you are supposed to consider it. It was unrefuted, ladies and gentlemen, that Roy Ward did not choose at age ten or 11 to become an exposer or an exhibitionist. It's unrefuted, ladies and gentlemen, that this paraphilia or this exhibitionism condition has been persistently, persistently debilitating him since puberty. It is unrefuted, ladies and gentlemen, that this paraphilia has significantly and in a continuously increasingly worsening way impaired his impulse controls. This condition, ladies and gentlemen, has significantly interfered with his development, with the development of his interpersonal and his social relationships. It is

unrefuted, ladies and gentlemen, that this horrible, horrible, violent crime is way outside, completely outside anything, anything that Mr. Ward has ever done before.

Now, let's talk about that for a minute. Mr. Robinson and Mr. Datt would like you to believe that he has a prior violent history, but what is the evidence of that, ladies and gentlemen? In 1990 --in 1989 and 1990 he has a misdemeanor conviction for a battery offense with a girlfriend. Ladies and gentlemen, I'm not --when I talk about his criminal behavior and say that doesn't mean that he's a violent criminal, it doesn't mean, ladies and gentlemen, that I think it's okay that in 1990 he had a fight with a girlfriend and dragged her across the parking lot. But you heard the doctors, ladies and gentlemen, and the doctors said that this doesn't change the diagnosis that he had; because the consistent function or feature of this diagnosis is that it takes place in situations where there's no contact. Now, the fact that he had a short-term relationship with a girlfriend and he had a fight with her, quite frankly, I'm not -- I'm not surprised by that, because that's just to me an indication of how difficult it was for him to have any kind of a relationship that didn't result in some kind of a problem. But the fact that in 1990, which was 12 years ago, there was a misdemeanor battery conviction, ladies and gentlemen, that's not evidence that he has a violent past.

Now, Mr. Robinson talked about this criminal recklessness where he rammed somebody with his car. Now, ladies and gentlemen, that is a 1997 case from Floyd County where he exposed himself, got in his car and he did probably touch the bumper of his car; and when they stopped him, he also had possession of a controlled substance, some kind of a prescription drug that he wasn't supposed to have. And when that case went to trial --or went to court, ladies and gentlemen, he pled guilty to the controlled substance charge, and in Floyd County, the prosecutor dismissed him from the recklessness charge and dismissed the public --or --I'm not sure they had him for public indecency, but I think that was even dismissed. There was a deal worked out. Now, I'm not saying he didn't bump her car, ladies and gentlemen, but he doesn't have a prior criminal conviction for that offense. Now, the other stuff that Mr. Robinson was talking about, he was reading from police reports of

nonconvictions. And he does --he was burglarizing some places over in Missouri, and there was probably more than one and they made a deal and he got a sentence for one burglary, but, ladies and gentlemen, that does not refute the mitigation evidence that we presented, that this horrible murder that he committed on July 11, 2001, was anything that --it was completely outside and inconsistent with the norm of his behavior. And the evidence of the --of the way the police were dealing with him, that's supports that. That supports that piece of how we got to this point with Roy Ward.

It's not an excuse, ladies and gentlemen; it's who Roy Ward is. Roy is Roy. Roy is an exposer; he's always been an exposer for the last 20 years. He hates it; he hates it. His family hates it; they don't know what to do about it. Now, you know, Mr. Robinson says that we're just not taking responsibility for things, that he's got a GED. He got his GED in prison. He got his GED at Branchville, and if you read Dr. Engum's report, he reads at the second grade level, second or third grade level. They say, well, he worked at a sod farm for three years. That's when he was 16 years old, when he dropped out of school. He had seasonal work for a couple of years, three years. That's why, ladies and gentlemen, it's important for the substance of what our witnesses said to be considered from that point of view. It wasn't refuted. All three of the witnesses who talked about his exhibitionism paraphilia were consistent about what it is. The approach that the prosecutor took, attacking our witnesses because of their credentials, falls below the level of dignity that, in consideration of someone's life, you should have.

When someone's life is on the line, doesn't it call for genuine engagement of trying to substantively attack the data rather than attacking the witnesses because they get paid and because somebody filed bankruptcy? Now, let me talk about --well, all the attacks in this case, going after the money and the bias --you know, bias is a --is one of the most important reasons that cross-examining any witness is permitted. If there's a witness here who is biased in any way, any way, we are permitted on cross-examination to try to --to find that out. And any witness can potentially be biased. Expert witnesses. But, you know, in some cases --and I'm not talking about this case right now, but cases where you think that one of the witnesses

have a motive for testifying the way they are because, if it's a co-defendant, they're going to get a deal out of it, or if it's a family member or something else. And if we can discover or we know that there's a reason that a witness is biased, we're supposed to, we're obligated to try to point that out so that the Court can instruct you that a biased witnesses' testimony shouldn't be given the same weight as testimony that you believe is truthful and unbiased. But what bias, what bias did the attack on our witnesses bring out? You know, this approach may work in civil cases, but when someone's line is --someone's life is on the line, it's just not appropriate.

Now, why did we present Dr. Cunningham's testimony? As you know, that report has told and will tell you it's our position that there are three mitigating circumstances that should be considered in this case. One is that Mr. Ward was under the influence of extreme mental or emotional disturbance when the murder was committed, and the second one is that his capacity to appreciate the criminality of the Defendant's --of his conduct or to conform that conduct was substantially impaired as a result of the mental disease or the defect. Now, ladies and gentlemen, both those mitigation factors talk about his mental condition, and the second one talks about the ability that he had to conform his conduct to knowing --the ability that he had to conform his conduct to the requirements of the law was substantially impaired.

Now, one of the things that the prosecutor was talking about is, Roy wasn't insane; he didn't have an organic problem; and he's not pleading insanity. Ladies and gentlemen, that's an attempt to mislead you again. If it was --if we were pleading insanity, ladies and gentlemen, insanity relates to whether or not he's guilty. If he was insane and didn't know the difference between right and wrong, we would have had an insanity defense in the first phase and we would have asked you to find that he shouldn't be held responsible or punished for this crime because he didn't know what he was doing. And in our country, ladies and gentlemen, if you're insane, you can't be found guilty of an offense. Of course Dr. Engum didn't conclude that. We didn't ever say that.

Now, I'm going to talk about whether or not this exhibitionism that he has fits in this category where he was under the influence of extreme mental or emotional disturbance. The reason

we showed you all this information about the last 30 days before this crime was committed was not to blame the detectives or the police officers, but to show you that this kind of stress in his life is very debilitating and it reduces his impulse control; and that's part, that part and partial of his condition. And what we're trying to show you, ladies and gentlemen, is that on July 11, his impulse control was so nonexistent that when he went to this home and his first thought was to burglarize it, he got in there and he didn't burglarize it; he exposed himself, and what happened after that was a horrible, horrible, horrible criminal act.

And, ladies and gentlemen, under no circumstance do we think that Stacy was in any way responsible for what happened. We have said that she was courageous. There can't be any doubt in my mind, ladies and gentlemen, that the reason that she was talking loud and screaming was because Melissa was there. That's why they could hear it on the --on the 911 tape. And, ladies and gentlemen, she was fighting for her life, fiercely, fiercely. There was --all the witnesses said it was a fierce struggle and it happened very quickly, very quickly. Do you think that we would make up, make up this exhibitionism paraphilia? We take Mr. Ward as he is and we believe that up until this day, this kind of crime was completely outside of what he's done in the past. He committed this crime and now, ladies and gentlemen, he deserves and needs to be punished.

And we have told you from the beginning that we don't --by telling you what we've told you --we've already told you that we don't believe the mitigation that we presented on his behalf should outweigh the horrificness of this crime, but we believe that his life should be spared and that the penalty of life without parole will be sufficient to punish him. The penalty of never, ever getting out of prison will be sufficient to punish him. Some of you may think even that that punishment is worse than the death penalty. The reason we called Dr. Cunningham and Ms. Patterson is because there are a lot of cases in the United States, constitutional cases about the death penalty and these cases talk about what kind of information can be presented as mitigation; and one of the things that we know is that jurors worry about, well, what if he gets out? Or what if it's too easy? Or what if he --what if he is such a violent person that he kills

somebody else in prison? What if he kills a prison guard? What if he kills again? We presented that testimony as evidence of the eighth mitigator; any and all other circumstances appropriate for consideration. Dr. Cunningham, not because he on his own wants to go out and conduct these studies, but because departments of corrections in many different states who want to know how these people are doing have asked people like him to do some studies on risk assessment. That's what he was here to testify about. And everything that he said, all the studies that he's done --they put these people in categories, and his conclusion was, based on all the stuff that we know about Roy Ward, life without parole would mean life without parole and that he's someone who would do okay in a setting like that and would be punished severely. Now, we asked him about what people in prison get to do. They get to --they get to watch TV; they get to do these kind -- they get to have --go to school. And he talked about the motivations that people have and, when people are serving a life without parole sentence, why they should even --why they should even care what happens to them. And those are some of the other factors. Mr. Ward has a lot of reasons why he cares, and Dr. Cunningham was trying to explain some of those things to you.

Now, ladies and gentlemen, the prosecutor wants you to believe that Roy Lee Ward is a --was a homicidal sexual predator on that day, and he wants you to believe that, because if you believe that, then you will, he hopes, believe that because of that and because of what happened, that he should be killed. He wants to kill Roy Ward more than he wants to present this case the way it actually happened.

The prosecutor knew; they knew that he was a public nuisance; they knew that he wasn't in that house for two hours. So what does he do? He calls Dennis Brown to testify that Roy Ward was in that house for two hours. The prosecutor knew he wasn't in there for two hours. The prosecutor didn't call the three witnesses from Ft. Branch who left --who all testified that Roy Ward left Ft. Branch, Indiana, at 11:20 a.m. on that day. The prosecutor also knew that Roy Ward committed a burglary in Ft. Branch, in Gibson County, the morning of July 10 -- July 11.

MR. DARTT: Judge, I'm going to object. Now, you know that's not proper. You know there's

evidentiary rules about why we cannot bring that evidence in. If she's going to try to run me down in front of the jury, she needs to speak accurately about what the law is and what each phase of the trial is. Now, I've had enough of that.

MS. WILLIAMS: It's just argument, Your Honor.

THE COURT: Overruled. You may continue.

They knew that, ladies and gentlemen. Even if he didn't bring it in, he knew better than put on Dennis Brown to testify that he was in there for two hours. Then throughout the whole case, they kept saying, "Why was he there? Well, he had to be there to rape her." They knew that wasn't true. They knew that wasn't true. "Roy Ward has a violent past." He doesn't have a violent past. He has a horrific criminal past. He's a nuisance to the community, and all of us hope that we never run into him sometime when he's got the urge to expose himself.

The 911 tape where the dispatcher testified that there still was screaming, that's evidence, ladies and gentlemen, of how quickly this happened, how very, very quickly this happened. The prosecutor knows. In fact, in their closing argument, they said that this was ten minutes of horror and ten minutes of hell, and surely, surely it was; most certainly it was, but he wasn't a sexual predator or a homicidal rapist. He is a troubled, very troubled person who went there to burglarize that home and he ended up killing an innocent child, and he deserves to be and he needs to be punished for that.

And I want to talk just very briefly about some of the mitigation evidence that's been presented, and then I have one other area, ladies and gentlemen, that I need -- that I'd like to talk with you about. Torture, mutilation. Recently a case in Indiana addressed the issue of what torture means in this context; and as Mr. Robinson told you, mutilation hasn't been defined, but mutilation and torture are in the same aggravating sentence, same aggravating number. And this case, Nicholson v. State, says: The statute does not define torture. Webster's dictionary defines it as the infliction of intense pain as from burning, crushing, wounding; to punish or coerce someone; torment or agony induce --to torment or agony induce; to penalize religious or political descent or non-conformity; to extort a confession or money contribution or to give sadistic pleasure to the torturer. That's from the dictionary. But

the case goes on --the Court goes on and says: The State argues that the torturer or aggravator is satisfied by proof of infliction of severe physical and mental pain. This alone surely cannot be sufficient. If such were the case, any stabbing or shooting victim would also be tortured.

The other aggravators listed further suggests that the legislature intended something more than simply the infliction of severe physical or mental pain to satisfy the torturer/aggravator. This Court says: We conclude --this is the Supreme Court of Indiana --we conclude that the torturer/aggravator requires something more; an appreciable period of pain or punishment intentionally inflicted and designed either to coerce the victim or for the torturer's sadistic indulgence. That's what the Indiana Supreme Court says you have to find in order to conclude that torture is a mitigating --an aggravating factor. We conclude that the torture/aggravator requires something more; an appreciable period of pain or punishment intentionally inflicted and designed either to coerce the victim or for the torturer's sadistic indulgence.

Put another way, the Court goes on, torture is the gratuitous infliction of substantial pain or suffering in excess of that associated with the commission of the charged crime. Although the victim here undoubtedly experienced suffering, the evidence does not show that the events fit the definition of torture. Ladies and gentlemen, I would suggest to you that torture is not an appropriate mitigating --or aggravating factor in this case. Doesn't torture, just by what I've read to you, suggest that it is the infliction of sublethal wounds to punish or coerce or to make the agony prolonged? The supreme court says: To give sadistic pleasure to the torturer. Ladies and gentlemen, this is a horrible, horrible, horrible, horrible crime, but it happened so fast that there -- and the wounds were not sublethal; they were --they were in and of themselves so horrific that after they occurred, it was a certainty that Stacy wouldn't survive. They were violently and lethally and very quickly inflicted, perhaps, in less than a few minutes. Stacy lived as long as she did because of the strength of her young, strong body and her will to live, but probably mostly, ladies and gentlemen, because of the very, very, very quick and excellent medical intervention that she received, and that, ladies and gentlemen, is not torture.

Now with respect to the mutilation, I would suggest to you, ladies and gentlemen, that the supreme court would have a very similar position with respect to the definition of mutilation as it's something more, something more than the --than what actually --what happened. But as we know in this case, it happened so quickly that it wasn't a mutilation. Mutilation would be to cut a finger off. But it's not the infliction of this --of this horrible wound. And there's been a lot of talk about the intention of this, and that's been brought out over and over and over and again, because it's so horrific that the more you see those pictures and the more you hear about that, the more you want to think that he was torturing her or carving her up, that's not what happened, ladies and gentlemen. That knife, as everyone says, was so sharp that it happened the first time --the second time it went around,-and the struggle, as we know, was fierce, they were both struggling.

Now, I don't get to respond to what Mr. Dartt is going to say. He can respond to anything I've said and that's his right under the law, but when I talk about this, I don't, under any circumstance, mean to suggest that he didn't know he was --what he was doing and that Stacy is at fault. That's not what happened here, ladies and gentlemen.

You know, the other thing about this case that's been difficult is the very, very nature of it. The randomness of it is so frightening it hits everybody's buttons. My children are approximately the same ages as the Payne children, but the randomness of this, that feature has been exacerbated by the view taken by the prosecutor that Mr. Ward is some homicidal rapist wandering around. Now, he's a public nuisance wandering around, and he --and I tell my kids all the time, don't --please don't think that I think it's okay for him to be a burglar and an exposer. In our family, the constitution doesn't exist as far as their parameters of behavior; we have a total dictatorship, and I would not, under any circumstance, suggest that it's okay that he's been a burglar and that he's committed all these crimes of public indecency. And as I said, I've got children and I'm hoping and trying to find a way, as all of you have, to impart some values, some guidance so that doesn't happen, so it doesn't happen to your kids, because you want your kids not to be like him and because you don't want it to happen to anybody else's kids.

But the randomness of this, ladies and gentlemen, I think when you look at what actually happened and take a look at it in a context of the way we tried to present it; not as an excuse and not to blame a police officer or to blame Stacy, but to just see how all of these factors came together and converged on this day and, perhaps, ladies and gentlemen, we would ask you to find that Roy Ward isn't the worst, of the worst, of the worst, of the worst, of the worst human beings you've ever seen. What he did is the worst, of the worst, of the worst, of the worst, but --I hate what he did. I hate what he did, but I think, ladies and gentlemen, there should be a place in our state where he can be confined and never ever, ever leave and that it isn't necessary to order him killed. There is a randomness, ladies and gentlemen, and there is the consequences of all of the events in life that we constantly try to understand. We want our lives to make sense, to have order, and yet we are surrounded with randomness and what we think of as randomness on a daily basis. When a child is stricken with leukemia, we ask why; when a father is hit and killed by a drunk driver, we ask why; when we see third world nations with starving people, we ask why. We try to make order and we try to understand why. We can look at the child with leukemia and the doctors will tell us there might be a genetic predisposition, but we're still left asking why.

Your being chosen as jurors in this case seems to have come from a random selection process. We are told in times of seemingly random events that are so hard to understand that God has a plan and that we don't always understand; and don't we all -- don't we all try to look to where our faith is, what our faith is about to try to understand? Stacy Payne was created by God, and, ladies and gentlemen, showing those pictures over and over, and over, and over, and over again is not going to bring her back. So help me God, if I thought it could, if I thought it would, we would show them endlessly. Killing Roy Ward isn't going to bring Stacy back; it's not. But Roy Ward was also created by God; he's one of us, ladies and gentlemen. He's a human being; he's not an animal. We have never said he didn't knowingly kill Stacy Payne. We are not here to blame anyone; we're here to offer, as best we can with the circumstances of his life, an explanation of how Roy Ward got from Clark County in 1972 to Spencer County on July 11, 2001.

We ask you, ladies and gentlemen, if there's a doubt, wouldn't it be better to error on the side of life than to kill him, just to kill him? We all --we all -- Mr. Blazey wanted me to tell you this, and I believe it, too: We all have such a finite time on earth, and Roy will have to meet his maker just as we do; and all of us, allof us have to live with our decisions, allof our decisions. We understand, ladies and gentlemen, that you have a difficult decision to make. I said at the very beginning that we would be exchanging roles, and we've tried, Scott and I, to provide an adequate defense. It's been an honor, but we've tried. His life is now in your hands. Thank you very much.

**CLOSING REBUTTAL (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF STATE OF  
INDIANA.**

**MR. DARTT:** Your Honor, Counsel, ladies and gentlemen of the jury, unfortunately this is a sad day, but I do have to talk to you about some of the things that were just said by opposing counsel. I'm not going to respond to personal attacks. I can tell you I've never been attacked like that in my career, and that's fine if that's the way she wants to do that; but I will respond substantively to what she said.

There was a reason, ladies and gentlemen of the jury, that we couldn't bring in the Edward Jones situation to you in the guilt phase and that's because it was a prior bad act. There was a reason we couldn't bring you the burglary in the guilt phase and that was because it was a prior conviction. Now, they brought it up and they have a right to do that, and when they did, as you saw, we didn't cross-examine. We had no problem with that evidence and we didn't claim that Roy Ward was at the house for two hours. Dennis Brown stated that Roy told him that, and Dennis Brown said he didn't believe everything Roy told him. We have always stated, from the beginning of this case, that Roy was there approximately ten to 15 minutes because we know that Melissa saw him on top of Stacy and called 911 and we know that ten minutes later an officer arrived. So don't be distracted by that. Remember what the evidence is; ignore the personal attacks. My parents taught me a little bit better than that.

As to expert witnesses, I think that you have been privileged as a jury to see some amazing expert witnesses in this case. Dr. Hunsaker is,

without a doubt, an expert in her field and a very well-renowned and respected lady. Unfortunately, in these kind of cases, in the State's opinion, you also see what we sometimes refer to as hired guns. They testify in these kind of cases all the time. I was not trying to run down Dr. Cunningham personally and I was not trying to run down Dr. Krane personally, but I have access to how they've testified in the past, and if they think that they're going to come in this courtroom and tell you something different than what they've testified in the past and I'm going to allow it, they're wrong; and Barbara Williams is wrong, because she's not the only one fighting for somebody's life. We are too. Stacy Payne's life is important here, and I guarantee you that we're going to fight and we have fought all the way through this trial and we will fight to the end because it's important.

Now, if you want to really see how biased we were, that we were trying to savage their witnesses, think about Dr. Engum. We didn't savage him. He did testing; he did a report; he testified, in my opinion, pretty well. Now, he didn't help them out as much as they would have liked. Did you notice that I had to put his report into evidence? Their expert and I had to move to put his report into evidence. They didn't want you to have his report. Think about that. We didn't savage the cross-examining because he's credible. He didn't come into court like Dr. Cunningham and testify different than he's testified previously. He didn't come into court and try to change the dates on whenever he filed bankruptcy and change the dates on whenever he started doing this criminal work all across the country. I had that information from his prior testimony; and, again, if he thinks he's going to come in this courtroom whenever the justice of Stacy Payne is at stake and tell you something wrong, it's not going to happen as long as I'm Prosecutor, and I won't apologize for it.

Now, that was done for a reason, ladies and gentlemen of the jury; they want to get you distracted on side issues. We call it the blame game. It amazes me; he's responsible but then we get all the blame. And, you know, it doesn't make any difference if they get up here and say we know he's responsible, but then blame, blame, blame, blame. It's the same thing. It's the blame game, and they're trying to distract you. Well, I want to talk to you about the case. This case has been one of the saddest things

I've ever had to do and it's also, though, been one of the proudest things I've ever done. I mean, I am so proud to be here fighting for justice for Stacy, her family and the State of Indiana, and you should be just as proud. Once again, I thank you for everything that you've done in this case, for your service and your attention. And as you know, your job is only half done. It has been a long journey. We talked about the fact that there was going to be a guilt phase and we're through that. You found the conviction of the murder, the rape and the criminal deviate conduct as you should have done. And now we're to the part of the phase where we decide on what we're going to do. This is the penalty phase. Whatever you decide, be proud of your decision and the service that you've performed.

As we talked about, I will never tell you what you have to do, but I will tell you what I want you to do and what I think is proper in this particular case. And, as you know, the State of Indiana is seeking the death penalty in this case. In jury selection, each one of you --I talked to everyone of you personally -- told me that in the appropriate case, under Indiana law, you could recommend the death penalty. Ladies and gentlemen of the jury, unfortunately, through no fault of mine, through no fault of yours, through no fault of Mr. Ward's parents, and especially through no fault of Stacy and her family, this is the appropriate case, and I want to talk to you about that.

For a long time I've wondered, if I have this chance to talk to you, what am I going to tell you. What would I --how would I be able to tell you why we're requesting the death penalty. So that's what I'm going to talk to you about. First, the death penalty is only appropriate in cases where the Defendant is sane and competent and not mentally retarded; so even though there might be a few distractions coming from the other side of the courtroom, those issues are very important. We would never ask that the death penalty be given to somebody that was incompetent, retarded or insane; that would not be proper. We know from the living words of the experts that's not the case with him. He meets the requirements; he knows right from wrong; and he's able to stand trial for the charges as he's done. So once these requirements are met, as your prosecutor, I believe in personal responsibility, and by that I mean, people are accountable for the choices they make and for

the actions that they take. And in that regard, sometimes that accountability requires punishment. Mr. Ward is responsible for what he did on July 11, 2001, and now he must be held accountable for what he did.

The other thing I look at in a death-penalty case is, I believe it's only appropriate where there is very, very strong evidence of guilt. Ladies and gentlemen of the jury, you know we have that here. I can't think of another case where the offender was arrested inside the house with a bloody knife in his hand, one room away from the victim, who's laying in a pool of blood. The sister of the victim saw the offender on top of her sister; the DNA evidence comes back 12 billion to one; he's got a piece of bloody string in his pocket that matches string that's in the living room by the --close to where the victim was located. It's irrefutable evidence, and the interesting thing is, even the Defense usually admits that he's responsible for Stacy's death.

And then the last thing I look at as prosecutor would be the concept of making the punishment fit the crime. People should not be punished too leniently and people should not be punished too severely; instead, the punishment should match the particular crime and should match it as close as possible. I believe that is an important part of justice. In this case, ask yourself what punishment fits the crime. What punishment fits this crime? Think about that. In reaching that decision, I want you to consider a few things. First, this is not just a murder; it's an intentional murder of a 15-year-old girl named Stacy Payne. And of all places, she was brutally murdered in place where she should have been the safest; her own home in the middle of the day on July 11, 2001. And it gets worse. Roy Lee Ward murdered her while he's on probation for a felony burglary conviction, for which he had only recently been released from prison. Obviously jail time did nothing to reform him. And it gets worse. Roy Lee Ward murdered Stacy while committing rape and criminal deviate conduct. You found that in the prior case, which you should have. Unspeakable degrading things that Stacy went through on July 11, 2001, on her living room floor. You saw the injuries to her vaginal area; you saw the DNA evidence. Her body was on his penis 12 billion to one. And it gets worse. So far what punishment fits that crime? Think about that. What punishment fits that crime?

As part of the murder, Roy Lee Ward mutilated and tortured Stacy Payne while she was still alive. Now, once again, there's some distractions. They want to tell you what torture means. The Judge is going to instruct you on what torture means. We just ask you to follow the law. Appreciable period of time? You tell me. One minute, two minutes, three minutes of what she went through? We know she went through that ten minutes and we know she suffered another 44 minutes before they could give her a sedative at the Huntingburg Hospital. You tell me if that's torture.

The big thing here, ladies and gentlemen of the jury, he didn't just kill her; she was still alive. That is just something that has just been so difficult for me to even comprehend in this particular case. He mutilated and tortured her while she was still alive. You saw the evidence. He tied her up, hit her with his fist, bashed her in the head with a barbell, sexually assaulted her, stabbed her, cut her hands to the bone, slashed her throat and then carved her almost completely in two while she was still alive, still alive.

And I'm not going to tell you what to believe, but you heard Dr. Davis up here (indicating), and if you think that somehow this occurred as part of a struggle, then you don't believe Dr. Hunsaker. And I'm sorry ladies and gentlemen of the jury, but you saw both of those people testify and you know who the pathologist is. You make the call. What punishment fits that crime, ladies and gentlemen of the jury? What does somebody have to endure? And it gets worse. Blood-soaked carpet in the living room; ten square feet of blood in the dining room floor, blood splattered on the wall; 18 blunt-forced injuries found; five sharp-forced injuries found; cut the jugular veins; cut her vocal cords. And then --I can't even imagine this --cuts deep inside the front of her abdomen on her backbone while she's still alive. Now, what punishment fits that crime? He cut her vena cava, cut her ureter, cut her front all the way around her sides and back and left about four inches. She was cut almost completely in two while she was still alive. What punishment fits that crime?

And it gets worse. She didn't just die. She endured this brutality for ten minutes in her own home, not only alive and conscious when Officer Keller and EMT Stout arrived, but she tried to fight the EMT because she thought that

it was Roy Lee Ward. You heard EMT Stout. He had to tell her "I'm here to help you, so don't fight," and she did. And that girl responded to questions that he gave her in the ambulance on the way to the hospital with head nods, without sedation. It was 44 minutes after the ten minutes of hell before she even got sedation. She died from her injuries about four hours after the attack. Whenever EMT Stout and Officer Keller arrived at the scene, she's alive; not only alive, but she's conscious and her intestines are laying on the floor in the dining room along with the rest of her abdominal contents from her abdominal cavity. Now, you tell me what punishment fits that crime.

You do have a weighing process to do here. Think about the strength of the aggravators that we presented to you. Contrary to what she says, we're not desperate. We put the evidence on; we told you in the jury selection we would bring the evidence to you, and we have done it. We didn't bring some witnesses in to rebut their experts because we didn't need to. Think about the weight of the aggravator in relation to the mitigators. No comparison. The aggravating circumstances are like huge blocks of stone, and their mitigators, which even to this point I'm still not clear on what they are, are like grains of sand. There is not even a close call on the aggravators and the mitigators. The aggravators' weight far exceeds the mitigators. What punishment fits that crime?

Now, I understand why they would tell you this, but the Defense would have you believe that life without parole is a better option and it's somehow equal to the death penalty. Well, in this case, not every case, but in this case, I strongly, strongly disagree. Although, the procedures for getting to the penalties are the same, the penalties are not the same, especially in this case.

Why should Ward --you heard the lady from the department of corrections. Why should Ward get life without parole and get to play Putt-Putt golf and do gardening whenever he took those things away from Stacy on July 11, 2001. And not only did he take them; he savagely took them. With if he escapes? It happens. What if he takes a hostage? It happens. What if the life-without-parole laws are changed as our laws do sometimes change? That could be by the courts or the legislature. It happens. Don't let that happen.

And it amazes me; why is it that Ward thinks he's entitled to mercy now when he showed Stacy none, absolutely none? Why is it that murderers like Roy Lee Ward get to inflict the death penalty on their victims but then don't want it used against them when they come into the courtroom? How can Stacy's life be somehow less valuable than his?

And then of all things from Dr. Davis yesterday, to somehow - I don't care how they want to characterize it --to somehow blame Stacy for this, that is unforgivable. You know better than that version of events that we heard from the stand yesterday and you know better because we heard from Melissa. She looked down the stairs and she saw Mr. Ward on top of her sister. Her sister was screaming and they all had their clothes on. Stacy Payne did not drop her pants for Mr. Ward. It's an insult to even consider that. You saw the evidence. She fought. She fought so hard. She tried not to let him do what he did to her.

And then the twine thing. The twine, as I understood it, was meant to take a TV and tie the trunk down or put the TV on the trunk and tie the TV to the trunk. Well, think about it. Why was the twine bloody if it was meant to be used for a TV? Why was Stacy's blood and hair on the twine? Why did Stacy have ligature marks on her arm and her leg if it was for a TV? And if this was such a burglary, then how come the burglary tools, which I suppose, from their testimony, was a screwdriver and a pair of gloves, were in the car when Mr. Ward was in the house? And we know what Mr. Ward had with him, a knife and string. Those aren't burglary tools. We've talked about this before. You know what he was there for. You've already found what he was there for. What punishment fits the crime? What punishment fits the crime when a coldblooded killer blames the little girl that he killed for what he did to her?

Now, they put on some mitigators, I suppose. I tried to take notes. The two I found were Dr. Engum, who, I do feel like, was somewhat a creditable witness, stated that he did believe that there were two mitigators, but he answered them with "Essentially, yes," and "Appears to be the case." Well, I'm not going to tell you whether or not to find that those mitigators exists, but I am going to tell you that they sure aren't strong. They don't outweigh anything.

Mr. Ward does have a problem and they don't want you to believe it. He was getting violent, more violent. There were violent episodes; they're right; right on the money. I do believe he's a murderer who is a career criminal and I do believe he's a sexual predator.

You heard the evidence from the stand just like I did. What's your conclusions? What do we do with someone like that? What kind of punishment fits that crime? They put in some pictures of Roy's baby pictures. I don't have a problem with that. I don't blame Roy's parents; I don't blame Roy's family. Those pictures of Roy when he was a little boy, that boy didn't kill Stacy Payne, a little boy. This grown man right here killed Stacy Payne (indicating). He's the one that's putting his family through hell; he's the one that's putting the Payne family through hell; and he is the one to blame. In deciding what I wanted to talk to you about, I just want you to remember, this is not just Roy Lee Ward's day in court; it's also Stacy Payne's day in court. It's the only day that Stacy Payne and her family will get any kind of justice. And I thought about what to show you, and I cannot and could not show you those hideous injury pictures again. If you're like me, they've burned a place in your mind and you can't ever forget those. I'm not going to show them to you again. You know what he did. I don't want you to remember Stacy that way; I want you to remember Stacy this way (indicating).

Shortly after July 11, 2001, Jack and I were at the prosecutor's office. The Payne family came in; first time we've ever met them. I'll never forget that night. Julie, the mom, came in with this picture of Stacy, the same one you see right there (indicating), and she said: This is Stacy. Don't you ever forget her. And I guarantee you, we have not forgotten her, and I guarantee you that the prosecutor's office and the law enforcement have worked hard fighting for Stacy just like she fought that day against Roy Lee Ward.

It's time to finish the fight, ladies and gentlemen of the jury. It is your call. Help Stacy finish this fight. Make the punishment fit the crime. Make the punishment fit this crime. Ladies and gentlemen of the jury, if there ever, ever was a case for the death penalty, this is it. Thank you.

[The jury unanimously recommended a death sentence for Ward, who was sentenced to death by Judge Wayne Roell on December 18, 2002. The conviction was reversed on Direct Appeal by the Indiana Supreme Court at Ward v. State, 810 N.E.2d 1042 (Ind. June 30, 2004) on grounds that a change of venue should have been granted. On remand, Ward pled guilty and a Clay County Jury recommended a death sentence. On June 8, 2007, Ward was again sentenced to death, in accordance with the jury verdict, by Special Judge Robert J. Pigman.]

# CLOSING ARGUMENTS

## State v. Kubsch St. Joseph Superior Court 2000

**CASE SUMMARY:** September 18, 1998 was the 31st birthday of the defendant's wife Elizabeth Kubsch. It was also the day she was found dead by her 13 year old son in the basement of the home she shared with the defendant. She had been stabbed numerous times and was hogtied with duct tape. Also discovered in the basement were the bodies of Elizabeth's former husband, Rick Milewski, and their 10 year old son from that marriage, Aaron Milewski. Aaron was stabbed 21 times and shot once in the mouth. Rick was stabbed in the heart and shot twice in the head.

Kubsch claimed to have worked all day, then went straight to pick up his other son in Michigan. However, cell phone records put him in the vicinity of the murder at the time of the murders. Duct tape from Elizabeth was matched to a wrapper in his vehicle. He was over \$400,000 in debt and 2 months before the murders had taken out a life insurance policy on the life of Elizabeth for \$575,000.

St. Joseph County Superior Court Judge Jerome Freeze presided at the trial. Deputy Prosecutors Scott Duerring and Joel Williams represented the State. Attorneys James Korpal and Neil Weisman represented the Defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. DUERRING:** Thank you, your Honor. Ladies and gentlemen, shortly you will be retiring, and you are going to hear some instructions before you do. What this phase is going to basically involve is you are going to be asked to do some balancing, some weighing, some comparing.

First of all, the first step is you are going to determine whether or not the State has proved either one or both of the aggravating factors that we allege. Now, we wouldn't be here if you didn't feel we proved at least one of them. You found yesterday the defendant guilty of murdering three human beings, the one aggravating factor we alleged exists in this case is that he murdered Aaron - he murdered Rick Milewski, and he murdered Beth Kubsch. You found that yesterday. You found beyond a reasonable doubt that that occurred.

We also alleged that he also murdered a child under the age of twelve. And if you can recall the testimony in this case, Dr. Tomec was the pathologist who testified that Aaron Milewski at the time of his death was age ten, his date of birth being August 21st, 1988. He turned ten the month before his death. There can be no reasonable doubt in your mind that both of the aggravating circumstances have been proven in this case.

The second step or second stage of your analysis in this case is to determine whether or not those aggravating circumstances are outweighed by the mitigating circumstances you've heard in this courtroom today, and that's where the weighing process comes in. Out of the Webster's Dictionary is defined mitigation, or mitigate is defined as to cause to become less harsh or hostile, to make less severe or painful. And I guess fundamentally you are going to have to make a determination as to if what you heard today makes the murders of three human beings including a child less severe or less painful. And I submit to you that it doesn't.

This is not the first time in my career I've stood in front of a jury and talked about and requested the death penalty, which is the ultimate penalty our society has. Our laws provide for individuals to have the right to protect themselves by using deadly force. We call it self-defense. If somebody attacks you or your family, you are justified in replying with that violence with sufficient force which may be deadly in order to protect yourself. And if you kill someone in that process, you do not commit a crime, and it's called justifiable homicide.

Our death penalty statute is the same thing but it's used for our society. It's a self-defense mechanism for our society, and it says in certain circumstances that juries of our society can protect our society from people that would attack it, and that's what I'm asking you to do in this case today.

We heard a lot about the defendant today. Fundamentally we are here, we are in this courtroom. You have been here for weeks for one reason, and that reason is the defendant without thinking about his family, without thinking about the people that came in here and testified who are

also devastated by this heinous act, chose to do what he did to three human beings, Beth Kubsch, Rick Milewski, and Aaron Milewski, three human beings. And I want you to think about what it is to be a human being, that they are no longer capable of "being." I read somewhere where murder is the ultimate act of depersonalization. It turns a human being who has hopes and dreams and fears and laughter into a corpse. It eliminates them. And he not only eliminated one human being, he eliminated three of them. And if you think about it, and you heard the testimony of the social worker talking about his family, he eliminated an entire family. He eliminated a mother and a father and their son.

Beth Kubsch will never laugh or talk to her son Aaron again. She will never be able to call him up on the phone and hear him tell her about his schooling. He'll never be able to watch T.V. He'll never be able to take a walk in the park. He'll never see another sunset. Aaron will never go to high school. Aaron will never have a family. Rick is gone. He'll never have a son. He'll never have any of those things that make him a human being. And multiply that by three times.

If there is any case that exists that requires you as a jury of our society to engage our self-defense mechanism of the death penalty, it is this case here today.

I ask you to think also of the last few seconds of the lives of Rick and Aaron, a father and a son dying next to each other, one perhaps trying to help the other but unsuccessful. Think of the sheer terror. As Dr. Tomec testified, it took them several minutes to die. The sheer terror of their last minutes as they died an arm's length away, and weigh that against the mitigating circumstances you've heard today, and there is no comparison. None.

The defendant chose to do what he did. The defendant took of all of these things away from these three people. The defendant inflicted pain not only on the people he murdered but also on members of his own family. The defendant was not thinking about anyone but himself when he did what he did. And now I guess he wants you to feel sorry for him. His family is devastated as well. They are victims as well. They are surviving victims. But it all goes back to what the defendant chose to do.

You heard some testimony today about the defendant's childhood and how I guess disturbing or how bad it was. But you also heard testimony from other people coming in saying he seemed to

be a nice guy. Now, I don't know how to reconcile that, because it doesn't seem to make much sense.

On one hand they're saying he came up in a bad childhood, an abusive childhood, but on the other hand it's saying that he's a nice guy. It doesn't seem to make much sense. But if you go with the theory that he had a hard life, a hard childhood and that may have made him violent, well, that fact doesn't make him any less violent today. It doesn't make his victims any less dead than they are today. It's sad, but it really doesn't make any difference as to what kind of person he is today and what kind of person that he was when he murdered three human beings.

You may be asked to consider, and you are asked to consider, whether or not you should sentence him to life in prison without parole. That's an option you have, and that's an option under the law you must consider. But think about this, ladies and gentlemen, he will be able to do all of those things even in prison that he denied three human beings the right to do on September 18th, 1998. He can visit with his family. He can talk to his son. He can watch T.V. He can read books. He can play games. Everything he can still do, and all those things Beth and Rick and Aaron cannot.

We are here, ladies and gentlemen, because of what he chose to do, and those choices included murder. This is why we're here, ladies and gentlemen. Do not forget. This is Aaron Milewski after his encounter with the defendant. This is him and his father after their encounter with the defendant. And this is his wife, a person who apparently trusted him, and it cost her her life.

Do what you have done so far, follow the law. In this case, ladies and gentlemen, justice requires a recommendation to the Court that the defendant be put to death. Thank you.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT**

**MR. WEISMAN:** Thank your your Honor. Ladies and gentlemen of the jury, it is been a long couple several weeks. We've kind of come full circle. This is when, where we first started talking to you about your feelings about this phase if we were to come to it and we're here now.

I want you to recall as we talked early on that even if you find that the aggravators are present, death is not the only answer. You have other

choices. You have life without parole, or you can make no recommendation, and the Judge can give a term of years. And he will instruct you on that.

We told you at the beginning of this case that it was a circumstantial case. You deliberated. You rendered your verdict. You found him guilty beyond a reasonable doubt. We respect your opinion. However if you have any lingering, any residual doubt in your mind that maybe it wasn't enough to have found Wayne not guilty, we're asking you to err on the side of caution, err on the side of life. Death is final.

There is obviously a lot of controversy about the death penalty, and we have talked about that before. And I'm not going to go into a dialogue on the pros and cons of the death penalty. But some of the problems and controversy over the death penalty comes out of circumstantial cases.

You have heard about Wayne, heard about who he is. You've heard from the family members. The purpose of putting them on is not to excuse anything. It's just to show you who Wayne is. Some of the people got up here and talked about who he is today. Some of the people talked about what happened early on. Some of the people had to come up here and put out some pretty difficult stuff about what happened early on. And they're doing it just to save Wayne's life. You heard some mitigators, and you will have to go back and look at those mitigators. And this is serious business, because you have to weigh those mitigators against the aggravators. Anyone mitigator can outweigh an aggravator. And you need to think seriously about this business. I know from talking to you early on that each of you take this responsibility very seriously. That's why you were chosen as jurors. That's why you're sitting here. Remember we talked about the perfect juror. Well, you're here in the position of being the perfect juror.

You heard that Wayne has no significant criminal history. You heard that he had been neglected by his parents. You heard that he had physical abuse. There's absent parents, didn't know where he was from day to day, multiple parent figures, parental violence, disorganized, chaotic family. You also heard that Wayne through all that attempted to rise above it. He was a hard worker. He was taking care of family. He would take care of people. He would help them out. He had good qualities and good character qualities. He has demonstrated that.

Life without parole even in prison is a choice. He has a mother, father, brother, sisters, grandparent, and two children who would be traumatized by his death. And I don't mean to diminish the tragedy that occurred in this case. There were three people that lost their lives. There were three deaths. What we're asking right now is don't compound that tragedy with another death. Life without parole is a choice. Life without parole means that the sentence is not served until the person dies in jail. There's no good time credit. Clemency by the governor is unheard of. Life is a long time. It is a serious and severe penalty.

Just one thing before I sit down, ladies and gentlemen. Since the death penalty in the State of Indiana was reenacted, there has been no St. Joseph County jury that has given the death penalty. We implore you, too, to choose life. Thank you.

#### **CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. DUERRING:** Ladies and gentlemen, you have a right to be proud of your verdict. I'm proud of the role I played in presenting this case to you on behalf of the victims and obtaining justice for them. Don't second-guess yourself. You have every right to be proud of what you've done, hold your head up high.

In the jury selection process, we went through a special process, and all of you indicated in that process that the death penalty is a law that you not only would uphold, but it's a law that you believe in. You think it's appropriate, not just life without parole but also the death penalty.

And as you consider the facts in this case, I ask you to think to yourself if this isn't a case where the death penalty is appropriate, if the slaughter of three human beings on an afternoon in September of 1998 is not appropriate, and one of those human beings includes a son, a child, a family that was slaughtered, I don't know what other kind of case would be appropriate for the death penalty.

Ladies and gentlemen, it's no easy task that you embark on, and I recognize that. We all do. But it's a task that you all took an oath that you could do, and you've done thus far. The defendant by doing what he did deserves the ultimate punishment our society can give out, and that's why I am asking you to do that. Please, ladies and gentlemen, do justice for Beth, Rick, and Aaron and recommend that the defendant be sentenced to death. Thank you.

[The jury unanimously recommended a death sentence for Kubsch, who was sentenced to death by Judge Frese on August 28, 2000. The conviction and sentence was reversed on direct appeal by the Indiana Supreme Court at Kubsch v. State, 784 N.E.2d 905 (Ind. March 14, 2003). On remand, Kubsch was again convicted and on April 18, 2005 was again sentenced to death, in accordance with the jury verdict, by St. Joseph County Superior Court Judge William H. Albright. The conviction and sentence was again reversed on appeal to the U.S. Court of Appeals at Kubsch v. Neal, 838 F.3d 845 (7th Cir. September 23, 2016) (*En banc*). On remand for a third trial, the Death Penalty was withdrawn and Kubsch pled guilty and was sentenced to Life Imprisonment Without Parole in 2018.

# CLOSING ARGUMENTS

## State v. Overstreet Johnson Superior Court 2000

**CASE SUMMARY:** Kelly Eckart was an 18 year old freshman attending Franklin College, working her way through school with a part-time job at Walmart. On September 27, 1997 she left work, met briefly with her boyfriend and drove towards her home in Shelby County. That was the last time she was seen alive. The next morning, her car was found abandoned in a rural area, with its lights on and keys in the ignition. Four days later, the partially nude body of Kelly Eckart was found in a ravine in Brown County. She had been strangled with her own shoe string and a strap cut from the suspenders of her overalls. She had also been shot once in the forehead. Semen was discovered on the victim. The defendant's brother first contacted the police and admitted that after the defendant called him on the 27th, he had met him at a hotel, drove his van, and transported him and a girl to a remote wooded area where he dropped them off. Fibers found on the victim's body matched those from the defendant's van. An eyewitness identified the defendant near the dump site on the day the body was recovered. DNA testing confirmed that the semen recovered from the victim was contributed by the defendant.

Johnson County Superior Court Judge Cynthia S. Emkes presided at the trial. Johnson County Prosecutor Lance Hamner and Deputy Prosecutors Brad Cooper and Tina Mann represented the State. Attorneys Jeffrey Baldwin and Peter Nugent represented the Defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. COOPER:** Ladies and gentlemen, over the last two or three days, mostly two, part of one, you've heard evidence about the Defendant's problems. And this is fine with the State because this is the part of the trial when the Defendant is afforded an opportunity to come here and explain to you the problems he may or may not have, and the issues he may or may not have that would, cause you to possibly want to spare his life. So we've heard those problems.

But ladies and gentlemen, I would like to get back, if I may, to the real issue at hand. And the real issue at hand in this case is that this man seated over here, Michael Dean Overstreet,

abducted, raped, and strangled to death an innocent 18-year-old girl named Kelly Eckart. That is the real issue. And the real issue is, is should he die for what he did? And ladies and gentlemen, he should.

I'd like to talk to you a little bit about the law that gets us to the point of that decision that you made. You'll receive instructions on this from the Court as you have in all the other phases. Before the Defendant may be sentenced to death, the Jury must find two things. The first thing is that the State must prove beyond a reasonable doubt that at least one of the aggravating circumstances exist. And two, after you have found this, that any mitigating circumstances presented and proved by the defense, any of these are outweighed by the aggravating circumstances.

I'd like to talk to you about the aggravating circumstances in this case. You may recall these from down in Clark County when we were talking about this in voir dire jury selection. These are the three aggravating circumstances that the State has alleged in this case. The first one, that the Defendant committed murder by intentionally killing Kelly Eckart while committing or attempting to commit rape. Ladies and gentlemen, during the penalty phase, the phase that we're in right now, the Judge indicated and instructed that you may consider all the evidence from the trial. And it was the trial where the State has previously and already proven these. And that is indicated simply by your verdict forms.

The first part of this: The Defendant committed murder by intentionally killing Kelly Eckart. He's already been found guilty of murder. And we talked about in closing arguments, and you've heard in the evidence, how that murder was an intentional murder. We talked about the intent that it takes to take the shoe lace out of Kelly's shoe, and take that shoelace and deliberately remove it and tie it around her neck. We talked about the intent that it takes to cut off the straps of her overalls, and after cutting those off, to tie them around her neck. We talked about how taking those and tying them is a deliberate and intentional act. We've been through this, and I don't mean to belabor the point, but it's important because this is what we have to prove. We talked about how those were tied around her

neck, and the intent that it takes to exert the force that causes that kind of damage to a person. I don't show you these for sympathy, I show you these for intent. This goes to intent. The pathologist told you that she was alive when this was taking place and that that intent and that those actions are what killed her. He's already been proven guilty of intentionally killing Kelly Eckart. That was the first count of murder. I told you a long time ago the second count was very important, and it is. And this is one of the reasons why. And that was that he did so while committing or attempting to commit rape. And the Court instructed you that while committing or attempting to commit rape indicates a pattern, a chain of events, an unbroken chain of events. And you received that instruction and you will see that instruction again. And based upon that instruction and based upon that evidence, he's already been found guilty beyond a reasonable doubt, as you all know, for doing this while committing rape.

So the first two counts of murder and the evidence you've seen at the trial prove that this aggravating circumstance has been proven beyond a reasonable doubt. It's the same standard here. This has been proven.

The second one, Kelly Eckart was the victim of rape for which the Defendant Was convicted. Same thing, ladies and gentlemen. This individual sits before you convicted of raping Kelly Eckart. That's an aggravating circumstance. He's been found that way by yourselves, beyond reasonable doubt. It's been proven at trial, the trial has been incorporated here, this has been proven. The second aggravating circumstance been proven.

And the same thing goes for the third one, ladies and gentlemen, confinement. He has been convicted beyond a reasonable doubt of confining Kelly Eckart, the victim, he has been convicted.

These three aggravators, all of them were proven at trial. The same standard exists. We're now in the sentencing phase. They can all be considered because they have all been proven. The second part, ladies and gentlemen, is that any mitigating circumstance, the evidence you've heard over the last couple of days, does that or is that outweighed by these aggravators? Is what you heard, the excuses you've heard, over the last couple of days, do those outweigh the fact that he's abducted, raped, and killed an 18-year-old female named Kelly Eckart, young girl? Do those outweigh this? It's a balancing test. There's no reasonable doubt, there's no standard of proof, it just depends upon which one you feel weighs

more heavily upon you. The murder, the abduction, the conviction, or the evidence they presented over the past couple of days.

I'd like to talk a little bit about mitigating circumstances. You'll receive instructions on this as you received instructions, preliminary instructions, at the beginning of the penalty phase. And this tracks what you were given at the penalty phase, or at the beginning of this penalty phase. And these are the mitigating circumstances at the time you were instructed about that are applicable to this case. And the first one is that the Defendant had no significant history of prior criminal conduct. We heard from the witnesses that he was convicted of taking a gun to school back in the '80s,

MR. BALDWIN: Objection, Judge, that was not the evidence. He was expelled from school. There was no conviction entered.

MR. COOPER: Your Honor, if I may read from this record over here that was referred to? I'm sorry?

JUDGE EMKES: You may.

MR. BALDWIN: Well, I can just tell you, you've heard the evidence. There's indications in the evidence that was testified to by Dr. Engham in a report that was put in that he was arrested for it and he was placed on probation for it.

MR. COOPER: It doesn't make any difference.

JUDGE EMKES: I'll sustain the objection. I'll allow you to refer to it that way though to the Jury as to what happened.

MR. COOPER: Okay. So you know what happened. He took a handgun to school, was arrested for it, and he was placed on probation for it. There's a couple of operating while intoxicated problems. He was convicted of one. The evidence is also that he was arrested for another one and subsequently, before that ever went to trial, before that was ever dealt with, he was arrested for this murder.

So it's up to you, and it's a weighing process. The defense has the burden of showing this beyond, or by a preponderance of the evidence. Do these exist? It's their burden to show that he had no significant history. Is that significant? No.

It's up to you. I've seen worse, I've seen better. Does it excuse his conduct, though, for raping, abducting, and killing a young female? When you weigh those but, does it even come close? It does not. This does not mitigate the murder. This does not mitigate the fact that he should die for what he did.

The Defendant was under the influence of extreme mental or emotional disturbance when the murder was committed. The evidence that goes to this came from the stand, and that was Dr. Engham. He's a psychologist. Dr. Engham and I didn't exactly see eye to eye on a lot of things, as you may recall from our conversation we had in here. And there are some things about Dr. Engham I think that are important, and before we talk about these, that I think that you should understand. And the first one is, is just this, regardless of his credentials, regardless of what he considered, he was asked this specific question by Peter Nugent on the stand. He stood right here and he read right from the statute: Was the defendant under the influence of extreme mental or emotional disturbance when the murder was committed?" And he said no. If you recall that, he said no. It's a leading question. The defense counsel put it out there, and he refuted it. He said no, that's not the way it was. Extreme is not the issue in this case. He said it was less than that. He was categorizing it in other terms. He said it was more like severe. But the point of the matter is that he said that it was not extreme. It did not rise to this level. It did not rise to extreme. Severe, I think he said six out of ten on the severity scale of one to ten, six or seven, not extreme. That was their evidence, that was their prudence. It's their burden to show extreme. Their witness did not do that. Their witness said no to this. Therefore, this does not exist. This is not something that has been proven. It's not even to be considered. It's not been proven by the statute.

The second one, the defendant's capacity to appreciate the criminality or his conduct or to conform his conduct to the law was substantially impaired as a result of a mental disease. Here's where I'd like to talk a little bit about some of the problems that Dr. Engham has. I think it should bother you that the Defense had to go to Tennessee to find a psychologist to testify. I think it should bother you that he was paid \$6,000 for his testimony. I think it should bother you, and I wrote some of this stuff down as he was testifying, but I think it should bother you that Dr.

Engham never saw Michael Dean Overstreet, he never saw the Defendant until two and a half years after the murder. Why wasn't this done a week or a month after?

MR. BALDWIN: Judge, I'm going to object to .that. We don't have to do anything. He can't comment on when we do something or how it's done by defense counsel. We don't have to prove anything.

JUDGE EMKES: Yeah, I'm going to rule on the objection, but I do want to talk to you briefly if you would approach the bench, please.  
(Bench discussion off the record.)

MR. COOPER: Again, two and a half years after he was arrested, two and a half years later, they talked to the Defendant for the first time. Further, by that time the Defendant is claiming amnesia. So, as the doctor said, he really was not any help to him for when the murder was committed because he said he didn't recall those events, a fact the doctor said the Defendant could be lying about.

Another problem you should have with Dr. Engham is that he used selected portions of this record. He took out the parts that supported the Defendant's problem and he ignored the rest of it. And that was brought out on cross-examination. It was brought out how, you know, in this one thing, this one report - I remember specifically this one report he was saying how that predicted the murder. But when you go back and you read it, nowhere in there did it say any such thing. In fact, what it said in there is that he was coming out of his problems, that he was involved in a relationship, and things were getting better for him, and that he was not a violent risk. And I read that to him. Is that in there? Yes, that was in there. That's not what he talked about on direct. He wanted to talk about the parts that helped support the defense, not the complete record.

Dr. Engham also used something called the DSM4 test, and he relied upon that. You heard when you take the DSM4 and you read it, that there's a disclaimer at the beginning of it. And the disclaimer says you're not supposed to be using this for forensic purposes. So he used the test, but the test itself says he shouldn't be using it. Those are the reasons why you shouldn't like Dr. Engham. Those are the reasons he should not be given a lot of credibility. However, the most amazing thing about Dr. Engham is that if you

take him for what he says at his face, he helps the State. I'm surprised after hearing him testify that he actually was called by the defense, because of the legal standards involved. And remember, we're talking about a legal standard.

Dr. Engham testified the Defendant had above average intelligence, he was not insane, he was not schizophrenic, no multiple personalities going on here, he was not psychotic, said he might have had psychotic episodes when he was talking about east of St. Michael's or something like that, but Dr. Engham said that could have all been faking. He was characterized by Dr. Engham as having a schizotypal personality disorder. When asked what that means in layman's terms, he said well, 40 or 50 years ago, they would have called this guy a hermit. A hermit. He indicated, as we talked about before, not extreme, less than extreme, six to seven on a scale of one to ten. Less than extreme.

He indicated the Defendant conveniently had amnesia for those events. And then he talked about, more specifically, this mitigating circumstance. And he said that due to the Defendant's claimed amnesia, he could not say that the Defendant did or did not have the capacity to appreciate the criminality of his conduct or to conform his conduct to the law. He said he couldn't make that determination.

They have a burden, if this is going to be a mitigator, they have a burden to prove it by a preponderance of the evidence. Their witness said he couldn't do that, he could not make this assessment. Therefore, this is not proven. This doesn't count. This is not to be considered.

The last thing, and the most amazing thing about bringing somebody up from Tennessee and paying him \$6,000 to say on behalf of the Defendant is this: I asked him, does all of his conduct, his problems, does that excuse him for what he did? And he said, "I am not" - this is Engham speaking, "I am not excusing him of this crime based on his mental condition." So when you hear all the testimony and all the arguments about his mental condition, remember, the source of that. Dr. Engham, told you, I'm not excusing him for this based on his mental condition. That's their hired psychologist, okay? So the mental claims, mental issues, those aren't issues in this case. They do not rise to the level of the legal standard that they must rise to for you to consider them. So there's no weighing process for those. They just don't get weighed because they weren't proven, okay?

The last mitigating circumstance you've heard is kind of the catchall phrase. And the catchall phrase is any other circumstance appropriate for consideration. It's very hard for me to comment on that at this point in time because it could be anything. And it's hard to anticipate what those things are going to be. However, based upon the instructions that you're going to receive, there's some indication of what is going to be argued. And I'd like to address a few issues under this category, some things you most likely will hear and be asked to consider in mitigation or in sparing the Defendant's life.

And the first one is that the Defendant has proven that he made a favorable adjustment to incarceration and has not been a disciplinary problem. The State does not see how that should excuse him for murder, especially when you consider the testimony of the jail people who talked about what you get if you behave in jail. You get half off your time if you get a term of years, you get a visitation from 7:30 a.m. to 2:00 p.m. every day, you spend no more than six to eight hours in your cell, you get weights, you get basketball, you get handball, softball, you get to plant flowers, you get to have a job, you get to do all these sorts of things in prison that encourage you to behave. So why wouldn't you behave? And how does behaving under those circumstances mitigate or reduce or excuse him for what he did to Kelly Eckart? It does not. It does not even come close.

If you find the Defendant has proven the Defendant's mental illness is treatable during incarceration, that may be a mitigating factor. Again, Dr. Engham said there's no cure for a personality disorder. There's no cure for schizotypal personality disorder. All you can do is voluntarily medicate it. And that treatment, that band-aid over the top, is all dependent upon the Defendant taking his medicine. There's indications in the record from his testimony that he was on and off medication, took it, didn't take it. What's to believe that he's going to take his medication and not have this psychotypal (sic) personality disorder treated? Nothing. There's nothing. How does that mitigate murder? It does not.

If you find the Defendant has proven that he grew up in a household with an abusive father. Ladies and gentlemen, life is tough. It's tough on all of us. We all have our problems. When are we going to stop using the abuse excuse to legitimize rape, murder, and confinement of an 18-year-old

girl? People all over the world have problems. They don't go out and commit murder. They don't kidnap young girls. They don't rape them. They don't strangle them to death. That should not excuse his conduct. It should not allow him to have his life spared.

The Defendant grew up in a dysfunctional and broken family. How many people does that apply to? How many people have divorced parents, how many people have widowed parents, how many people have all these sorts of problems that don't commit murder? It doesn't legitimize it. If it did, every child of a divorced or widowed parent, you'd kill him. He's not exposed to the death penalty because his parents were divorced. We all have problems, we all have to deal with them, we all have to live, we all have to obey the law. We don't all have to kill, rape, strangle, confine innocent children, 18-year-old girls on their way home from work, nothing more than driving home from work. And that is how the Defendant treats her.

If you find that the Defendant has proven the Defendant's mother failed to get mental health treatment for the Defendant when he was a minor, this may be considered as a mitigating factor. I guess we're blaming the mother now? I mean, come on. You heard the evidence from Dr. Engham, you saw the report when he was 20 years old, when he was an adult, he didn't want the treatment either. He's put in there because he went out and attacked his brother with a knife, and they take him down, put him in Valle Vista or one of the treatment facilities. He's 20 years old, he decides he wants out, he's an adult, he can get out. There's no record of any mental health assessments or treatments from 1986 to 1997 while he was an adult, while it was his decision, not his mother's. We're not talking about this young boy. You know, this young boy is cute in that picture, but this young boy did not kill Kelly Eckart. This grown man, this grown adult who makes his own decisions, killed Kelly Eckart. Don't let the cuteness of childhood shadow that fact. He did it as an adult, a decision-making adult. His decision, he should pay for that decision.

If you find the Defendant has proven that he maintained a period of gainful employment, that may be considered as a mitigating factor. I don't know why this one was in here. In fact, it was placed in here, I don't know what evidence was put on to support it. Because the evidence that we received from two of his employers --well, first,

the records indicate back in the '80's, he couldn't hold a job. Then they put on an individual who said when he was at work, and I can't remember the name of the company, but he was basically moving kegs of beer and shipping them out and organizing them, so for about a three-year period of time he had that job. Then he left that job, and then he started working at a place called ETS. Fired from that job. So, you know, on again, off again, I don't see how that mitigates murder. I don't see how that has anything to do to reduce or excuse what he did to Kelly Eckart.

If you find the Defendant has proven that the Defendant volunteered to serve his country by joining the Navy. You heard and you saw the record of when he joined the Navy, and you saw in that record that he lied on his application form. He didn't disclose all the information that was needed. So he wanted to get in. However, the very last sentence as Dr. Engham testified on cross-examination was that the Defendant wanted out. And when he wanted out within a couple of months - of being in, a couple of weeks of being in, when he decided he wanted out, he's playing the mental card again. He's got it back out. You know, I didn't disclose this because my recruitist said, so I have these problems, I shouldn't be here. Does the Navy want those kind of people? They ship them out. So they did, the record indicates. Did they recommend any treatment for him? No. Does it say that he needed to be housed somewhere or looked at? No, it just says good-bye, you're out. You want out, you're out. Served his country? Not even close, ladies and gentlemen. You cannot compare him to the people that have served their country over the years and the people that have done what they have done for this country that have provided so that people like myself and yourselves can sit here in freedom in this country and make these decisions. He didn't come close to providing that kind of service. And what kind of service he did do does not come close to mitigating murder. This is when he was 19 years old. This was eleven years ago. Eleven years ago he spends a few weeks in the Navy and they're going to tell you, and they're going to give you an instruction that says that can mitigate what he did to Kelly Eckart. That's not even close.

These are just some of the things, these are the sorts of things that you're going to hear from the Defense. These are the sorts of things that you're going to get in the instructions that they are claiming that should allow you to spare or make

you want to spare the Defendant's life.

And ladies and gentlemen, I'm going to sit down and stop. But before I do, I just want you to think of one of the first things that I told you a long time ago in the opening statement. I told you that Kelly Eckart was a young girl who had a cat, I mean, all the things she had, a cat, a car, she lived at home with her parents, she had a part-time job at Wal-Mart, she was going to school, she had a boyfriend. All those things. All of those things that she had, none of it compared to the most important thing she had, and that is the life in front of her at age 18.

More than anything else, that is the most important thing that Kelly Eckart had. This man took it away from her. This man abducted her, raped her, and strangled her to death. And when they get up here and talk to you about all of his problems and how that should excuse him, how you should have mercy on him, I want you to think about should an individual convicted of murder, should an individual convicted of rape, should an individual convicted of confining a young innocent girl, be treated any less, be given any less of a fate that that man gave to Kelly Eckart in September of 1997?

MR. BALDWIN: Judge, I'm going to object. That is improper argument. Any comment in that regard,

JUDGE EMKES: I'll sustain the objection.

MR. BALDWIN: And I'd ask to just instruct the Jury to disregard those comments.

JUDGE EMKES: Correct. Ladies and gentlemen, it is difficult. These cases are very emotional, and the last statement of Mr. Cooper was improper for closing argument. So I'll strike the last statement in the comparison.

MR. COOPER: Ladies and gentlemen, just think about what he did. Think about the aggravating circumstance. Think about the rape, think about the confinement, think about Kelly being strangled. That's what aggravates this. That's what tells us that all the other nonsense, all the other excuses, don't amount to a hill of beans. He should die for what he did to Kelly Eckart. Thank you.

#### CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT

**MR. BALDWIN:** Thank you, Judge. Just start in one spot. First of all, ladies and gentlemen, neither Mr. Cooper nor myself nor Mr. Hamner, who has an opportunity to address you after I'm finished, give you the Court's instructions. The Court gives you the law. The Court gives you instructions upon how you are to judge this case.

And first of all, I hope that none of you, after being here for three or four weeks now, think that I am standing up here telling you that Kelly Eckart's death was not a tragedy, that Kelly Eckart's being the victim of this crime is something less than an absolute tragedy. I have one very serious problem with Mr. Cooper's argument, however. The Court is going to instruct you, the word mitigating circumstance does not mean an excuse or justification for the offense for which the Defendant has already been convicted. We have not presented to you any excuse. Nor am I here to argue that there is an excuse for what happened to Kelly Eckart. There's no excuse, there's no justification, there's nothing about anything that we presented to you since you've rendered your verdict in the first phase that would in any way - and I hope you do not take anything that we have done to - as our attempt to excuse or justify. None. It isn't.

However, if you take Mr. Cooper's argument, because we had a first phase and you found the Defendant guilty, you take Mr. Cooper's argument, then I don't know why we even have a second phase. Well, ladies and gentlemen, the law is that way. The law is that there is a sentencing phase to this trial. The law that you took an oath to uphold requires that we have this phase and that you be instructed by the Judge on what mitigating circumstances are, and that mitigating circumstances are not excuses or justifications. And I hope that you do not take it that we are trying to do that in any manner. There is no excuse or justification.

But you are being asked to pass a sentence on a man, not on a crime. A man that, no, is not a cute little boy as Mr. Cooper referred to him, but he started out as a cute little boy. And he said - one thing that Mr. Cooper said in his closing argument was, and I do not aim to make light of, was "playing the mental health card". Ladies and gentlemen, this is not O.J.'s trial, this is not playing some card, this is deciding whether Michael Dean Overstreet is going to die for the

crime that he committed. We're not playing any cards.

During the first phase of this trial the State made some comments regarding closing arguments. Specifically said, we're not asking you to buy a used car from Scott Overstreet, wasn't asking you to buy a car from Scott Overstreet. What I was asking you to do was consider his credibility. The Court is going to instruct you that the instructions and standards that you were given in the first phase apply to the second phase. And you still have to judge the credibility of the witnesses and determine what your finding is.

One thing I want to point out to you, as Mr. Cooper attempts to disregard Dr. Engham's testimony, one thing if you notice he left completely out, never mentioned as regard to Dr. Engham, was that the State stipulated that there was another doctor that also examined Michael Dean Overstreet and he came to the exact same diagnosis. Kind of left Dr. Smith out of it, didn't he? And what he also didn't tell you was that yes, Dr. Engham said the DSM4, he used it. Well, if you remember back to the disclaimer that Mr. Hamner wrote to you with regard to forensics, it said it was not to be used exclusively, that you weren't supposed to simply use it and come to a forensic diagnosis. No, that's why you do all the tests. That's why you sit and talk to the individual and then you use the DSM4 in aiding in your diagnosis. The State has the ability to call witnesses to refute Dr. Engham's diagnosis. They didn't do it, because this isn't playing a mental health card. Ladies and gentlemen, if in fact we had come to you and said, after 33 years Mr. Overstreet is finally being diagnosed as having a mental disease or defect, that would be something you'd have to consider. Was it missed all those years? It's not that he was arrested and then we say he had a mental disease or defect. It goes all the way back to his childhood. Before this case ever became an issue, there are reports and diagnoses and mental health professionals, not just Dr. Engham, who said Michael Dean Overstreet needed treatment.

Are we blaming Mary Overstreet for killing Kelly Eckart? No, absolutely not. But you're here to sentence a man, not a crime. And to sentence a man, you have to know that man. And part of what goes into knowing Michael Dean Overstreet is knowing that instead of getting mental health treatment as a child, his mother decided to pray. You saw her testify. Did she feel horrible about that? Absolutely. Is she responsible for Kelly

Eckart's death? Not in the slightest. Is she responsible for the type of man Michael Dean Overstreet is now? Partially. Aren't our parents always partially responsible for how we turn out? Teachers see it every day. Students of parents who push them turn out to be one way, those who ignore them turn out to be another. I'm not going to tell you that Mary Overstreet could have prevented this crime. I have no way of knowing that. What early intervention would have done for the mental problems that Michael Dean Overstreet suffered from, there's no way a professional or anyone else could tell you that. However, if the State wants to contend that Mr. Michael Dean Overstreet does not have a mental disease or defect, they could have presented evidence to you on that behalf. And I wanted you to think about what Mr. Cooper said, that he didn't get along with Dr. Engham. He didn't get along with Dr. Engham because Dr. Engham had a diagnosis that he didn't particularly like. And did he call somebody, another professional to say that no, that was wrong? No. Did the State in fact stipulate that Dr. Engham and any other doctor came to the same diagnosis? Yes, they did. And the particular portion - and ladies and gentlemen, before I forget, because it's been a long trial and this is a very emotional time for everyone, thank you very much for your service. And I am going to leave it with that because I believe you were paying attention.

And when Mr. Cooper points out that Dr. Engham described it as severe rather than extreme, I trust that you also remember the follow-up question. Severe is a medical diagnosis term, extreme is a legal term. And Dr. Engham, who also has a law degree, said yes, schizotypal personality disorder fits the legal definition of extreme. Semantics by Mr. Cooper doesn't change the fact, ladies and gentlemen. Two different doctors came to the same diagnosis and it fits the statutory mitigator.

Does that excuse or justify murder, rape? No, it doesn't, and we're not telling you it does. And as the Court is going to tell you, that's not what mitigation is. Mitigation is something that you are to consider and weigh against the aggravators in determining whether to end a man's life or not. Mr. Cooper also --it's kind of funny, because we call people from the Department of Corrections to tell you that Mr. Overstreet has been incarcerated in this type of cell, six by eight, and that life without parole is life without parole. And the prosecutor's office works for the State of Indiana,

and the Department of Corrections employees work for the State of Indiana, but they don't get along when it comes to that portion. And the point of that is, ladies and gentlemen, you have to make a very difficult decision. And I called your job the hardest job in the room at the first phase, and it was. And it's just only gotten harder. Because the Judge is going to tell you, the imposition of the death penalty is never mandatory or required under any set of circumstances. The Courts have called the death penalty the ultimate decision, the ultimate penalty.

The Court is also going to instruct you that if you vote for the death penalty, you should believe that it will be followed and carried out. You've heard the statistics on how many murderers are in our Indiana Department of Corrections, how many are on death row and what that percentage is. Ladies and gentlemen, I present to you, suggest to you, that is because the ultimate penalty is for the worst of the worst.

The State has ridiculed the mitigator of no significant criminal history. Well, ladies and gentlemen, if Mr. Overstreet had other convictions and more serious offenses than drunk driving, had had a history of sexual abuse convictions, a criminal history, they could have presented it to you. They have the burden in this portion of the trial as well. They have to come forth with evidence to prove to you that death is the appropriate penalty. And in this second phase, they took phase one and a page out of the DSM4 and said kill Michael Dean Overstreet. Dean Overstreet is going to be punished for his crime. It's now a determination of what that appropriate penalty is. Death is death. Death can never be returned. Death can never be revoked. You also have the option of life without parole. And although we went through whether you can get an associate's degree and get time off your sentence, or if you get a GED you can get six months off your sentence, life without parole is life without parole. You go into the six-by-eight cell and come out when you're dead. Yeah, you work during the time. Mr. Cooper wanted to know why they planted flowers. Well, 33 acres is your whole world inside those walls. Michael Dean Overstreet will be punished for the crime. Is there any excuse or justification for it? Absolutely not. If by presenting evidence of Mr. Overstreet's life, his upbringing, his family, and his mental disorders, has in any way offended you because you think I'm trying, or Mr. Nugent is trying, to excuse or justify his actions, we apologize. That wasn't the intent. That's why the Court will tell you, mitigating circumstance is not an excuse or justification.

It's hard knowing that when I sit down, the State has another opportunity to speak to you. And they can snap their fingers, and they can point out that Kelly Eckart was raped and strangled, and that all I have to present to you is the life of a man who I'm asking you to spare. I'm not asking you to impose a sentence less than death because Dr. Engham was paid \$6,000, or that he comes from Tennessee, or that the DSM4 has its limits in forensic pathology. I'm not asking you to spare Mr. Overstreet's life because at one point he volunteered for the Navy or that one at point in time he held a job. I think it's important to know that we didn't come up with this mental disorder after the arrest. There's a long and well-documented history. Does that excuse his actions? No. Does that mean he has to be punished? Absolutely. Does it mean he has to die? No.

And the State has an opportunity to address you again, and they will take, I believe, an attempt to say Kelly Eckart didn't have to die. That's absolutely right, she didn't have to die, and somebody has to be punished for it. And they will take what will attempt to be a righteous position that because of this heinous crime Michael Dean Overstreet has to die. The Court is going to tell you never does the death penalty have to be imposed. So that's not entirely correct. And I guess one thing I want you to consider when the State has the opportunity to address you again, they are asking you to impose a sentence of death on Dean Overstreet. They want to point at him and say he's a murderer. Ladies and gentlemen, you said he's a murderer, not the State. You said he has to be punished, and now it's time for you to determine what that punishment is. Mr. Hamner in his closing in the first phase said something about justice. Justice is someone being punished for their crime, someone being held accountable. There has to be a proportionality to justice. We don't punish people convicted of minor crimes the same as we punish people convicted of major crimes. There's supposed to be a proportionality with regard to punishment involved with that crime. When the State has an opportunity to address you, remember that Scott Overstreet stood there and walked out that door, and that was their decision. Does that make Michael Dean Overstreet less guilty? Absolutely not. Does it make him any more deserving of death? That is for you to decide. I'm not going to, and I am not attempting to, anyhow, in any manner, lessen the crime that Dean Overstreet committed and has to be punished for. But ladies and gentlemen, two wrongs don't make a right. Thank you.

**CLOSING REBUTTAL (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. HAMNER:** Thank you, Your Honor. Good afternoon - or it's still morning, isn't it? Ladies and gentlemen, there's a little technique in argument, it's called "inoculation". Somebody will say this guy is going to do this or this guy is going to do that, and try to make you not give it your full attention or not give the argument the attention it deserves. Mr. Baldwin, in his closing statement, said something about "the State will snap its fingers" and do this, and all this stuff, implying that you shouldn't pay attention to that. But if you recall why, in closing, during the guilt phase, I talked about finger snapping, it's because it's a technique to divert your attention from the real issue. And when you don't have a case, that's the only thing you've got. Divert the attention, and you don't see the real issue.

The last statement Mr. Baldwin said was Scott Overstreet walked out of here and it was their decision. No, it wasn't, it was the Grand Jury's. You heard that. That was misleading. Kelly Eckart, as we've talked about on and off, was abducted, she was raped, she was murdered, intentionally. One of the things that Mr. Brad Cooper talked about that we have to prove beyond a reasonable doubt, is that she was intentionally murdered in the process or during the course of - the course of events of the rape. I don't like to touch on these things and I know you wouldn't either, but when you put these ligatures back together the way they were originally tied around her neck, intent is no longer an issue. Whoever tied these intended to cause death. And if there's any question in your mind about that, I want you to picture that thing tied around the girl's neck. Sure, a young girl has a slender neck, but like that? You saw the furrows it made in her neck. Intent to kill.

Beyond a reasonable doubt? Far beyond a reasonable doubt. That's how it was proven. I don't want to get too far afield, but I want to tell you something that happened in the 1700's. In the 1700's, life was tough. In the 1700's the criminal justice system was pretty - for want of a better term, draconian. It was really, really harsh. People were executed for stealing, people were executed for hunting on the king's land, people were executed for things that were just clearly unjustified. And there was a reformer in the 1705, his name was Cesare Beccaria. And Beccaria became famous for this quote, he said "let the punishment fit the crime". You don't execute people for stealing and for hunting on the king's land. You execute them for things that they deserve, like killing other people, viciously, intentionally and while hurting them.

I don't have to remind you that Michael Dean Overstreet is a vicious killer. We know that. We've already found him guilty of that crime. And no amount of skillful advocacy or no amount of putting on psychologists to talk about not extreme mental illness, but a personality disorder, can change the fact that the aggravators in this case are extremely weighty. They're extremely heavy. We've talked about and you've heard from both sides, that you have to weigh these things out. And that's your job. The judge will so instruct you. One of the things you're going to hear the Judge instruct, "even though the law requires that you consider any mitigating circumstance", and in voir dire jury selection you all committed that you could consider these things, "requires that you consider any mitigating circumstance that the Defendant proves by a preponderance of the evidence, the law allows you to give such mitigating circumstances the weight you deem appropriate." Remember, we're back to weighing these things out. We've proved these things beyond a reasonable doubt. We've proved the aggravators. Now you weigh them against the mitigators.

How do you weigh something that has no weight or has such insubstantial weight that it's almost ridiculous, almost embarrassing to talk about it? I want you to picture - anybody who has ever read about how the pyramids of Egypt were built, two and a half tons of blocks, two and a half ton blocks of some kind of stone. That's what these aggravators are. And they want you to weigh that against a teaspoon full of sand.

He committed murder by intentionally killing Kelly Eckart while committing or attempting to commit rape. Beyond a little bit sick. Not extremely mentally ill, but I have a severe disorder. Kelly Eckart was the victim of rape. You have to weigh this. How much does this weigh? How bad is it when somebody takes a young girl and defiles and degrades her body while she's in terror because she's been abducted, because that's one down here, and then finishes her off this way?

Huge blocks of stone compared to ounces of sand, mitigators. I don't blame Defense counsel for standing in front of you and saying, you know, this doesn't excuse this, this doesn't justify this, but you have to weigh it all out. And you know, I give you this man, and you've got to have mercy and all that stuff, because that's all he's got. Because these aggravators so outweigh these mitigators that it's self-evident. It jumps right out at you. It's one of those kinds of things that it's just obvious. Remember, in my last closing statement we talked about obviousness, that sometimes something is so obvious that people can't see. They think well, there must be

something here. They list mitigator after mitigator after mitigator after mitigator, hoping that teaspoonful after teaspoonful of sand is going to outweigh these huge blocks of stone. It still goes like this, the mitigators simply don't rise to the level of justifying that we go outside what Beccaria says, that the punishment has got to fit the crime.

They go through these mitigators. These are the statutory mitigators. The Defendant has no significant history of prior criminal conduct. We got castigated by defense counsel because we didn't put on a bunch of evidence that he's got a big, long criminal history. Of course we didn't, because he doesn't have a big, long criminal history. You've heard what he's got. The question is, is it insignificant? Well, it's not that significant, but because a guy doesn't have a real - I mean, is that a lot of weight? Is that any more than teaspoonful of sand? It's not even a few grains. Because he doesn't have a big, long criminal history, we don't execute him, we don't make the punishment fit the crime.

(Counsel snapping fingers) Distract you. They want to distract you from what's really important, and that is that these aggravators are so heavy, are so compelling, that these tiny little mitigators that they keep throwing out to try to confuse you and distract you will actually do that. That's the intent. And it was done well. But the difference between these aggravators and these mitigators is the difference between lightning and a lightning bug. It's absolutely ridiculous.

Here's what the statute lists: The Defendant was under the influence of extreme mental or emotional distress. Their own doctor wouldn't even do that. Brought him from two states out and paid him a ton of money and he wouldn't even come up with that. The victim was a participant, Kelly was a participant or consented to. No. That's what the legislature has listed as -

MR. BALDWIN: Judge, I'm going to object. I don't believe I've seen this.

MR. HAMNER: It's the statute, Judge.

MR. BALDWIN: Oh.

JUDGE EMKES: Counsel, if you could approach the bench. (Bench conference off the record.)

MR. BALDWIN: Judge, I would ask that the Jury be instructed on the last comment of the prosecutor.

JUDGE EMKES: To the extent that it wasn't fully referred to, I'm sorry, I don't recall exactly where we cut off, but in closing argument in regard to a particular case, there will probably be reference to

the mitigators that are based on the evidence, or allegedly based on the evidence, based on the Defense position of mitigators. And there was a statutory mitigator referred to by Mr. Hamner that was not alleged to be applicable in this case, so therefore, it's not able to be referred to. And they're all listed together, and there was initially a reference to that, and so you are to disregard that initial reference to a mitigator that has not been alleged by the Defense to be applicable in this case.

MR. HAMNER: Thank you, Judge. The big, long list of mitigators, the little teaspoons of sand that they've been giving us, essentially amount to this: He's been a good criminal in prison. Brad Cooper told you about that. Why should he not be? Brad didn't mention that why would a guy that's got arms about this big 'round cause a lot of trouble in a prison where you've got a bunch of big, hulking guys? It's just not likely,

MR. BALDWIN: Judge, I'm going to object. There's no evidence in the record upon which Mr. Hamner can comment about the size of people in prison. And Mr. Cooper didn't testify to anything because Mr. Cooper is one of the attorneys. He can't testify.

MR. HAMNER: I'll stand on the Court's ruling, Judge.

JUDGE EMKES: I'll sustain the objection, but I'll allow you to continue in regard to mitigator one and comment on the evidence.

MR. BALDWIN: That's fine.

MR. HAMNER: He hasn't caused trouble in prison, that's it. And based on that teaspoonful of sand, you're supposed to think that that somehow outweighs the big blocks of granite that are the aggravators. He had an abusive father. We talked about that, too. Feel sorry for me because I had an abusive father. How many people have had abusive fathers that don't, as Brad Cooper said, didn't go out and murder and rape and kill, abduct, and do all these things intentionally?

Criminal history includes a DUI and a charged DUI, and carrying a gun to school as a juvenile. Because this is not fraught with felonies, I guess this is supposed to say well then, based on that, we take these really horrible things that he did and walk it all the way to the other side. If that was the case, then I guess we could only bring death penalty cases against people who have huge criminal histories, no matter how bad their crime is.

Mr. Baldwin talked about we reserve this for the worst of the worst. Well, I agree, we do. And

how much worst of the worst do you get than that? It can't be only the worst guy, because if that's the case, the only person we could execute would be Hitler, or whoever you want to decide is your worst idea of a criminal. But there's a category of the worst of the worst, and that's what those aggravators define. This is what this guy is. And that's why the punishment fits the crime.

He worked for awhile and got fired. He has a marginally treatable nonextreme personality disorder for which his mother didn't get him treatment. He joined the Navy and got out early. When you look at all those things all together all at once, you can see how insubstantial they are. It just doesn't rise to the level of outweighing the aggravators. It does not rise to the level of you taking the step of saying we're not going to make the punishment fit the crime.

Why do we read into the record the warning in the DSM4? Because it points out why they had to go across state lines to find somebody who would testify to such, who would stretch so far to try to make findings. When the DSM - here's what it says, "when the DSM4 categories, criteria, and textual descriptions are employed for forensic purposes, there are significant risks that diagnostic information will be misused or misunderstood. These dangers arise because of the imperfect fit between the questions of ultimate concern for the law and the information contained in a clinical diagnosis. In most situations the clinical diagnosis of a DSM4 mental disorder is not sufficient to establish the existence for legal purposes of a mental disorder, mental disability, mental disease, or mental defect. In determining whether an individual meets a specified legal standard, for example, for competence, criminal responsibility or disability, additional information is usually required beyond that contained in the DSM4 diagnosis. This might include information about the individual's functional impairments and how these impairments affected particular abilities in question". But you know what, they couldn't get that because all of a sudden he can't remember what happened that night. Now, two nights later he can remember when he's frenetically and very worriedly cleaning out the back of that van. He can remember then because he knew he had to clean it up. But when a diagnosis is about to be made, well, we suddenly can't remember, selective amnesia, the shifting sands of the guilty mind.

"This might include information about the individual's functional impairments and how these impairments affect the particular abilities in question. It is precisely because impairments, abilities, and disabilities vary widely within each diagnostic category, that assignment of a particular diagnosis does not apply to a specific

level of impairment of an individual. Moreover, the fact that an individual's presentation", that means his symptoms, "meets the criteria for a DSM4 diagnosis, does not carry any necessary implication regarding the individual's degree of control over behaviors that may be associated with the disorder. Even when diminished control over one's behavior is a feature of the disorder, having the diagnosis in itself does not demonstrate that a particular individual is or was able to control his or her behavior at a particular time. Their own witness is impeached by his own book.

So let's assume that he has some kind of a not extreme mental disorder, not extreme mental illness. But you heard their own doctor, and Brad Cooper didn't even talk about this, say on cross-examination, wait a minute, isn't anybody who rapes got a severe disorder? Yeah. And murders? Yeah, pretty much. Oh, except for contract killers. So here's the circular reasoning of this expert that they had to bring across state lines and pay all this money to, anybody who does this is impaired severely. And since that's a mitigator, that outweighs the aggravators ,and therefore, we don't execute anybody who does these things. And if he doesn't do these things, he's not impaired. We could execute them, but of course who wants to execute innocent people?

The bottom line is the guys who do these really bad things are so impaired that we can't do anything to them. We can't make the punishment fit the crime. Why don't we call somebody to rebut that? Because it rebuts itself, it's called self-impeaching. It's ridiculous. And we can point that out. According to Dr. Engham when a kid has an average IQ but skips classes and flunks, he's not lazy or irresponsible. He's a budding murderer.

We talked about selective amnesia and the shifting sands of a guilty mind. We heard testimony that Michael Dean Overstreet had a gun permit. Didn't have any severe mental illness when he was applying for his gun permit, so he goes shooting and hunting and everything else. But when I want to get out of the Navy or when I want to get out of a murder, I've got these severe mental illnesses.

The fundamental principles that we as Americans recognize is that people should be held responsible for their actions. People should be held responsible for their actions to the level of what their actions are. We've got an extremely aggravated murder, rape, abduction. I'm trying to figure out what punishment fits that crime, and whether these little teaspoonsfuls of mitigators are going to outweigh that. I just think common sense has to come in some place. It just has to.

You saw pictures of the Defendant. You're supposed to feel sorry for him, I guess. Was he a

cute little kid? To me, all little kids are cute, they really are. But like Brad said, it's not the little kids that are doing the killing. If you saw Jurassic Park, it wasn't the Velociraptor in the egg that got out and attacked people. They were kind of cute when they were in there squeaking and everything else. But when he grew up, he turned into a very violent and a very mean person.

Ladies and gentlemen, you've been very attentive. Thank you very much for your service to our county, thank you very much for your service to the State of Indiana, and all the people involved. This decision boils down to whether you want to make the punishment fit the crime. It can never bring Kelly back, of course it can't. But it can come at least as close as possible to bringing adequate justice for what was done. I think you all know that. I'm afraid you think I'm insulting your intelligence by pointing that out. But I think inherently you know that in your hearts and in your minds. I want to conclude with this: Once again I ask you for justice. I ask you for justice for Kelly. I ask you to make the punishment fit the crime. Thank you very much.

[The jury unanimously recommended a death sentence for Overstreet, who was sentenced to death by Judge Emkes on July 31, 2000. The conviction and sentence was affirmed on direct appeal by the Indiana Supreme Court at Overstreet v. State, 783 N.E.2d 1140 (Ind. February 24, 2003).]

# CLOSING ARGUMENTS

## State v. Stephenson Warrick Superior Court 1997

**CASE SUMMARY:** Jay and Kathy Tyler picked up Brandy Southard from her work in Evansville and were chased by Stephenson to an intersection in rural Warrick County, where he emptied a 30 round SKS Assault Rifle into the pickup truck and their bodies. Each were then stabbed repeatedly. Stephenson was also convicted of an earlier Burglary and Theft from Southard's residence. (Believed to be the longest and most expensive trial in Indiana history. Jury selection began on September 24, 1996; Opening Statements began on December 30; Found Guilty on May 8; Jury recommended death on May 20; 140 total trial days. The defense was allowed 2 attorneys, 2 investigators, a paralegal, a professional photographer, a civil engineer, a forensic scientist, a jury consultant, a neuropsychologist, and a mitigation expert. Sister Helen Prejean was flown in to testify at the sentencing hearing. Claims paid for 2 attorneys fees were \$334,156, paralegal fees were \$57,788, expert fees were \$79,193, investigator fees were \$74,493, miscellaneous expenses were over \$10,000)

Warrick County Superior Court Judge Edward A. Campbell presided at the trial. Prosecutor Todd Corne represented the State. Attorneys Anthony Long and Dennis Vowels represented the Defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. CORNE:** Thank you, Judge. Ladies and gentlemen, the Court is going to instruct you in your deliberations of this phase of the trial. And basically I think that you will learn from the Court's instructions about the deliberation process, that you must decide from this stage if there have been one or more of the three charged aggravating circumstances proven to exist from the evidence and the testimony that you heard in the first phase of this trial.

You must decide that one or more of those circumstances exist beyond a reasonable doubt unanimously. If you do not decide in that fashion, that at least one exists, your job in this case, your job as a member of the Jury is completed. On the other hand, if you would decide, from the evidence and the testimony, that there is at least one (1), if not more, of the three (3) charged aggravating circumstances have been proven to exist beyond a reasonable doubt, then you move to the second question. That being, are there any mitigating circumstances, and if there are, do the

aggravating circumstances or the one aggravating circumstance, if you might just find that one exists -- are the mitigating circumstances outweighed by the aggravating circumstances? If you all decide that they are, you move to the last question.

If you all can't agree that the aggravating circumstance or circumstances outweighs the mitigating circumstances that you may find to exist, then again, your job is completed, and you must stop. If you reach this point here, it would be time for you to decide, to weigh and determine what sentencing recommendation that you would choose to make to the Court for the Court to impose. You must all agree on what that is. If you can't, then you're not going -- then you cannot make any recommendation. The three (3) options that you will have will be -- first, capital punishment, that Mr. Stephenson receive the death penalty. You could recommend that Mr. Stephenson receive life imprisonment without parole, or you could choose to recommend to the Court neither one.

Looking first at whether one (1) or more of the aggravating circumstances that have been charged in this case have been proven to exist. I think at this point there is no question, but that the first charged aggravating circumstance clearly exists -- that John Stephenson has, in this case, killed more than one (1) person. The existence of just one (1) aggravating circumstance puts the second question before you.

Before we discuss that next process, you must consider the evidence concerning the other two (2) charged aggravating circumstances -- lying in wait and shooting from a car. With respect to lying in wait, the Court will instruct you, I believe, that the elements of that include watching, waiting and concealment from the person or persons killed, with the intent to kill or inflict bodily injury upon those person or persons. You heard from Brian Mossberger that whenever Jay Tyler's pick-up went by, John Stephenson left the house to go with it or go after it and took Dale Funk with him. You heard from Dale Funk that after he and John Stephenson left Brian Mossberger's house, they headed towards ALCOA highway, where they came up behind a pick-up truck. You heard from Alan Sprinkle that at approximately ten (10) minutes till 1:00 on that night that he heard one (1) loud vehicle go by. And that right shortly after that, he heard another loud vehicle go by that sounded like it might be racing after the first. You heard from Denise Killion, from Kathy McKennon, two (2)

ladies that lived on Yankeetown Road, their recollection as to hearing gunfire from the direction of the rifle range that night. Dale testified that at some point, either before or after Jay's pick-up truck turned off in a drive-way on Eble Road, John Stephenson turned the headlights of his car off. Dale also told you that John Stephenson turned around and followed after that pick-up truck with his headlights off, and that they made the loop and they made the route around the block. Each time the pick-up truck turned, John Stephenson turned, pursuing after, to the point that where they eventually caught up with the pick-up truck and when the pick-up truck stopped at Eble-Youngblood Road, John Stephenson stopped right behind it.

Upon stopping right behind it, John Stephenson got out of the car and shot into the back of the pick-up truck. All of these things constitute the elements of lying in wait. Watching, waiting, waiting to catch up with the pick-up as he drove after it, waiting for it to stop, and concealment by turning the headlights off. Now, what was the Defendant's intent when he was driving behind Jay Tyler's pick-up truck with his headlights turned off? I believe you can determine his intent from what he did when Jay stopped. He got out; he grabbed his SKS from behind the seat; he fired into the pick-up truck. And according to the testimony of the Indiana State Police Technician James Neymeier, he hit that pick-up truck at least eighteen (18) times. The Defendant's intent was to kill. Shooting from a car.

**DEFENDANT:** I didn't shoot nobody, man.

**MR. LONG:** John.

**MR. CORNE:** As I said in opening statement, this is an aggravating circumstance that I would ask you to consider the existence of, based on the testimony of Dale Funk. That whenever Mr. Stephenson stopped behind Jay's pick-up truck, Mr. Stephenson got out of the car, stood along side the car, stood along side the door, and had his SKS resting against the car as he fired into the pick-up truck. I think this testimony is corroborated by the findings from the crime scene set forth in State's Exhibit #478 1. Those would include the peel-out or the take-off marks of the Tyler's pick-up truck heading south on Youngblood Road, the skid marks of the car that was right behind it, where Dale Funk testified Mr. Stephenson stopped. If you look at the location of these skid marks and look at the location of the spent casings that were found around them. you can see plainly the type of outline of the front of Mr. Stephenson's car. Moving on to the issue of

whether the aggravating circumstances or circumstance - depending on how many, if any, you may find to exist -- outweigh any mitigating circumstance that you might find to exist, the first thing that I would have to say is what mitigating circumstance? In Preliminary Instructions, you heard that mitigating circumstances which may be considered by you, if they exist, are such things as the Defendant being under the influence of extreme mental or emotional disturbance when the murders happened. I don't recall any evidence in this case that the Defendant, John Stephenson, was anything other than calm, cool and collected on that night, or anything other than his usual self.

**DEFENDANT:** And at home.

**MR. CORNE:** I do recall that Dale Funk said that John Stephenson appeared serious whenever he told Dale Funk that he would kill him if Dale told anyone about what he had done. You also heard, in Preliminary Instructions, that if the murders were committed by another person, and Defendant's participation was relatively minor, that you could consider this as an aggravating (sic) circumstance. You will recall that the defense presented several different ideas or theories as to Jay, Kathy, and Brandy being killed by someone other than John Stephenson, including Dale Funk, Brian Mossberger, and Jimmy Knight, as well as the possibility that Herschel Seifert ordered the killings. But recall what the evidence showed you as to who committed the murders. John Stephenson. This is not minor participation, and this mitigating circumstance does not exist in this case.

I believe you'll also hear from the Court that if there is anything established by the evidence and believed by you to be mitigating, including such things as the Defendant's age, his character, his education, his life, background, or circumstances, that you can consider this as mitigation also. Where was there any evidence in this case that the Defendant's age, character, education, life, background, or other circumstances are somehow mitigating? Even if, from the evidence, you might decide or you might find that there is a mitigating circumstance that exists, how could it possibly, whatever it might be, outweigh the fact that there were three (3) people killed by the Defendant? Also, if you find that one (1) or both of the other charged aggravating circumstances exist in this case, what mitigating circumstance could there possibly be to outweigh the fact that not only did John Stephenson kill three (3) people, but that he did it by driving up behind them on a dark country road, with his headlights off, to shoot at their back side from his car when they stopped, and continued to shoot as they tried to drive offP

Nothing you've heard from the defense in the way of a mitigating circumstance, and, nothing at all that you heard in this case which could somehow be seen as a mitigating circumstance outweighs what John Stephenson did to Jay and Kathy and Brandy. The real question before you is -- what penalty, what punishment should John Stephenson receive for what he has done in this case? What should you, as the Jury, recommend that this Court impose when it sentences John Stephenson? Ladies and gentlemen, I would ask that you recommend to the Court that John Stephenson receive the death penalty. Thank you very much.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. VOWELS:** You appreciate why you're here, and I believe that in the Judge's Instructions that there is a point that needs to be maintained by the twelve of you. And that is that you may not assume your recommendation will not be carried out. So with that, the weight that I ask that you attach to your deliberation is this. You must assume that if you recommend the death sentence, that Mr. Stephenson will be taken from this Courtroom and shot dead. That's a fair assumption for you to use in your discussion, that his life will be ended.

You must also understand that if you look at the Judge's Instructions -- and you'll get them -- the word "unanimous" comes up over and over and over again. The duty of a Jury is to deliberate and confer with one another, and to try and reach a consensus. But you're not required to. You're not required to. If you have an individual judgment; if you have an idea that is contrary to your fellow jurors, it is not your duty, under any law, anywhere in this country, that you must sacrifice your individual mind just to achieve a decision. There's a thing called an Allen charge. It scares judges to death. And the case is styled -- I don't even know which state it was in, but if you get into the research books and law books, you'll find that Allen charges cannot be given. And Allen charges say -- the judge says to the jury: "You will go back into the room, and you will deliberate until you reach a verdict." You can't get an Allen charge. You're not required to make a decision. I don't care what Mr. Come tells you, that's the law. That's the law. You're not required to make a decision. Mr. Come misconstrues our death penalty statute in this state in that part of the statute that allows the twelve (12) of you to consider evidence says that you may consider anything you choose as mitigation -- anything you choose as mitigation. And

Indiana is only one (1) of two (2) states in the

United States that has an unusual provision in its Constitution. And Massachusetts and Indiana alone say juries decide not only the facts, but what the law is. And so if you decide that, you can -- you can include anything you choose to argue against a recommendation of a death sentence. You have that prerogative. Indiana's Constitution grants you that authority.

It is an operative and acceptable assumption that Mr. Stephenson will die if you recommend it. It is a final decision, and you should accept it as one. And I suggest to you to make no decision. However, if you make a decision, bear in mind this -- your decision is final. If you think that is a manipulative or contrived or salesman's statement, let me tell you what the law is. And Mr. Come will not get up here and tell you I'm wrong. He won't. He won't. He can't, because it is an even statement of the law, and it is not stilted to one side or the other. You are the sole and exclusive determiners of the facts. The appellate court will not reweigh the evidence nor judge the credibility of any witness. Appellate courts look only to the facts most favorable to the jury's verdict; they never look at the facts the Defendant presents when the Defendant loses a trial. So what I'm trying to tell you is there's a mandatory appeal that happens. But when the Courts of Appeal and in this case it will be the Indiana Supreme Court gets this case, they will not listen to an argument based on, "Look at all the evidence the defense presented." That's not the standard of review. This attorney will tell you that's right, if he says anything about it, but he surely won't get up here and say it's wrong. The Indiana Supreme Court will only look to the facts favorable to your verdict. They will not look at the facts against it. Our courts in this state go so far as to say the testimony of one uncorroborated witness is sufficient for conviction. I can memorize the phrase. "We will neither reweigh the facts nor assess the credibility of witnesses, as that is the sole and exclusive province for the jury." You have no idea how many thousands of times I've had to read that. What I'm trying to tell you -- this is it. If you make a decision, understand it's final.

In Indiana, there is a fixed sentencing scheme. It's kind of unusual, because in most cases, you don't get to tell the Jury what sentences are. And I'm writing these numbers down so you have them available. (Mr. Vowels is writing on display board.) Our highest level felony in our state is murder, obviously, and it has a minimum sentence of forty-five (45) years. So that's the minimum. And it has a maximum sentence of sixty-five (65) years. That's the max. Now, you have that in front of you; you have three (3) jury verdicts, convictions for murder. The Judge entered a conviction as soon as you left.

So Mr. Stephenson is convicted of three (3) counts of murder. That's a given. "A Felonies." You do not have "A Felonies" in this case, but they go from 40 to 50. You do have a "B Felony" in this case, the Burglary you convicted Mr. Stephenson on. The minimum sentence in Burglary is 6 years, and the maximum sentence is 20 years. And Mr. Stephenson was convicted of a "D Felony" Theft, and that has a minimum sentence - Well, there's a "C," and I might as well put that in there. That range is 2 to 8. And then when you get down to "D Felonies." And "D Felonies" start at a minimum of 6 months. Mr. Stephenson was convicted of a Theft by you, so it's a "D Felony" 6 months and a maximum of 3 years. Indiana has a scheme called "good time credit." What that means is, for every day you do in prison, you get a day off your sentence. So, if you get a 50 year sentence and you get full good time credit, you get out in 25 years. So, whatever number, you know, if you want to do some math and play around with those, whatever total number you get, you divide it in half, and if Mr. Stephenson gets a term of years sentence -- in other words, a fixed sentence in number of years -- Judge Campbell says, "I sentence Mr. Stephenson to one hundred ninety-five (195) years, then you divide that number in half. I should have picked an even number so I could divide it fast. That is how sentences run in Indiana. There is also things called consecutive and concurrent sentencing. It's just what you think it is. Concurrent sentences means that everything runs together.

Now, if Judge Campbell chose to, under the statutes in Indiana, he could give Mr. Stephenson no more than forty-five (45) years in prison total for all of these offences that you've found Mr. Stephenson guilty on. So he could give a minimum of sentence of forty-five (45) years, meaning that John would be out of prison in twenty-two and one-half (22 1/2) years. Okay. That's possible. That's what concurrency means. You run everything together at the same time. You run the minimum sentence on murder, all three (3) counts, forty-five (45) years at the same time; you run the minimum sentence on burglary -- it doesn't matter, six (6) years; minimum sentence on theft, all run together, maximum sentence -- I'm sorry, minimum sentence is forty-five (45) years in prison. That's a concurrent term. A consecutive term is just the opposite. Judge has absolute statutory authority -- Judge has absolute statutory authority to run these sentences consecutive, and it will not be reversed on appeal. So, if Judge wanted to give Mr. Stephenson the maximum sentence in this case, he could take sixty-five (65) years times three (3), which is one hundred ninety-five (195), he could add another

twenty (20) to that for the burglary, which is what -- two fifteen (215), and add three (3) more for the theft, which is two eighteen (218). And there's a minor argument about whether the theft and the burglary merge, but that's the least of the considerations, I think, for this sentence. So, the Judge can give anywhere from forty-five (45) years, up to two hundred eighteen (218) years if you choose not to make a recommendation to His Honor, bearing in mind Mr. Stephenson gets fifty percent (50%) of the time off. So, whatever sentence Judge Campbell gives Mr. Stephenson, cut it in half. So, if you're up deliberating and you say, "Well, if the Judge only gives him ninety (90) years, he's thirty-three (33) years old -- John's thirty-three (33) years old, ninety (90) years is forty-five (45), so, you know, what does that make John? Seventy-eight (78)? So, John would be out at the age of seventy-eight (78).

I have attended over eight hundred (800) felony sentencing in my career. It is my job, when people hire me, to tell them what I think a judge will do. I would bet you that -- well, that's not a good way to put it. What do you think about a forty-five (45) year prison term for Mr. Stephenson? I'm certain that doesn't set well. What about a hundred (100) years? That doesn't seem enough. What about one hundred ninety-five (195) years? Is that enough? Maybe not. What about life without parole? Is that enough? Maybe not. What about death penalty?

Certainly, there's nothing more than that. So, if that can't satisfy.... What I suggest to you is this. Whatever recommendation you make or choose not to make, it is the Judge who decides the sentence. But you may not divorce yourself from the Judge's procedure. Because in a month, we'll come back, and Mr. Stephenson will be sentenced by His Honor. But let me assure you, after eight hundred (800) felony sentencing, Mr. Stephenson is not going to receive a sentence where he will ever have a day of freedom again in his life, ever, never. It's not going to happen. Since 1976, there have been four hundred -- I'm sorry, four thousand, eight hundred (4,800) death sentences given in the United States. Of those four thousand, eight hundred (4,800) death sentences, thirty-five (35) have been granted clemency. That is what? Seventy-five one hundredths of one percent (.75%).

So -- and by the way, none of those are in the State of Indiana -- not one. Not one. I mean you all know we live in a conservative state. Our Governor is not going to grant someone that you've convicted of three (3) murders clemency; he's not going to give him his freedom; he's not going to do that. There's some practical considerations that I would ask you to think about when you get into the sentencing aspects of this

case, because surely you must know that those things are "pie in the sky" kind of things given to the Jury solely to give them some effort at fright and horror and "Oh, my God, if he gets out, what will happen." And let me assure you, Mr. Stephenson will never see another day of freedom for as long as he draws a breath. It's not going to happen.

I brought in Ms. Pattison from the Department of Corrections just to show you a very simple point. There are one hundred eighty-five (185) men in Indiana prisons not on death row who have been convicted and sentenced for multiple murder. One hundred eighty-five (185). Mr. Come will stand up here and tell you there are twenty (20) plus on death row who are. And he will suggest to you that it wasn't a brutal and hollow and vexatious and horrible slaying such as this one. And that gets into valuations of human lives. And I suggest to you that that's already been done. I suggest to you that no matter what you decide, what has occurred cannot be undone. I invite this Prosecutor to get up here in front of you and tell you that there is a good probability that Judge Campbell will give Mr. Stephenson a forty-five (45) year sentence unless you come back with a death recommendation. I invite him to stand up here and look you in the eye and say, Judge Campbell most likely -- or it's possible or it's probable or it's conceivable that Judge Campbell will give Mr. Stephenson a forty-five (45) year prison term. I invite Mr. Come to get up here and say that. I invite Mr. Come to get up here and tell you that you should consider the fact that clemency is available to Mr. Stephenson. Clemency is available to everyone; not just Mr. Stephenson. But I invite him to -- invite him to get up here and plausibly argue to you that clemency is a possibility.

I invite Mr. Come to get up here and tell you that he does not trust Judge Campbell's instincts to sentence Mr. Stephenson without your recommendation. Yours is a recommendation that will be given severe weight, severe weight. And it will be final. It is my job, it is my vocation, my privilege to represent people in criminal courts. You know, this is something that I do every year and have for twelve (12) or thirteen (13) years now. I'm here by choice, unlike most of you. But I can tell you that the Judges in southwest Indiana that I practice in front of are serious minded people who do not take lightly their responsibilities. And Mr. Come will tell you that it is your serious responsibility to -- and he will urge you to return a sentence of death. One of the interesting aspects of death penalties is that there is a held belief by people who don't think it through, that death penalties deter crime. Well, the Judge will give you a specific instruction that

you can't even consider that. But I just wanted to mention it to you, because . . .

**MR. CORNE:** I'm going to object. I don't think that states accurately what the Instruction 16 says.

**MR. DENNIS VOWELS:** I'll allow you to read it now, if you choose.

**MR. CORNE:** "The Court instructs you that you have no right to recommend imposition of the death penalty or life imprisonment without parole solely for the purpose of deterring others from committing crimes."

**MR. DENNIS VOWELS:** I stand corrected. Let's talk about deterrence. Michigan is the border state to our north Michigan does not have a death penalty. The Michigan criminal homicide rate is as low or lower than Indiana's. Now, do you want to talk about Lake County, Indiana? Well, let's talk about Detroit, Michigan- Do you want to talk about violent communities? Let's talk about them. The criminal homicide rate in Michigan is as low or lower than Indiana's, and Michigan has no death penalty.

You may consider anything in this case you choose as mitigation. One of the unusual features of a case such as this is that you can have transcriptions when you need them, and this woman has worked hours that you can't contemplate. And this is a transcription of Mr. Come's last statement to you in the first part of this case. And he said, and I quote Mr. Come, "There may be, as the defense suggested, people that need to atone for the killings of Jay and Kathy and Brandy." Well, if you are certain, based upon the information in front of you, and that's - you know, you spent all of this unbelievable amount of time sitting in the Jury Room, and there's a real simple proposition behind it. Juries are only allowed to consider evidence in the record. So we try real hard -- that's why you have newspapers that were all cut out; that's why you weren't allowed to watch TV news. You're only allowed to consider what's placed in front of you, so that you have a very even-handed approach to the information in front of you.

Can you say with certainty -- because that is surely the measure by which you'll want to make your decision -- can you say with certainty that you believe everything of all of the witnesses that were presented to you in support of the conviction? It seems to me logically -- you know, I've had a week to think it through -- more than a week to think it through -- that you convicted Mr. Stephenson on a number of basic points, but primarily -- not primarily, but chiefly his statement.

His statement. Well, let's accept that. Let's just take it and accept it. I'm not going to argue about that, because that's your job, and I certainly am not going to stand here and try to insult you on that. But can you say with certainty that Brian Mossberger was not an active participant in this event? Can you?

You know, in this Courtroom, in front of you, on February 26, 1997, Brian Mossberger said they saw the Tylers's truck. He said he saw it when it pulled in -- you know, went by his house, he said he saw it. And then in cross-examination, when placed -- with his March 31 st, '96 statement in front of him, where he said he didn't see the truck, he said, "Oh. guess I was a little bit wrong." Brian Mossberger -- Brandi Martin -- I don't you know if you remember her. You had a hundred and eighty (180) some people brought in front of you. But Brandi Martin, Jeff Martin's wife, said to you, in Court, under oath, in front of you -- and I'm arguing only things that are in front of you on this record -- said to you, "Brian told me he took Dale home." Well, you know for a certainty that Mr. Mossberger buried the gun. Why? He was going to figure out what to do with it. He was going to get all of his evidence tied up and turn that over to the Government. He was going to get all of his evidence together and present John *fait accompli*. Brian Mossberger buried a murder weapon.

That doesn't discount your verdict; doesn't disregard your conclusion; it is a fact that I point out to you that you should consider as a measure of certainty in determining whether or not you ought to recommend the death penalty for Mr. Stephenson. You know, he didn't even tell the police about the cassette case full of bullets. He didn't tell them. They had to find them. He didn't tell them. One of the things that I -- there were a lot of things that happened during this trial that just absolutely amazed me. But one that I just -- it just stuck in my head, and I thought -- whoa! And you have to understand the back drop for this.

I am the survivor of over fifty (50) depositions taken by Mr. Long. I have been in a number of hearings in this case. But I have watched and listened to Brian Mossberger be deposed twice, at length. I have read every statement he gave to the police. Mr. Mossberger has given informal interviews to all of us, to all of us. We have all spoken with him when it wasn't transcribed; when it wasn't on a tape recorder; when no one made a police supplement or any note about it. We have all talked to him Sergeant Heilman, Mr. Meier, Mr. Come, Mr. Long and myself. And the very first time I ever heard him say that when Mr. Stephenson entered his house, he had blood on his face, was when he sat there and said it. Why?

You know, you don't have to engage in strangled reasoning for that. Why? Why would he say that? Because it's one (1) more nail in Mr. Stephenson's coffin. Mr. Stephenson looks guiltier with blood on his face than he does without it. But he was asked; he was grilled; he was pressured; he was cajoled; he was sweet-talked for every damning piece of information he could come up with. Do you not believe that this Prosecutor and his Chief Deputy and this Detective Sergeant wouldn't have pointed that fact out to us? That Mr. Stephenson had blood across his face as he entered Mr. Mossberger's home after killing these three people? Why would Mr. Mossberger tell you that? Because it makes Mr. Stephenson look guiltier. But he never told any of us that before.

Mr. Mossberger admitted that he was still wearing his bullet-proof vest on April the 6th, 1996. Now, Mr. Stephenson is already locked up; the media has announced it. What is that about? I mean is he worried about being shot? By whom? That's a question I have never resolved. I've never, ever gotten past that point. If Brian Mossberger is afraid of someone after Mr. Stephenson is locked up -- for we all remember he said he didn't call the police from a phone booth because he was afraid of being shot in public. If he's still wearing a bullet-proof vest on April the 6th, after Mr. Stephenson is locked up, who is he afraid of Retribution from someone for the killings? I'm not suggesting that you get into some strangled manipulative reasoning. What I'm trying to tell you very simply is these are facts which are consistent with your verdict that merit your attention so that you can be certain that you should recommend death for Mr. Stephenson. Mr. Mossberger did not tell Chief Deputy Sheriff Weisheit when he came by Friday night to Mr. Mossberger's home -- and the way that shakes out is they go see Mr. Napier in the Gibson County Jail; Mr. Napier says, you know, it's near Brian's house; they go talk to, you know, they went by Brian's. And Chief Deputy Weisheit goes to Mr. Mossberger's house on Friday night. Now, he does not deliver the murder weapon at that point. It's buried; it's buried; it's buried. Why would he bury a murder weapon? You know, either he's a simpleton, or he's a person playing a simpleton's game for the purpose of taking the heat off of himself.

I'm not asking you to convict Brian Mossberger. I am asking you to consider these facts within the backdrop of certainty. You know, I go to seminars, and they say juries don't want to hear from criminal defense lawyers, to keep it succinct. But I need to tell you -- when I tell you your decision's final, it's final. It's not coming back at you. It's not going to get reversed. "We will neither reweigh the evidence nor assess the

credibility of the witness, as that is a sole jury function within our state." And, "The testimony of one witness is sufficient for conviction." Those are the appellate standards in our state. This attorney won't get up here and tell you that is wrong. The reason I reiterate that to you is because your decision is it. That's it. No appellate court is going to turn this around. And if you assume otherwise, I think that, you know, I give you some descriptive adjectives to impress upon you the severity of your decision, because you just assume that John is going to be taken out of this room and shot. I mean that's the way you ought to proceed on this. That's the certainty with which you should feel your decision is going to be followed. Mr. Mossberger sat in front of you and said these words, "I wiped the SKS off because it was a little wet." Well, if the simpleton is that simple, I guess that's right. That he wiped the SKS off because it was a little wet.

What's he doing -- preserving it so no rust will get on it? He's going to use it at another time? I mean what -- what's . . . Mr. Long asked him once, and I wrote it down, because I was just amazed, you know, because I think it's fair to say that Mr. Long's examining style with Mr. Mossberger, it just wasn't fruitful. But, you know, one time he asked him point blank, "Do you have a forty-five (.45) caliber hand gun?" Response, "I reckon." "Do you reckon or do you know? Do you have a forty-five (.45) caliber hand gun?" "I might." "Well, you might. But do you or don't you have a forty-five (.45) caliber hand gun?" "Maybe." "Do you or don't you have a forty-five (.45) caliber hand gun?" "I don't know." I tell you that because that's evasion; that's evasiveness. He's trying to build his own character so that you will not think he's a person who possesses a forty-five (.45) caliber hand gun. Why would he want to do that? So you don't think he's an armed individual. Why would he want to do that? So you don't think that he has any propensities to shoot. He can't answer a straight question. You already knew he had a forty-five (.45) caliber hand gun. It was taken out of his house. They told you what was there. They told you what they took out of his house. But he can't answer that. He can't say straight up, "Yes." You already -- you know, you subsequently learn -- I get things so messed around, when things were proven to you and when they weren't. I can't get them in exact chronological order. But I know at some point in this case, some point in the record it is in front of you, and you know what weapons they took out of his home.

On March the 30th, 1996, which was a Saturday, Mr. Mossberger did not call the police from the Chandler Auto Parts store. On that same morning, being a Saturday, Mr. Mossberger did

not call the police from the auto parts store in Evansville. What Mr. Mossberger did do, and the evidence before you was, he changed the brakes on his International truck. You know that, that happened on Saturday. But you also know on Friday morning he's over looking at mules on a highway, driving the same vehicle which is in sorely need of brakes. Well, I -- quite frankly.... You might remember Sergeant Jeff Franklin -- is he a Sergeant? (Last remark directed to Detective Sergeant Marvin Heilman, who nods indicating an affirmative response.) Sergeant Jeff Franklin came into this Courtroom, and he's a technician. He told you he could not measure tire widths at the scene. They weren't there, not able to measure them. He's a technician from the Indiana State Police. That's in the record in front of you.

You cannot conclude -- you know, I had a real go-around with my co-counsel about those tire tracks. They meant nothing to me after I got through hearing all of that. And I was paying close attention, and I know you were, too. And it meant nothing. I couldn't make heads or tails out of the tire tracks. Mr. Come wants you to use that as a reliable indicia of some firm proof that you should see that Mr. Stephenson is lying in wait and shooting from a vehicle. When a technician, Sergeant Jeff Franklin, of the Indiana State Police tells you, and he's out there -- and you all saw it, but I mean he's out there right after it happens, when the tracks are there, and he tells you, "I can't see them; they weren't definitive enough to measure," you cannot conclude what vehicle was used at that intersection; you cannot conclude that. You know, it is laughable at best to think that -- it is. You know, I guess that's an insulting phrase and I mean it -- no, I truly don't, but it is laughable at best to conclude that the Buick was used. If you accept the possibility -- no, that's wrong. It's laughable at best to accept the fact the Buick was used if you accept the possibility or probability that the crime scene was bloody, because there is no residual evidence within the vehicle. And the vehicle according to -- and I don't remember this technician -- had been thoroughly cleaned. And yet we presented to you evidence of debris, dirt, hair within that car. I don't think you have a measure of certainty in front of you to know that that was the right vehicle that was used.

But even if that's not something that you want to consider, you know, Mr. Mossberger did testify to you in this Courtroom that he knew there was a key kept outside the Seiler Road trailer. WeU, that's also where -- you'll remember when he and Tony Chase and -- they went to get his bullet proof vest on Sunday? That's where he went to get it. It was hidden there. Now, you might want to know, the crime scene techs had already been all

over that Seiler Road trailer. They had already been there. They didn't find the vest. But Mr. Mossberger tells you there was a key to the trailer, and the vest was hidden in it. You may conclude that he is familiar with that trailer. Now, that's a stupid thing to say, but the reason I point it out to you in that context is this.

There's no physical evidence, except the statement of Dale Funk, that puts Mr. Stephenson at that trailer. Well, he didn't put Mr. Mossberger there; he didn't put Mr. Mossberger anywhere except in Mr. Mossberger's home. Mr. Funk admitted perjury in front of you; he admitted that he lied under oath before. And I suggest to you that if you cannot believe the messenger, how can you believe his message? I am not asking you to ignore your decisions; I am not asking you to ignore the evidence that you concluded Mr. Stephenson committed these murders. What I am asking you is to evaluate, within the framework of what you know, whether or not you can say, with a certainty, that it is more likely that he did this alone than not. Brandi Martin, Jeff Martin's wife, said, "Brian told me he took Dale home." Now, there's a jury instruction that goes something like this -- you're entitled to believe who you want to, and you're entitled to disbelieve who you want to. But you can't disbelieve someone without a reason. Alright? I mean that's the law. And it's a little more wordy than that. But that's the upshot of it. You can believe anybody you want to, and you can disbelieve anybody you want to. But you can't disbelieve someone unless you have a good reason.

Well, try this one on. Emily Girtinan. Emily Girtman. There was Carolyn Harmon; there was Julie Girtman; sisters who were John Stephenson's alibi witnesses. Disbelieve them if you want, based upon their relationship with John. Don't believe them; don't believe them. Throw the alibi out on the basis of those two (2) people. But why would you disbelieve Emily Girtman? Mr. Come may suggest to you because she didn't remember someone coming back from another state at a different time on a date certain on a Sunday night. I'm not arguing that. I'm arguing Thursday night, March 28, 1996. Emily Girtman says she sees John Stephenson in front of her home while the news is on. Brandi Martin said Brian Mossberger told her he took Dale Funk home. It's consistent with your verdict. If Mr. Stephenson did not deliver Mr. Funk to his home in Hatfield, he had the time to get home to be seen by Emily Girtman. Why should you disbelieve her? No relationship with Mr. Stephenson; no basis outside of this record; no basis in the record for you to disbelieve her. And you must have good reason to disbelieve her in order to. I mean it's necessary; it's your duty to.

If Brian Mossberger took Dale Funk home -- and you already know that when Troy Napier got out of the Gibson County Jail that he and Mr. Mossberger were over looking for Mr. Funk, and you know that Mr. Funk went to hide out in Louisville -- but if he took Mr. Funk home, can you say with certainty that these are not some measure of accomplices in this event? And I'm pointing that out to you for a real simple reason. If you have questions -- and I certainly hope you do, because I have questions. You know, I've studied this case *ad nauseam* for months and months and months. I've got questions. But if you have questions about the totality of the circumstances -- and Mr. Come will tell you that that is not why you're here, and I'm suggesting to you the other point -- you may consider that in your determination of whether to recommend death or not. And I'm telling you, you know, it's a final decision, and I would hope that you attach some measure of certainty to the assumptions that you engage in to make the conclusion that Mr. Stephenson is deserving of a death sentence.

Where is -- well, I'm going to put it to you this way. Do you know who Tony Chase is? I mean I'll tell you point blank. Because it's in the record, and it's in front of you, and I had to read the deposition and play Tony Chase sitting over behind me. But do you know who Tony Chase is? Tony Chase is a guy that lives in Newburgh who took Brandi Martin (sic) to work on Thursday afternoon, the 28th of March. He drove her to work, with the understanding that he was going to pick her up. Going to pick her up from work. He didn't. I read the deposition. You know, his explanation -- "Had stuff to do." What did he do? He went home. And then he's not available to come in front of you and testify. Now this is someone who saw Jay Tyler the very afternoon of the day that he died. And he hit the streets and took off. And you may consider why. You may ask yourself why. Well, there are a number of conclusions you could raise, and Mr. Come is going to say, you know, that I'm engaging in speculation and what ifs and maybes and he's probably writing it down right now.

But I'm telling you, you've got to have some measure of certainty if you want to make this recommendation. It ought to be darned tough. If the County Prosecutor, in a transcribed statement in front of you said, "There may be -- there may be, as the defense suggests, people that need to atone for the killings of Jay and Kathy and Brandy," can you conclusively say if he accepts that plausibility. that you have the measure of certainty that you need to answer all the questions concerning these events?

There are fundamentally -- and you can strip any other reason out, and it comes down to any

one (1) of these three (3) categories. There are three (3) categories by which Mr. Come wants you to impose -- I've used the wrong word -- recommend a death sentence. Just three (3). To punish is one (1). Because of the horror of the event is two (2). And he can't use these words or to get even. If he uses the "to send a message to the community" argument, I will tell you that deterrence is not a factor in murder. But to punish. If his first argument is to impose the death sentence, is to punish people for this kind of crime, then I suggest to you that the punishment is nothing more than a matter of degree. Mr. Stephenson will never have a day of freedom, ever. And you can disbelieve me if you want to, but I have sat through eight hundred (800) felony sentencing, and I have been next to a lot of people who have taken an awful lot of time -- needed wheelbarrows to take it -- the amount of time they got back to the jail with them. This is the kind of offense for which you never see your freedom again, period. And that's common sense. It's common sense. So, if your motive suggested is to punish, it is a question of degree, and you have alternatives to a death sentence. If the motive is the horrific character of the crime, and it is brutal, and it is atrocious, you must consider that any killing is horrific; any killing is a horror; and that too is a question of degree. And if it is in the nature of a decision process where someone is to consider a death penalty, where you're supposed to bring in the idea of horror, I just tell you all killings are horrible, whether it is a three (3) year old child that has been drowned, or if it is someone that has had a nine (9) millimeter handgun stuck in their mouth and shot their head off. They're all horrible. They're all horrible. Getting even.

He's too much of a gentleman. I've been around him a lot of hours, as you probably know. He's too much of a gentleman to use those terms. It's assumed within some of the argument -- get even with Mr. Stephenson for his terrible behavior. Well, get even with him. Do it. Do it. But you have lesser remedies. And why you would want to drag yourselves into this is beyond me. Your verdict, your decision, your recommendation, whatever you want to call it, has got to be unanimous. It has to be unanimous. The Court's Instructions are lengthy. And I invite you to read them thoroughly amongst yourselves. I don't know how many copies the Judge gives you -- probably one (1) because that's probably all you're supposed to get. It's going to take you a while to read through twenty-two (22) instructions, some of which are a couple of pages long. The word "44 unanimous" comes up over and over again. You're not required; you're not required; you're not required to reach a consensus. You

have a duty to, but you're not required to. The Judge cannot give you an Allen charge. He cannot tell you, "Stay in that room until you've reached a verdict." He can't do it. It's against the law.

You may consider anything under the state statutes for death penalties as a Jury, anything you want to by way of not recommending the death sentence. But you do not have the same freedom with regard to the imposition or the recommendation of a death sentence. So it is not an even handed arrangement.

The burden of proof is even different. The unanimity is different. If you want to recommend a death sentence, you all twelve (12) have to agree; you all have to be satisfied that mitigation does not outweigh aggravation. But you can only consider the three (3) aggravators charged in this case: multiple murder, lying in wait, the shooting from a vehicle. You may consider all of the evidence in this case to off-set a determination that a death recommendation should be made -- anything you want to.

I'm about finished, and I thank you for your attention. It's always tough to talk when you have a cold and people just get back from lunch, and it's tough to keep going. But I'm just going to take a few more minutes. Mr. Come made a motion; he incorporated all of his evidence from the first part of this trial into the second. So, what's in front of you? All of it's in front of you; the whole case is in front of you. You were picked for a number of reasons, but one particular -- not the chief, but one particular reason was because you all have a deliberative part to your personalities. Each of you seems to pick things apart. In your discussions and your answers, you were given -- what do you call it -- a series of questions, just like an MMPI. You know, where certain ranges of responses would come out. And from that, we determined that you all are very deliberative in your thought processes.

Well, I'm going to ask you to deliberate on the evidence of lying in wait and shooting from a vehicle, because the evidence is unclear as to where Mr. Stephenson was standing when he shot the SKS. If evidence is susceptible of two constructions or interpretations, each of which appears to you to be reasonable, you're required to adopt that construction or interpretation which points to Mr. Stephenson not having committed the conduct of shooting from a vehicle, and you're required to reject the conclusion that he did. Now, the evidence is equivocal. This Prosecutor will tell you it is not. You know the evidence as well as I do. It's not there, beyond a reasonable doubt. You can't say if he's in it; you can't say if he's out -- you can say if he's in it. He's not in the car. He's not in the car. Mr. Come will ask you to accept a

proposition that he's coming from the car. So if I come from the car and I walk a hundred paces and I open fire, it is shooting from a vehicle under that definition.

So deliberate, please; consider the facts that are in front of you. It's not there. Lying in wait. Lying in wait to me means that I'm going to lay in the ditch at Eble-Youngblood and wait for the truck to come by and unload. That's what lying in wait means to me. Mr. Come has got some case law on it, and he'll tell you what it means. But that case won't -- the facts of that case, they don't square up with the facts of this case. And there's an Instruction in here where the Judge will read you some elements of what that means. And, ah, lying in wait -- chasing a car is waiting. I guess there's an interval of time that goes by, so if you're a participant in the interval of time, you've waited? Skulking and waiting to shoot. Those facts are not in front of you. It would be a foolhardy interpretation to assume that you give it an analysis, where things are susceptible of two (2) constructions or interpretations, that you have to accept the one that points in Mr. Stephenson's favor.

I'm finished, except to say that you must consider anything that's in front of you against a recommendation of death. And it is not the State of Indiana who asks you to execute Mr. Stephenson. His name is Todd Alan Come, and he's sitting right over there. And he signed a piece of paper, and that's what happened. And that's what happened. He's a nice man; he's a smart man. But he's a man, and he's asking you to kill somebody. A government sanctioned killing. That's what he's asking you to do. And I guess if you have a mind-set, you can. And you have no reason to believe me, because I'm just a criminal defense attorney standing in front of you.

But I spend my business life, my vocation in criminal courtrooms. And I'm going to tell you point blank -- you don't want to be drawn into this. Make sure you understand your decision is final. If you adopt the framework that I told you, you'll understand what I'm telling you. Don't drag yourselves into this. Get some finality out of this. Don't recommend the death sentence. Give yourselves; give everybody the psychological closure that's necessary, because let's be point blank.

Criminal Rule 24 in this state gives anybody with a death sentence just a bunch of ammunition to fight like crazy. But when you don't have a death sentence, you don't get all of those tools; you don't get all of those resources. And that may not play well with any of you. But let's get practical. It goes on. It goes on. If you don't recommend the death sentence, you're talking about one round of appeals. That's it. You've got

people to consider, including yourself, in that decision. And Mr. Come will tell you that the people you should consider are the three dead people. And he's absolutely right. He's absolutely right. But they're not the only parties to these murders. Mr. Come will tell you Mr. Stephenson is solely responsible, but that is not his own words in his argument to you. There may be others, as the defense suggests.

So, if you have that measure of certainty that allows you to recommend a death sentence, then I urge to do it. But you're under no obligation to agree as a group. If you don't want to, do not yield your individual judgment; don't do it. You don't have to. No one can make you. Thank you for your attention. Thank you, Judge.

#### **CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. CORNE:** Thank you, Judge. Mr. Vowels is quite correct. I am the man sitting right over there, and I have asked you to consider putting John Stephenson to death. I'm asking you that, because he's the man, sitting right over there, who's killed Jay, Kathy, and Brandy.

Mr. Vowels quoted to you a portion of what I said to you in closing statements during the first phase. Something to the effect that there may be people that need to atone for the killings of Jay and Kathy and Brandy. And that's true. I did say that. What he didn't tell you, what I think the transcript would also show, is that I also told you that you have one of those persons here in this Courtroom before you. And his name again is John Stephenson. He's sitting right over there.

Mr. Vowels has invited some further response from me on a multitude of different questions. I'm going to be quite candid with you. I don't think I can say anything more than what I've already said, what the evidence has already said, and what the statement of John Stephenson of March 30th of 1996 has already told to you. Thank you very much.

[The jury unanimously recommended a death sentence for Stephenson, who was sentenced to death by Judge Campbell on June 17, 1997. The conviction and death sentence was affirmed by the Indiana Supreme Court at Stephenson v. State, 742 N.E.2d 463 (Ind. January 25, 2001). The conviction and sentence was reversed on appeal to the U.S. Court of Appeals at Stephenson v. Neal, 865 F.3d 956 (7th Cir. August 4, 2017) On remand for a new trial, the Death Penalty was withdrawn and Stephenson was sentenced to 110 years imprisonment. in 2018.]

# CLOSING ARGUMENTS

## State v. Stevens Tippecanoe Superior Court 1995

**CASE SUMMARY:** Stevens was convicted of Child Molesting in Marion County in February 1993 and received a 4 year sentence with 3 years suspended and probated. His probation was transferred to Cloverdale, where he returned to live with his father. Apparently, none of his new neighbors were aware of his criminal past. Zachary Snider, age 10, lived in the same subdivision and was often seen in the company of the 20 year old Stevens. Stevens attended and videotaped one of Zachary's little league baseball games. Zachary's father eventually warned Stevens to stay away from his son when he learned that Stevens had taken the boy fishing.

A month later, Zachary turned up missing one afternoon. He was last seen at a young friend's home, who was told by Zachary that he was going to Stevens' home. In the midst of a massive local search for Zachary, Stevens' brother reported to police that Stevens had confessed to him that he murdered Zachary. He then directed police to a remote location near a bridge, where Zachary's body and bicycle were recovered.

Stevens was arrested and gave a complete confession. He claimed that he had been having sex with Zachary for 2 or 3 months. When Zachary came over to his house, they performed oral sex in Stevens' room. Zachary threatened to tell his parents about having sex and Stevens decided he did not want to go through what he went through in Marion County. Stevens smothered Zachary with a pillow, then strangled him with an electrical cord around his neck. When Zachary continued to gasp, Stevens got a plastic garbage bag and wrapped it over his head. He then put Zachary and his bicycle in the car, drove to a bridge in a remote area, and threw them both over. Stevens later admitted to psychologists that he had molested 25-30 children, and had ejaculated on Zachary when he killed him. The psychologists concluded that he was a benign pedophile and was a serious danger to society. (This case later resulted in Zachary's Law, IC 5-2-12, establishing Sex Offender Registry)

Stevens was convicted of Murder after a change of venue from Putnam County to the Tippecanoe Superior Court, Judge George J. Heid presiding. Prosecutors Robert Lowe, Anne Flannelly and Delbert Brewer represented the State. Attorneys Jeffrey Baldwin and Robert V. Clutter represented the Defendant.

### CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.

**MS. FLANNELLY:** May it please the Court, ladies and gentlemen of the jury, once again, I must thank you for your close attention and patience throughout this second phase of these proceedings. You, obviously, have assumed your responsibilities as jurors in a most attentive and professional manner. You have assumed your responsibilities as jurors. Now it is time for the defendant to assume his responsibilities.

This second phase in which you make your recommendation regarding the defendant's sentence deals with the defendant being held responsible for his hideous murder of Zachary. Once again, I ask you to use your reason, wisdom, life's experiences, and common sense in evaluating all of the evidence in achieving a just recommendation in this case, and the justice we are seeking right now is your recommendation that the death penalty be imposed upon the defendant.

In this sentencing hearing, the State was obligated to prove beyond a reasonable doubt the existence of at least one of the aggravating circumstances alleged. To remind you of what "beyond a reasonable doubt" means, we need only look to this Court's instructions. A reasonable doubt is a fair, actual, and logical doubt that arises in your mind after an impartial consideration of all the evidence and circumstances in the case. It should be a doubt based upon reason and common sense, and not a doubt based upon imagination or speculation.

To prove an aggravating factor beyond a reasonable doubt, the evidence must be such that it would convince you of the truth of it to such a degree of certainty that you would feel safe to act upon such conviction without hesitation in a matter of the highest concern and importance to you.

The State has alleged not just one, but three aggravating factors exist in this case. First, that the defendant committed the murder by intentionally killing the victim, Zachary Snider, while committing child molesting; second, at the time of Zachary's murder, the defendant was on probation after receiving a sentence for the commission of a felony; and third, the victim of the murder, Zachary Snider, was less than 12 years of age.

Let's review each one of these aggravating factors in detail. What I have here is the Notice of State's Intention to Seek the Death Penalty, and let's take a look at the first aggravating factor. "On or about July 15th, 1993 in Putnam County, State of Indiana, the defendant, Christopher M. Stevens, in committing the murder as alleged in the Information filed in this cause, did so by intentionally killing the victim, Zachary Snider, while committing child molesting; to wit, deviant sexual conduct, an act involving the sex organ of one person and the mouth of another person."

This aggravator requires the State to prove that the defendant intentionally killed Zachary while committing child molesting. You will hear the Court instruct you that you may consider all the evidence introduced at the trial stage of the proceedings as it relates to these three aggravators and any mitigators, together with new evidence presented at the sentencing hearing.

During the second phase, we heard the defendant's entire videotaped confession, and we understood from that confession a little more clearly the defendant and his motives. We learned that on July 15th, 1993, the day the defendant murdered Zachary, Zachary rode his bicycle to the defendant's house, and during Zachary's first trip to the defendant's house, Zachary, according to the defendant, wasn't there that long the first time. "He had just stopped by to tell me that he'd be back." Detective Rice asked the defendant, "Why was he coming back? Had you guys planned something?" The defendant stated, "I mean it wasn't really planned. I mean it's just kind of like, uh, you know, an unsaid thing . . ." Detective Rice asked him, "Was it a sexual thing, Chris? What were you two guys doing?" The defendant went on to explain, "Oral sex. Yeah, oral sex." Detective Rice asked him, "Was you doing it to him, or was he doing it to you?" The defendant stated, "Both." Detective Rice said, "Both? Now, how long would this been kind of going on with you and Zach? The defendant stated, "About two or three months."

Zachary left the defendant's house to collect money from Tony Butcher, and then he took that money to his dad, and he rode his bicycle back to the defendant's house that second and last time on July 15th, 1993. The defendant described, "All right. He walked in, and he sat down. I was flipping through the TV stations, and we just sat there and talked for a while. And then afterwards, we went back to my bedroom and stuff, and that's when, you know, all the stuff really started. And then we did stuff for a while, and then -- then we stopped, and then he

was like -- and that's when he started threatening to tell his mom and stuff." The defendant explained clearly that Zachary was threatening to tell his mom and dad about "me and him having sex."

And now during this phase of the proceedings, we hear the defendant say, "I just went through a bunch of shit in Indy. I just can't go through all that shit again. I remember thinking no, I'm not going. I'm not going to go through this again." He then said, "And we messed around some more." Detective Rice asked him, "Messed around some more and then what?"

The defendant said, "Having sex." The defendant went on to describe, "And then after we was done, I just led him into my brother's room." He described leading him around by his hand. "And I tried to -- tried to suffocate him I guess with a pillow. It was on my brother's bed, and after that wasn't doing nothing and I was just like glancing around."

Detective Rice asked him, "Was he resisting, or was he trying to fight?" The defendant said, "He wasn't fighting, but he was -- I . . ." Detective Rice said, "What was he doing, Chris?" The defendant said, "He just kept saying I love you, Chris. I love you, Chris." The defendant went on to explain, "I was looking around. I got the cable from the SEGA controller." He said, "I put it around his neck." He stated, "I mean it choked him." Detective Mishler asked him, "Did you pull on it, Chris?" The defendant said, "Yeah." Detective Mishler asked him, "How many times did you wrap it around his neck?" The defendant said, "I don't know. At first just once, and then I'd wrap it again like two or three times. I don't know." Detective Mishler asked him, "Did you pull hard on it, Chris?" The defendant said, "Yeah." Detective Mishler asked him, "Real hard?" The defendant said, "Yeah."

The defendant explained, "I was trying to strangle him with a cord." He stated, "And he was just laying there for a while. So I took the cord off and was walking back and forth from my bedroom to my brother's bedroom, kept looking down at him and stuff. I was kind of thinking what to do, and he was -- then he started going 'whoo, whoo' like that. So I went in my kitchen and got a trash bag and put it around his head." The defendant explained, "And wrapped it around his head. He was unconscious. So I knew he wouldn't be ripping it off of his face."

He also explained, "When I done that, I took him out of my brother's bedroom and laid him down on my bed, and I took him outside, took everything out of the garage to get my car in,

pulled my car in, shut the door, threw the bike in there, then went inside and got him; threw him on in there."

Now, when you are considering this aggravator, please keep in mind the testimony of Tracey Easton who put himself at risk as an inmate in DOC when he testified in this case.

Tracey Easton met the defendant in the Marion County Jail where they were both serving time for their convictions for child molesting. The defendant was there for molesting a ten-year-old boy in Indianapolis. The night before the defendant leaves the Marion County Jail in May, 1993, Tracey Easton tells the defendant that he predicts the defendant will be back in jail within two months. And what did the defendant say to him? The defendant said, "No, I won't. The next time I'll kill him."

The defendant didn't say he wasn't going to molest again. He said I won't go back to jail. The next time I'll kill him. Unfortunately for Zachary Snider, he was the defendant's next victim, and the very day that Zachary said he was going to tell his mom and dad about the defendant molesting him, the defendant knew exactly what he was going to do. Every time the defendant molested Zachary, he took power and control over Zachary's body. Once he felt he could no longer control Zachary, he killed Zachary. When the defendant murdered Zachary, he exercised his final and ultimate control of Zachary. The defendant knew he was going to kill Zachary on July 15th, 1993 as soon as Zachary said he was going to tell his parents, but then he molested Zachary one final time before he led him by his hand to his murder. The State has clearly proved this aggravator beyond reasonable doubt.

The second aggravator reads as follows: "On or about July 15th, 1993, in Putnam County, State of Indiana, the defendant, Christopher M. Stevens, was on probation after receiving a sentence for the commission of a felony at the time the murder as alleged in the Information filed in this cause was committed; to wit, Christopher M. Stevens was sentenced on February 17th, 1993 on a conviction of child molesting, a Class C felony in the Marion Superior Court, Criminal Division to four years, one year of which was executed, with three years suspended and on probation. The defendant served the executed portion of said sentence and was "released to probation on May 25th, 1993."

Tracey Easton testified he last saw the defendant in May 1993 when the defendant was released from the Marion County Jail. The defendant himself admitted in his confession

that he met Tracey Easton in the same cell block in the Marion County Jail, and the defendant said, "Well, I had a -- I got to Stardust in November when I got bonded out and was there until February, and then I went back to jail and finished out my sentence. Then I got out in May, and I've been there since."

Marion County adult probation officer Ann Dubin testified that she interviewed the defendant in February 1993 to prepare her presentence report to the Court; that the defendant told her he had been convicted of child molesting, a Class C felony, and that she told the defendant the sentencing date of February 17th, 1993.

The Court admitted into evidence for your consideration three certified documents from Marion County. Looking at State's Exhibit No. 36, State's Exhibit No. 36 is a case chronology, a certified copy of this record from Marion County, which states that in Cause No. 49GO2-9203-CF-35365, regarding Christopher M. Stevens, that a judgment of conviction was entered on Count I February 17th, 1993. We also saw State's Exhibit No. 35. State's Exhibit No. 35 is an Abstract of Judgment with the same cause number as the last exhibit I just showed you, 49GO2-9203-CF-353651 regarding Christopher M. Stevens. Date of sentencing, February 17th, 1993.

We see here the defendant was found guilty of: Count I, child molesting, felony, Class C. We see here that as a result of this conviction, the Court has sentenced defendant to the Marion County Jail as follows: Four years. 365 days executed, three years suspended. He was placed on probation for three years and refers to an order of probation with conditions signed and filed.

And then finally, State's Exhibit No. 37, an order of Probation, and we see in this certified record an order of Probation signed by the Judge and Christopher M. Stevens involving Cause No. 49-G29203-CF35365. Convicted of: Count I, Child Molesting. Length of sentence four years, one year executed, three years suspended. Length of probation three years, date on probation: May 25th, 1993. The defendant murdered Zachary 51 days after being released from the Marion County jail to begin probation for a C Felony Child Molesting conviction involving another child.

We also heard the testimony of adult probation officer Christine McAfee. On July 15th, 1993, she was the adult probation officer in Putnam County, Indiana. And on the morning of the same day the defendant murdered Zachary, the defendant met Mrs. McAfee, his

probation officer in Putnam County, where the supervision of probation was being transferred from Marion County. He met Mrs. McAfee at 11 a.m. on Thursday, July 15th, 1993 for an introductory appointment to introduce herself to the defendant as his new supervising probation officer. So that there is no doubt, let's take a look at her testimony. Direct Examination of Christine McAfee:

"Q: When did you meet Christopher Stevens?  
A: On Thursday, July 15th, 1993.  
Q: And where did you meet Christopher Stevens at?  
A: Mr. Stevens had an appointment in my office, and he showed for that appointment.  
Q: When was that appointment scheduled for?  
A: It was to have been at 9:00 in the morning.  
Q: And when did he arrive for that appointment?  
A: Approximately 11:00 that morning.  
Q: And did you meet with him on Thursday, July 15th, 1993?  
A: Yes, I did.  
Q: And do you recall when you met with him?  
A: Approximately 11:00 that morning.  
Q: And how long did you talk to him?  
A: Approximately 10 to 15 minutes.  
Q: And where is your office located?  
A: On the third floor of the courthouse in Putnam County.  
Q: And what town is that in?  
A: Greencastle, Indiana."  
Q: And how far is the courthouse in Greencastle from Stardust Hills in Cloverdale?  
A: Approximately a 20-minute drive.  
Q: Now, are you sure that your appointment with him was done before noon?  
A: Yes, I am.  
Q: Was this the first time you had met with him?  
A: Yes, it was.  
Q: And were you accepting a transfer of probation from Marion Co.?  
A: Yes, I was.  
Q: And is it safe to say that this was an introductory appointment to introduce you as his new supervising probation officer?  
A: That's correct.  
Q: And he met -- and during the -- he met with you in your office?  
A: That's correct.  
Q: And was he on probation at that point with you?  
A: Yes, he was.  
Q: And that was on July 15th, 1993?  
A: That's correct."

Prior to Zachary first going over to the defendant's house on July 15th, around 1:30 p.m., the defendant had already, at 11 a.m. that

morning, been to the courthouse to meet Mrs. McAfee. The State has clearly proved this aggravator beyond a reasonable doubt.

The third aggravator reads as follows: "On or about July 15th, 1993, in Putnam County, State of Indiana, when the defendant, Christopher M. Stevens, committed the murder as alleged in the information filed in this cause, the victim, Zachary Snider, whose date of birth was March 2nd, 1983, was less than 12 years of age; to wit, ten years of age."

Zachary's birth certificate which the Court admitted into evidence at the trial of this cause and Todd Snider's testimony at trial clearly prove this aggravator beyond reasonable doubt.

The next decision you must make is whether or not there has been evidence presented to you of any mitigating circumstances appropriate for consideration. Recall the statute that defines the mitigating circumstances in this situation, and let's take a look at each one of them.

First, "The defendant has no significant history of prior criminal conduct." I submit to you that that is not a mitigating circumstance in this situation. A felony child molesting conviction is a significant prior criminal record. You also heard testimony and read in various reports regarding other charges and other criminal conduct by the defendant.

The second one, "The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed." There has been no evidence of any mental disturbances and certainly no evidence of any extreme emotional disturbances that have been presented. When you view the defendant in his videotaped confession, you see a man without remorse and who is emotionally detached. He calmly and coolly molested Zachary after he decided he was going to kill him and then led Zachary into his brother's bedroom. Zachary was not fighting with him prior to this murder.

The third mitigating circumstance that may be considered, "The victim was a participant in or consented to the defendant's conduct." No, it would be absurd to think that Zachary consented to being murdered. This is not a case of euthanasia. This is a cold-blooded, premeditated, intentional murder of an innocent child whom I submit to you was pleading for his life with the defendant when he said, "I love you, Chris. I love you."

The fourth mitigating circumstance, "The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

"MR. BALDWIN: Judge, I'm going to object at

this point in time. May we approach?

THE COURT: All right. (The following proceedings were had at the bench, out of the hearing of the jury.)

MR. BALDWIN: I might let it go on the first three because she could hardly wait and say that we had presented some type of evidence on those, and she can make her argument on her evidence, but we've not presented any evidence, any evidence that anybody's going to bring before the jury mitigators that would not present any evidence.

Now, she can comment on the evidence, but as to go through the statute and mark them out and saying that there isn't any, that's not proper. That issue is not before this jury. It's never even been raised by us, and they can't anticipate mine. If they want to do it in rebuttal if I say somebody else did it, then that's fine, but at this point in time, it's improper argument.

MR. LOWE: The evidence is -- the evidence is there. It's not a matter of Mr. Baldwin now presenting that the evidence is there, and we're allowed to argue that it should not be presented as mitigation.

MR. BALDWIN: But it's not even an issue before this Court or this jury.

THE COURT: As I recall, during the consultation on instructions, I asked if you wanted to take out any of these statutory mitigators.

MR. BALDWIN: If there's evidence to present.

MS. FLANNELLY: They're in the instructions.

THE COURT: And so they're in the instructions, and I think she ought to be able to review that there is no evidence, and you can argue that there is or is not as you see fit.

MR. BALDWIN: All right. Well, I made my record. It's improper argument.

THE COURT: All right.

**MS. FLANNELLY:** "The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor." No, the defendant acted alone, and he is completely and wholly responsible for Zachary's murder.

Five, "The defendant acted under the substantial domination of another person." No, the defendant acted alone, and he is completely and wholly responsible for Zachary's murder.

No. 6, "The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication." There has been no evidence that the defendant suffered from a mental disease or defect or of intoxication. As a matter of fact, Detective Mishler asked the defendant in his

videotaped confession, "On Thursday, were you drinking anything?" The defendant responded, "No. Don't drink." Detective Mishler then asked him, "Were you smoking anything other than cigarettes?" The defendant said, "Nope, don't do drugs.

All of the various records submitted by the defense revealed no evidence of any hallucinations or delusions. The defendant's thought processes were always fluid, and the content of what he said was coherent, relevant, and nontangential. There is no reason to believe he was out of touch with reality.

MR. BALDWIN: Judge, again, I'm going to object. That's an improper statement of the law.

MS. FLANNELLY: That's exactly what Dr. Lennon testified to.

THE COURT: Okay.

MR. BALDWIN: That's correct, but as to whether that is a mitigator rising to the level of emotional or mental distress, the fact that he is coherent is not --

MS. FLANNELLY: I'm allowed to make my argument.

THE COURT: Yeah, she can make her argument. Of course, you'll have your chance to make your argument. Objection overruled.

**MS. FLANNELLY:** And the last mitigating circumstance other than the catch-all phrase, "The defendant was less than 18 years of age at the time the murder was committed." The defendant's date of birth is September 2nd, 1972. The defendant was 20 years old at the time he murdered Zachary. As a matter of fact, he was only 18 days away from his 21st birthday when he murdered Zachary.

That leaves us with the last section, "Any other circumstances appropriate for consideration. Keep in mind that the Court will instruct you that neither sympathy nor prejudice for or against either the victim or the defendant in this cause should be allowed to influence you in whatever recommendation you may find. You will decide what, if any, evidence presented is appropriate for consideration as a mitigating circumstance.

In reviewing the defendant's evidence, we heard the following: Phil Needham, who worked with adult felons on probation, recommended that the defendant get immediate and intensive treatment, which the defendant did not do. Steve Criss, the defendant's paternal uncle, said he got angry with the defendant on one occasion when the defendant was 14 or 15 years old, and the defendant ignored him and walked away when Mr. Criss was talking to him. Mr. Criss said he hit the defendant once and

told him he wasn't through talking with him. The defendant did not require medical treatment and did not say he was injured. Mr. Criss did say, "The defendant is responsible for himself."

Billy Byrns told us that the defendant knew right from wrong. We looked at welfare reports, and we heard during Kris Ackerman's testimony that on October 30th, 1988, when the defendant was 16 years old and out trick-or-treating, that he stopped at a friend's house at about 9:30 p.m. when he was supposed to be home by 9 p.m.; that his father came by the friend's house, yelled at him, struck him, and threw him against a car. There were no marks left from that incident.

Marcia Stevens told the Welfare Department that they had problems with disciplining the defendant at home, that she had caught him drinking after curfew on a previous occasion, and because of the drinking incident, they were insisting that the defendant be home by a certain time. Marcia stated that the defendant was rebellious and refusing to behave in the family. Miss Ackerman did not substantiate abuse in this incident. Instead, she only noted there was indication of abuse with no service case opened by the Welfare Department. We heard during Marcia Stevens' testimony that after this incident, she took the defendant to counseling at Four County. She stated she recalled taking him to two or three appointments.

We've heard various accounts from the members of the defendant's family. On occasions, I wondered if they came from the same family since their versions and perceptions were so different. We have heard testimony that the defendant and his siblings moved to various residences during their childhood, their parents divorced when they were young, the mother's incarceration for the sale of drugs, the termination of her parental rights, the children moving back and forth from the mother to the father, the children being placed temporarily in a foster home, and their even taking care of themselves for some periods of time. And the stepsister, Michelle, being molested by the defendant's father and his incarceration.

Keep in mind, that in spite of this childhood, Angela who testified she was a victim of molest by her father, became the valedictorian of her high school class. Does exposure to this type of childhood constitute a mitigating circumstance to lessen the defendant's culpability for Zachary's murder? We're not talking about the defendant murdering his younger brother for hitting him or murdering his father for hitting him. We're talking about the defendant

murdering an innocent ten-year-old neighbor boy, Zachary. Was there any evidence presented to show any indication or connection as to how the defendant's childhood was relevant to his level of culpability for Zachary's murder?

I don't think that I've ever met anyone who claims to have had a perfect childhood. Sadly, many children grow up in dysfunctional families. Either we ourselves have experienced it, or we know someone who has. There are many victims of sexual abuse. There are many victims of child molestation. Is there anything worse to endure in your childhood than being the victim of sexual abuse? And I in no way mean to minimize the pain of real physical abuse and neglect suffered by children also. But your life's experiences, your wisdom, your common sense tell you that there are many victims of child abuse who having suffered that pain and knowing what it's like to be a victim choose to never molest or harm a child and choose to never inflict that pain on a child because they know what it's like.

A lot of people are victims, but they don't hurt others. Many of these victims of child abuse choose to devote their lives to prevent other children from being abused or to help other children who have been victims because they understand these children, and they know what they're going through. They are mothers, fathers, teachers, counselors, coaches, welfare workers. They choose law-abiding lives. They don't use their victimization as an excuse or even a mitigating circumstance to murder a child.

If Zachary had been the first child the defendant ever molested, perhaps the defendant's background would constitute a mitigating factor, but the defendant was already on probation for child molesting. His first known incident of child molesting took place when he lived with his mother in Indianapolis. He had been referred to counseling services several times whether it was by a Welfare Department or a counseling center like Katharine Hamilton.

Did you notice that the defendant entered the Katharine Hamilton Counseling Center on January 30th, 1992 after he had already molested a ten-year-old boy in Indianapolis and he never mentioned this fact to the professionals? He had an opportunity to get help for his problem, but he chose to hide it.

Did you also notice that his records at Katharine Hamilton also reveal that as an adult, the defendant went to his grandmother's house, walked into the room and said, "I will waste all of you," in reference to his family? Did you notice that his counseling was terminated after one

session because he did not follow up with outpatient services as recommended?

Does this mean that the defendant can choose to molest and murder Zachary and then point to his childhood as a mitigating circumstance to attempt to lessen his culpability for murder?

You know, the defense has referred to the defendant as a boy, but don't believe it. The defendant was 20 years old when he intentionally murdered Zachary on July 15th, 1993, just 18 days short of his 21st birthday. He sits before us as a 22-year-old, and we're to think he's still a boy? No, the only boy in this case was Zachary, the ten-year-old child he murdered.

If you think that there are any mitigating circumstances that are appropriate for your consideration, then your next decision is whether or not any mitigating circumstances that you decide exist are outweighed by the aggravating circumstance or circumstances by a preponderance of the evidence, ever so slightly. You then conduct the balancing test.

I submit to you that not only do all three aggravating circumstances outweigh any mitigating circumstances, but each aggravating circumstance standing alone outweighs any mitigating circumstances.

Remember the three aggravators: The defendant committed the murder by intentionally killing the victim, Zachary Snider, while committing child molesting. At the time of Zachary's murder, the defendant was on probation after receiving a sentence for the commission of a felony. The victim of the murder, Zachary Snider, was less than 12 years age.

Finally, after you've decided that the State has proved beyond reasonable doubt that at least one of the aggravating circumstances exist and that any mitigating circumstances that exist are outweighed by the aggravating circumstance or circumstances, you may recommend to the Court the death penalty or life imprisonment without parole or neither. And as I mentioned to you at the beginning of my remarks, the justice that we're seeking right now is your recommendation that the death penalty be imposed.

I know that that is a sobering and serious decision. During voir dire, we asked each of you if the evidence and the facts warranted it in this case, would you have the courage to recommend the death penalty, and each of you said yes.

The defendant showed no remorse in his confession. You have no doubt but that he and he alone committed this intentional hideous,

brutal murder of Zachary for purely selfish reasons. I now ask you to send a message to that man that he is responsible for having been convicted in February of 1993 for molesting a ten-year-old boy. I ask you to send a message to that man that he is responsible for having been on probation for child molesting at the time he murdered Zachary. Send a message to that man that he will be held responsible for murdering Zachary.

Ladies and gentlemen of the jury, after you review all of the evidence and facts presented to you, you can, with confidence, decide that this case cries out for your recommendation of the death penalty.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. BALDWIN:** Ladies and gentlemen, on behalf of Mr. Clutter, myself, and most of all Chris Stevens, we'd like to thank you for your attention, your patience, and your consideration in this matter. It's not often that someone is called upon to serve as a juror, and even less often that they are called to serve on a jury on a death penalty case. I assure you that we all recognize your sacrifices that you've already made, the ones that you're about to make in your deliberative processes.

One thing, I guess sometimes I become somewhat jaded from doing trial after trial is I sometimes get up here and thank jurors without really thinking more beyond that's the way to start a closing argument.

And I don't want you to think that in this case. I understand that you have all been separated from your families for three weeks. You've had a number of time where you're stuck in a jury room or hotel rooms or whatever else. I want you to know we truly appreciate the consideration and your time in this matter because when the State of Indiana wants to put a citizen of Indiana to death and citizens like you that are required to make those sacrifices, one thing I want you to remember: The State has brought out their little toys here, and all of the transparencies and all the transcripts don't mean anything as far as evidence. You've already heard the evidence. It's at this point that we simply try to characterize it and explain what that evidence may be.

Putting something up on a screen and marking through it does not make it evidence. In fact, the judge is going to tell you that all the evidence you've heard is to be considered by you as mitigating, and you're to give it the weight that you decide.

Now, Miss Flannelly mentioned she doesn't know anybody that's had a perfect childhood. I don't either, and I doubt that anybody on here, on the jury panel believes that they had a perfect childhood. Nobody's trying to set this up as a case that because it was less than a perfect childhood, Chris doesn't deserve to die for what he did.

But I submit to you, ladies and gentlemen, to call Chris's childhood less than perfect is like calling an elephant somewhat larger than a mouse. You're talking beyond apples and oranges. We're talking apples and watermelons here. Less than perfect doesn't even go near describing what Chris Stevens suffered as a small child. Going to a foster home and being told you're going on vacation and not seeing your mother for six to nine years after that is not less than a perfect childhood.

And one thing that I cannot get over in this case, and it was said near the end of Miss Flannelly's argument, is lessen the culpability for murdering Zachary. Ladies and gentlemen, you aren't going to hear anything from the judge about lessening the culpability for murdering Zachary.

You have already reached a verdict on Count I of the information. That was done in the guilt phase. You have found Chris guilty of murder, and if you remember back, when I did my closing argument as well all the way back to the start of this trial when Mr. Clutter did opening statement, did you hear either one of us ever claim that Chris Stevens did not kill Zachary Snider?

That isn't what this case is about. We're not trying to lessen the culpability for murder. There is nothing in the Court's instructions that say that. There is nothing in anything that we've ever argued about that. You were given a choice as to whether he was guilty or not guilty of murder.

Did I stand up here in closing and say it was somebody else, it wasn't Chris, his statement is totally false? No, you had a question, and I did argue that maybe there was an element of sudden heat, but did I ever say that Chris wasn't the person who killed Zachary Snider?

No, and the reason is that's not what this case was about from day one. The procedure to get to Phase 2, as the State explained to you in their little transparency during voir dire, is you go through Phase 1, and if you have a guilty of murder verdict here, we go into Phase Two.

And ladies and gentlemen, that's what this case is really about. This case is about Phase 2, and that's where we are now. You've heard all the evidence, not just the State's evidence as to whether Chris did it or not. I mean I'm not a big enough fool to stand up here in closing and tell

you Chris didn't do anything wrong. I mean if the State thinks that, then I've got something over on them because I've obviously confused them of quite a bit there.

Now, we're talking about whether the appropriate penalty for that murder, something we've never claimed that Chris didn't do. But now, you're being asked, and it's a unique position in Indiana law. You are the only sentencing jury that there is. In any other kind of criminal case in Indiana, there is no sentencing phase. There is no sentencing jury.

But because the State of Indiana wants you to put somebody to death, to end their life, we interpose 12 citizens, the conscience of the community. Conscience of the community, ladies and gentlemen, is what's inside you. It's your collective thought process. It's not the fact that we've got more TV cameras here than probably any case in this courthouse has seen in God knows how long.

This isn't about publicity or whether -- whatever else you want to throw into it. You all knew coming in, we talked about it on voir dire, that you had all heard something in one form or another about this case.

But now, ladies and gentlemen, you're the ones who have heard the evidence. It's down to this point where you're going to have to review that evidence, hold the State to their burden on the aggravators which I'll get to in a second, and then weigh that and decide whether an individual, not some abstract notion about child molesters or murderers or whatever else, but that a single individual that you are being asked to make -- pass a sentence on, that one, Chris Stevens, deserves to die.

The aggravators that they have alleged, they put their little transparency up there and underlined parts of it. Did you notice when it came to aggravator 1, the part they didn't underline? "While committing." Did Chris kill somebody while committing a felony or after committing a felony or before committing another felony? You remember his statement, ladies and gentlemen. What I would tell you or read to you out of a transcript is not evidence. You have to remember his statement and determine whether they've proven beyond a reasonable doubt that, in fact, that was during while committing the felony.

And one other point is beyond Chris's statement, did they produce any evidence to you of that felony? If you'll remember, I'm not going to read it to you. Remember back to your own notes. Detective Rice is going through, well, was it anal sex? No. Was it oral sex? No. And then Chris backs up as well, yeah.

You have to decide whether the evidence that they've presented to you is proof beyond a reasonable doubt. Did, in fact, Chris know what Detective Rice was asking him, first of all, and did it the way -- is that the way it happened, or was he just agreeing with Detective Rice?

Ladies and gentlemen, when you are asked to make a decision as to whether it's proof beyond a reasonable doubt to put someone to death, I'd say the State needs to present some more evidence, okay, because if there isn't, then they're asking you to take a statement made by the defendant, Chris Stevens, and put him to death on his own statement because there is no other evidence of that aggravator.

And yes, the State will say, well, Detective Rice did wonderful police work, but you will also hear from the judge that one of the mitigating factors that you may consider are the fact that -- is the fact that the defendant did confess.

So he has accepted responsibility from July 21st when he was first confronted and admitted to it. If it weren't for his own statement, we wouldn't even be to Phase 2. The law in the United States that goes back to constitutional times is that a person cannot be convicted on their own statement. I submit to you, ladies and gentlemen, that's exactly what the State of Indiana is asking you to do. They're not only asking you to convict him on his own statement. You've already done that. Now they're asking you to put him to death on his own statement.

There is no other evidence, and ladies and gentlemen, you've heard the statement. You've seen it twice now. It has been read to you again, or portions of it anyway, the portions the State wanted you to remember. You think back in your own mind. Was Chris's statement enough to convince you, if you had just been talking to him, of proof beyond a reasonable doubt that it happened that way enough to put -- to sentence him to death?

Aggravator 2, if I remember correctly, there were a couple little underlines on the transparency that you've seen before, and if you remember, it's quite a long paragraph. Ann Dubin testified, Chris McAfee testified, and there were certain documents introduced.

I'd ask you all to remember from when you were examining the Judgment of Conviction that listed -- the last one that said Class C felony or had actually what appeared to be Count I and the different shorthands and explained to you by Miss Flannelly. Did that have a judge's signature on it? No. There was no judge's signature on the Abstract of Judgment.

There is no signature on it, and so is there a valid conviction? And if there is even a valid conviction, did you hear anyone testify that it

was this cause number, the one she kept underlining and saying that matched up and that matched up? Sure, those documents matched up, but did you hear any testimony from any witness that that was, in fact, the cause number that this Chris Stevens was convicted under, or was that the cause number that Chris McAfee -- we had her whole testimony up here. Was there anything in her testimony that said, yes, I accepted transfer under cause number such and such from Marion County? No.

And in fact, review of her testimony says yes, I met with Chris Stevens. Did she say what he was on probation for when she met with him? She said it was a transfer out of Marion County. Is it the same one that the State alleged? Was it a felony? Did she ever say yes, he was on probation with a felony?

Now, I'm sure the State will stand up in rebuttal because, once again, they get another shot at all this. And say, well, ladies and gentlemen, use your common sense, da, da, da, da, da, da, da, da.

You can tie it all together. Ladies and gentlemen, if it's a decision you have to make because you have to make one and you look at it and go, well, I think that, yeah, those probably all went together, I guarantee you, none of you are going to stand on top of a building and say I'm going to bet my next step that there's another piece of ledge there on whether those all tie together or not.

We're not talking about some insignificant decision here. We're talking about whether they've proven aggravators sufficient to put Chris to death. And I submit to you that if you follow your oath and follow the Court's instructions and hold them to their burden, you're going to say wait a minute. If you want me to sentence somebody to death, then you don't go about it that sloppily. You bring in somebody who's going to tie that cause number to Chris Stevens that's sitting in front of me. You bring in the probation officer to say, yeah, I accepted transfer on that cause number. That's what the conviction was.

In fact, the only evidence they have in that he was on probation for a felony is that he may have said he was on probation for a felony, but that was when he met with Ann Dubin. At that point in time, he hadn't even been sentenced. So how could he even be on probation? Ladies and gentlemen, if they want you to put somebody to death, I submit they'd better do a damn better job of it.

Now, we get down to aggravator 3. I'll concede aggravator 3. Zachary Snider was ten years of age. I'm not going to stand up here and make an argument to you, ladies and

gentlemen, that he was anything older or wasn't a human being or any cock and bull story like that that I could give you. That's not the purpose here.

The evidence is Zachary Snider's birth certificate shows that he was born March 2nd, 1983, and my math is a hell of a lot better than the State's because I can figure out that that makes him ten years old on July 15th, 1993. But then we get to exactly the point that is characteristic of the State's entire case in the penalty phase. And ladies and gentlemen, I'll ask you to use your common sense. July 15th, 1993 to September 2nd of 1993 is not 18 days unless somebody took out the whole damn month of August that year and I missed it.

That's the type of leap of faith that they are wanting you to do in order to say we can take away Chris's entire life. We can take away the beatings with two by fours. We'll take away the kicks with steal-toed military boots. We'll take away the fact that he was abandoned by his mother, that he never knew where he was going to be the next time he turned around. Take all that away. We're going to wipe all that clean, and take away August, too.

The simple fact is you can't take all of that away. And no, I don't agree with the way she marked out things on mitigating factors because that's for your determination. I'll tell you what I think the evidence is and how you can relate it and what it may have been and what it means, but I'm not going to mark it out in front of you because that's your determination. I'll tell you what, as much as a lot of people wouldn't like my job, I'd rather have my job right now than I would yours because you are the people that are going to have to make the decision. And jumping through the month of August as if it didn't even appear is not how to make the decision that you're charged with.

Yes, Mr. Needham testified and so did Steve Criss. Marcia Stevens said she took him to counseling. However, you saw the records that she never did because the welfare workers did, and Joe doesn't remember it.

Ladies and gentlemen, I am not going to tell you that anything that happened in Chris Stevens' life explains or excuses the events of July 15th, 1993. It doesn't, and he will have to suffer the punishment for that. There's no question about that. You have found him guilty of murder. And the Court will tell you that even if you come back with no recommendation as to death or life imprisonment without parole, Chris, at age 22 now, emotionally age 12, will spend the next 30 to 60 years in prison, more time than he has even been alive. That is if you go the entire

other end from the death penalty to no recommendation as to either one.

And I'm sure this is not why the State put Tracey Easton on, but if you think that justice equates to anything more than punishing someone for their wrong, then I have another definition of justice. Justice is that Chris would be punished for what he did wrong, and Tracey told you what it was -- told you what a risk he was taking being here to testify.

Ladies and gentlemen, I'll submit to you he plans on getting something out of this. If you think he's just doing it out of the goodness of his heart, then you don't know Tracey Easton. But Chris will have to suffer more than that. Chris will be imprisoned for 30 to 60 years, even if you come back with no recommendation at all. Just think about whether that's justice. Is that punishment? Yes, that's punishment.

You have all figured out from our questioning during this time that Chris has been in jail since July 21st, 1993. And if you come back at the far end from the death penalty, he's still going to spend the next 30 to 60 years in prison. It's longer than he's been alive. It's almost 30 times longer than since what we were doing July 15th, 1993. Can you remember what you were doing July 15th, 1993? July 21st, July 21st, 1993, Chris's last day of freedom, thirty times the amount of time that's passed since then. That is punishment.

Now, you're going to hear a number of instructions on the mitigating factors. Some things I'd like to remind you of that we'll present in mitigation. I don't want you to ever, ever think that anyone is trying to excuse Chris's action. I don't want you to think that. That's not why we presented that evidence to you.

You're going to be asked and already have been asked by the State of Indiana to put Chris Stevens to death, and I think it's only fair if you're asked to pass sentence, you know something about him. It doesn't mean you have to say that excuses July 15th or that makes it okay that he killed Zachary Snider. I'm not saying that. If that was, that would be a defense to Phase 1, not Phase 2. That's why we have this separated out.

You think about how his own parents have described his life, and believe me, ladies and gentlemen, Miss Flannelly said today even belong in the same family, they were inconsistent. Ladies and gentlemen, I submit to you, use your own common sense. That's got to be difficult for those people to come in and admit to you the mistakes that they made and how that's not only had an effect on their own children's lives, but also on Chris's and now on Zach's.

It's not an excuse. It only explains how we get from point A to point B. And when you think about Chris's life, I don't know how you can say it doesn't have something to do with the way he turned out. I just -- I'm beyond how the State can make that argument.

You're being asked to end a life, and if it came down to it that there was some way that ending Chris's life would change the events of July 15th, 1993, then it might make more sense. When you think of it now, what they're asking you to do, is that going to take away the events of July 15th, 1993? No, because that was the issue in Phase 1, and now we're in Phase 2, and we're on a whole different issue here.

The State started out their closing argument calling it -- asking you that you hold the defendant responsible for a hideous murder. You've seen the State's aggravators. I didn't see hideous in there because the facts that make it hideous aren't what you're to consider. It's not a point in this phase.

The point is do the facts they've alleged, the aggravators that our judicial system and our courts and our legislatures established as to you're to consider whether this makes this an appropriate case for the death penalty are -- hideous is not one of them.

The three aggravators are, and we've gone through those. Now, you're going to have to weigh those and all the mitigation and whatever you want to consider is mitigating and whatever weight you want to give it. The bottom line is if you find those three aggravators and then say but they outweigh all the mitigating, I have the last question for you, and the last question is even if that is correct, you have to then go to the next analysis, and that is, is death the appropriate penalty? Is life without parole, life without -- life imprisonment without parole the appropriate penalty, or is a term of years the appropriate penalty?

Ladies and gentlemen, as you look back through your notes and your recollection and deliberate with each other regarding the mitigation evidence, don't look at it as an excuse. Don't look at it as a reason to explain July 15th, 1993, but look at it as what it is, and that is Chris Stevens, the person you're asked to be sentenced to death.

Ladies and gentlemen, the bottom line is if you kill Chris, is Zach going to walk in the door when you do it? No. That's why there's a difference between Phase 1 and Phase 2 because there is nothing that you do that's going to change the fact that Zach is dead.

And that's where we come to Phase 2, because killing him isn't going to change the facts. You have to understand, though, that

when you look to kill somebody, and that's what they want you to do, you have to look at the person.

The old eye for an eye has been long gone since biblical times. The bottom line is, is sentencing somebody to die, and in particular sentencing Chris Stevens, emotionally a 12-year-old, to die doesn't change July 15th. It just changes the future. Chris will be punished for what he did without putting him to death.

I'd ask you to consider that. That's a decision I wouldn't want to have to make, but you're going to have to realize that whatever decision you make isn't going to bring Zach back, and I hope you realize that killing Chris isn't going to make anything right. Thank you.

#### **CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. BREWER:** Okay. On the aggravators, ladies and gentlemen of the jury, I think Anne went through those thoroughly, and I think the only thing that you have to ask yourself is do you find beyond a reasonable doubt that the defendant did kill, intentionally kill Zachary Snider while committing child molesting? Do you have any doubt of that? They've stipulated he's ten years old. There's no doubt of that. There's no way for them to argue.

Is there any doubt in your mind unless it's speculative doubt, and we're talking reasonable doubt, that he was on parole at the time this killing took place? Ladies and gentlemen, from the evidence, I don't see how there could be. All three aggravators have been proven. All three aggravators have been proven beyond a reasonable doubt. And then the question is, is the weighing process, the mitigators, what are the mitigators that you want to look at and give some weight?

We talk about or heard this statement about an emotionally 12-year-old, and -emotionally 12-year-old. This letter to Tracey, and I'm not asking you for -- you've seen it before, but I want you to look at the content, the sentencing structure, the ability to communicate the idea. Is that a 12-year-old communicating? The handwriting, is that a 12-year-old's? Is that a person who has a 12-year-old emotional point that -- just read it, not -- look how it just fits together. It's a person totally able to communicate. That is a man's writing and a man's ability to communicate.

The letter to Marcia, good sentencing structure, ability to communicate. Is that a 12-year-old? That's a man writing that letter, not a 12-year-old.

What was it Dr. Lennon said about one of the things he advocated, the Man/Boy Association, love association? He's describing himself as a man. He's not the boy in that thing that he's trying to promote. He's the man, not a 12-year-old.

You know,, if you really want to look at what this case is about, you've got to look and focus on what happened on July 15th, what type of person there was, the intentional killing of Zachary Snider. Put a pillow over his face, wrapped a cord around his neck, wrapped it around again. And Zachary's talking back, pleading, begging, and here is a man. It's not like just pulling the trigger on a gun, boom. Man, it's over, you know?

But here's a person who had time to think about what he was doing, and he never stopped. How long did it take? we have no idea. A minute, two minutes, three minutes? Time to think. Did you ever think and really sit down and test and see what time's really like?

Let's try just a little experiment for two minutes. I'm going to ask you to shut your eyes a second. When this thing goes off, it's going to be two minutes. Just shut your eyes, and let's see how long it takes. Shut your eyes.

MR. BALDWIN: Judge, I'm going to object. There's no evidence for this to be related to one of the aggravators. How he came up with two minutes, I have no idea.

MR. BREWER: Your Honor, I can -this goes to argument on intention. That's part of the things we have to prove at this phase is intentional killing.

THE COURT: All right. objection overruled.

**MR. BREWER:** Let's do that again. Start. (Two-minute pause in the proceedings) Two minutes. Seemed like eternity for Zachary Snider. It was. Two minutes for a human being who had a little child in his hand under his control to stop, say whoa, this is wrong. But did he?

Here is a man who, yes, maybe had some - he did have problems from a family. There's no doubt. You know, we're not arguing that point, but does that justify what he did? No. And when you look at the mitigating, and what you're doing at this point is weighing, a scale of justice, weighing, I submit to you that all those mitigators that they've put before you, if you are a scale, it's like putting a half a pound of butter on one side. Yes, it tilts, but then when you put the aggravators in, it's like dropping a brick on the other side, it slams to the floor. The aggravators far outweigh the mitigators in this case.

Ladies and gentlemen, really what you're down

to is this. Let me say one thing before I get to the point you're down to. When you look at a person and their youth, you know, those are things that come to their advantage perhaps when they're dealing with children that is their prey.

If he looked a lot different, would that make any difference? Would it be fair to say a wolf in sheep's clothing to children? Think about it. And what you're looking at, ladies and gentlemen, is when you have a crime where a person who has been sent to prison for child molesting, he doesn't get the word, that child that he molested, that child that he killed, that was not his child. That was somebody else's child. That was somebody else's playmate. And somehow, some way, he's got to understand those children are not for his to play with just like any toy.

Ladies and gentlemen, when you look at crimes, we talked about that scale. Number one, there is no way that I can see that this jury from the evidence could come back and make a recommendation against life without parole or the death penalty. When you go back to your jury deliberation room, ask yourself this: Is this the kind of crime that crosses the line? Is this the kind of crime that crosses the line and begs for the most serious punishment that the law will provide?

And when you weigh all the circumstances and the evidence and the aggravators, ladies and gentlemen, I don't see how from the evidence that you've heard in here that you could not say that that has crossed the line and deserves the most serious punishment that our law will provide.

And then the next step is the question: What is the most serious punishment? And I think you know what that is. That's the question. What recommendation are you going to make to this judge? What kind of recommendation are you making as the conscience of this community? You don't kill children, period.

[The jury unanimously recommended a death sentence for Stevens, who was sentenced to death by Judge Heid on March 14, 1995. The conviction and death sentence was affirmed on direct appeal by the Indiana Supreme Court at Stevens v. State, 691 N.E.2d 412 (Ind. December 31, 1997). ]

The death sentence was reversed on appeal to the U.S. Court of Appeals at Stevens v. McBride, 489 F.3d 883 (7th Cir. June 18, 2007). On remand for a new penalty trial, the Death Penalty was withdrawn and Stevens was sentenced by agreement to Life Without Parole in 2009. ]

# CLOSING ARGUMENTS

## State v. Timberlake Marion Superior Court 1995

**CASE SUMMARY:** An ISP Dispatcher was requested via radio by Trooper Greene to run a records check on Tommy L. McElroy and Norman Timberlake. She responded that Timberlake was not wanted, but there was an outstanding warrant for McElroy. Trooper Greene advised that he would be outside the car securing the subject. Two minutes later a female voice came over the radio stating, "Help. An officer's been hurt." A number of passersby along I-65 gave various eyewitness accounts. Most had seen the officer attempting to put handcuffs on a heavyset man while a skinny man with stringy hair watched nearby. Two witnesses observed the skinny man lunge toward the officer, sticking his right hand up, and the officer fell. McElroy is a heavyset man, Timberlake is very thin. Officer Greene was found to have died from a single gunshot wound to the chest. A muzzle burn was noted on his chest. Later the same afternoon, an Ameritech operator received a call from a Norman Timberlake requesting to make a collect call from a pay phone. The operator was aware of the shooting, and aware that police were looking for Timberlake. She called the police, who responded to the scene of the pay phone. The man in the booth was asked his name. He responded that he had no name, and reached with his right arm. The officers grabbed him and recovered a .25 automatic handgun from his right pocket. This gun was tested and confirmed to be the murder weapon. The man was Timberlake. McElroy testified at trial that Timberlake shot the trooper while he was being taken into custody, then both of them jumped in the car and Timberlake said, "drive." Another man, who was with Timberlake and McElroy for a few days earlier, testified that the gun was his and Timberlake had taken the gun from him.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE STATE OF INDIANA.**

**MR. NEWMAN:** May it please the Court, Ms. O'Connor, Mr. Baratz, members of the jury, you have heard all the evidence you are going to hear in this case. We have completed the guilt phase of this case and you have found Norman Timberlake guilty beyond a reasonable doubt of the murder of Michael Greene. We have completed the penalty phase of this trial and these were the phases that I described during jury selection.

The penalty phase of the trial, as you recall, the burden is again on the State beyond a reasonable doubt to prove to all of you the existence of an aggravating factor in this murder, and in this case there is one aggravating factor, and it has in fact been proven beyond a reasonable doubt, and that is that Mike Greene was a police officer acting in the course of his duties and that the defendant, Norman Timberlake, when he murdered Mike Greene knew that.

It's further demonstrated by what we see here he knew it all along from the time that he told Tommy McElroy the police were coming over crossing the median and heading their way to the time he dealt with Mike Greene and right up until the time that he shot Mike Greene.

So the State has to prove that to you beyond a reasonable doubt that that aggravating factor exists, and then what happens is that you are to engage in a weighing process, and the Court will instruct you on this balancing, weighing that factor against any mitigation that may be presented by the defense, and we told you at the beginning that we couldn't speculate on what choices the defense might make in that regard and the defense has made their choices and no mitigation has been presented.

So when it comes to weighing that aggravating factor which has been proven beyond a reasonable doubt against any mitigation, there is no mitigation to weigh there, and that weighing in essence has been done and is conclusive and so the only question that remains to you in this penalty phase is will you follow the law and will you then decide to impose the death penalty in this case. And that's the issue that we face.

And we also know that there is no evidence that the murder of Mike Greene happened in any other way but by the way the State presented the evidence to you and the defense presented the evidence to you and that it happened any other way but the way that was described. We know this.

We're now at the phase that we talked about in jury selection where I asked you if it was proven beyond a reasonable doubt the defendant was guilty of the intentional murder of a police officer, knowing him to be a police officer, and that that aggravation outweighed the mitigating factors, which there are none now, could you, would you impose the death penalty, and every single person, every man and woman of you sitting in that box said that you could.

It's an awesome responsibility. I don't minimize that. I'm -- I know that Miss O'Connor will get up and tell you how awesome that responsibility is and tell you that you'll have to live with that decision for the rest of your life. That's almost an insult, insult to you.

As I look at all of you, you are not the type of people that impose a decision like this based on whim. This isn't a garden party. I see the stress that this case has on every single person in this courtroom. I don't minimize that. It's an awesome responsibility and an it is one that I share. I share it with you because I am -- I'm the Prosecutor of this county and I have to make the decision which cases are appropriate to seek the death penalty, and I am seeking the death penalty and I am standing before you. I'm not passing the buck. I'm not asking my deputy to do it. I am coming before you. I am assuming that responsibility and I'm sharing it with every single one of you in asking for this decision because it's the right thing to do. It's the right thing to do, and for no other reason than it is the right thing to do, it's the just result, so I'm here with you and I'm taking responsibility.

Let me talk for a minute about what this process is not. This is not a debate about the pros and cons of the death penalty. Why not? Because the legislature and the people of the State of Indiana have already decided that the death penalty is an appropriate penalty for aggravated murders and particularly for murders of this kind, the murder of a police officer in broad daylight knowing him to be a police officer in the course of his duty. That decision's been made so this isn't what it isn't, and you go back.

There is a debate about the pros and cons of the death penalty. It's appropriate. The people of Indiana have said so and through the laws they have asked you, you folks sitting right there, to shoulder that responsibility with them and to carry out those desires expressed through their laws.

They are not just a bunch of laws on the books. Laws like this one are expressions of the highest ideals and values of our society in Indiana. They are expressions of the value we place on human life, not a shirt and tie on a rack. We know there was a man in this shirt and tie, a real human being, and the law that has been given to us that puts us in this position and in the roles that we place now is an expression of the value we placed on Mike Greene's life and an expression that no, as a society we are not helpless in the face of the most horrible crimes. We are not helpless.

Some of you I'm sure, probably all of you will think to yourself as you deliberate this well, isn't killing wrong, isn't killing wrong? In our law killing is not always wrong. Murder is wrong, but in our law as you know there is a concept, for example, of self-defense. Many of you mentioned it during

jury selection, self-defense. A killing is justified by a person when done in self-defense. You can't be charged with a crime if you do it in self-defense.

The death penalty is society's way of defending itself. It is Indiana's way of self-defense in the face of an act of war of aggression against itself, and what greater act of war is there against our society and everything we believe in and everything decent people believe in but slaughtering a police officer in broad daylight by the side of a road. That is an act of war and we as a society have a right to defend ourselves and this is how we do it and the laws are given us to do exactly that. And for better or worse I'm standing here with the role that I have, asking you to assume that responsibility with me and make the decision to follow the law.

You talk about war. You know, we live in a society where we send some of our finest young men and women, the finest flower of our youth as a nation abroad to fight unseen foes and enemies all over the world in the interest of national security, surely some of them to lose their lives, to pay the ultimate price on behalf of this country, some of the best young men and women you would ever want to meet.

That's what we do as a society in the interest of national security, and what this law says is that also as a society we are willing to send the most reprehensible people who are themselves guilty of assault on our security right here at home, not in Iraq, right here, right among us to their deaths. And that's just and that's right and I make no apologies for it and neither should you.

Because, you see, Norman Timberlake condemned himself on February 5, 1993. Not by anything he did today but because on February 5, 1993 he murdered a police officer. He sent himself to death. You didn't do that to Norman Timberlake and you won't be doing that by your decision. It was Norman's decision. That's what brought us here.

Now, the Judge will instruct you about the sentencing alternatives available in this case, and you are going to learn about those and you are going to learn that murder in this case is punishable by either death or imprisonment of anywhere from 30 to 60 years.

Those are the alternatives and it's for the Judge to pass those sentences ultimately after your recommendation, and you'll also learn that there is good time credit where the person can earn a day off for every day they serve good time, so they might potentially serve half that sentence, and the Judge will also tell you that he's not going to go into describing clemency and parole and sentencing modifications and other forms of early release. The Court will instruct you about that. But use what you know from your experience.

Here's what you know. What you know is that murderers get out of prison. Sometimes murderers get out of prison. We know that in our common experience. Murderers can get out of prison but they never get out of a grave and neither will Michael Greene, neither will Michael Greene ever again.

I see that Ms. O'Connor - excuse me, if I may borrow this -- has brought Kleenex. And I know that she has a job to do and she has invested in this case I'm sure hundreds of hours, and I understand that and I acknowledge her right to cry.

But if you want to cry about something, cry about a guy who was doing his job who was shot in the chest, who was doing his job protecting us, taking care of us, upholding the law who was shot in the chest who lay on the ground whose head was against the cold pavement. You want to cry about something, cry about hot lead ripping through his chest, tearing holes in his aorta. You want to cry about something, cry about the raised eyebrow and the smile that his friends and family will never see again. You want to cry about something, Ms. O'Connor, bring enough for everybody. Bring enough. We all need it.

Remember what John Chester said from the stand, that this case affected his life. He said he could never drive down the street without seeing a police officer and wishing him well. You know, even as we stand here, there are -- in Indiana State Police alone, there are over a thousand men and women on the roads and the streets and highways of this state, and they are pulling people over and they are walking into situations alone, not knowing what they are walking into. Think they make a lot of money? Do you think they do it because they are rich?

They do it out of service. They do it every day. They walk into situations of peril where they don't know what they are facing every single day. Right now there are people by the side of our highways and there are officers approaching cars not knowing whether that may not be the last day of their life, every single day those men and women, and they need to have the peace of mind of knowing that their lives are valued, if nothing else, of knowing that if they're going to be willing to make that sacrifice every day of their lives when they get up and put this stuff on, that we at least will value their lives sufficiently to punish someone who deserves it according to those laws that I described to you.

Give those people that peace of mind. Give Mike Greene peace. Give everybody who ever knew Mike Greene peace. Give his friends and family peace. Give us justice. Thank you.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MS. O'CONNOR:** Good afternoon. You know, I thought for a long time about what I could come up and say, and I can't come up and scream and appeal to fear and community and law enforcement and things like the State can. I can't. And I thought real long and hard and the only thing I can say is don't kill him. Don't kill him. I'm not very articulate like Mr. Newman and it's not easy for me to talk as well as he does and apply metaphors, and there really isn't a lot to say.

I suppose you are wondering and obviously the State was wondering and they told you how could I come here, how could I stand up here and ask you to spare the life of a man that you hardly know? How could I do it? And I'm sure that's something everyone must wonder, how?

Because it's easy to see the value that Trooper Michael Greene had, and I can't stand up before you today and say that Norman Timberlake was a better person than him, I can't do it. I can't stand up to you and say that his life was worth more than Mr. Greene's to either himself or to his family. I can't.

We all know that he was -that he was a nice man and a good officer, and nobody can take that away from him, not even in death. Not even Norman can take that away from him. And so that's -that's a given. But what I can ask you about is the value of all life because that is something that people do value and I hope you all do, too. That it is real easy to judge and say some people's lives are worth more than others and some people are better people than others. I'm sure you all know people that you like better than others. I'm sure you know people that you think are better than others.

And for some people it's very easy, it's very easy to like someone, to feel that they're good, to feel proud about them, to feel all those things. It's not hard to treat them well or to honor their memory, but no matter what we do, it doesn't change things. It just doesn't. No matter what we do to Norman Timberlake, we can never bring Mr. Greene back. I mean we can all cry for him. I have. But we can't bring him back. Killing Norman Timberlake or anyone else won't do that, nor will -- we all value law enforcement. I mean that's why we're -- you're all law enforcement people, you're all members of the community, that's why (inaudible), because you value the law and you said you would follow it.

And we know that there is police officers all -- everywhere throughout, throughout this - throughout this county, throughout the state, throughout the world. I have a sister that's a police officer. We all know them and we all know the risks that they take and we feel sorry for them and we hope and pray for them, but the things that they do and situations they go into won't be affected by

what happens to Norman today because this is just a decision about one man and one case. We all wish them well but killing him won't save all them. If that were the case, then they would have all been saved. Mr. Greene would be alive because of the last person who was killed for burying a police officer.

But the death penalty has been around since the beginning of time. It's been around in Indiana. Again, we used to have it, the Supreme Court said it was unconstitutional because we decided to kill everybody across the board. It was random, it was arbitrary and it's supposed to be. There are times, as Mr. Newman is right, they say there are times that it can be appropriate but it's never ever supposed to be mandatory, not in this case, not in just the killing of a police officer, not ever. Times that you all might think it's appropriate but it's never supposed to be mandatory. And, in fact, even when it was, it didn't stop anybody from being killed. And so it's ironic that there was a time Supreme Court said it had to be -- it could never be -- our Supreme Court and the United States Supreme Court said that it just couldn't be arbitrary and it couldn't be mandatory and so states did away with it.

One of those states was New York State. It's interesting that just this year that was the big thing in the election in New York State, they had to -- the whole election basically was run about the death penalty. That's -- the two candidates of -- the Governor, Mario Cuomo, been Governor for years, had never approved of it and his competition, Mr. Pataki, thought that that's what people should have and it was because of people's fear of crime, which is legitimate, it's because people were concerned of crime.

One of the main reasons that they wanted the death penalty was because of the fear of crime in New York City. That's the reason they would want it in New York State was because of what was happening in New York City, but it was ironic that the year it was started, that was the fifth year in a row that the murder rate of New York City had increased, the fifth year.

**MR. NEWMAN:** Your Honor, I'm going to object to comments not of evidence in this case.

**THE COURT:** Objection sustained.

**MS. O'CONNOR:** Your Honor, Mr. Newman brought up the public safety factor. I'm just telling them that there is other ways and there are. There is punishment.

You have held Mr. Timberlake accountable, Norman. You have convicted him of a crime, and as Mr. Newman told you, he will be punished. You have heard the sentencing range. He explained

them to you. You see that he can go to jail. You know he'll be sentenced by this Judge and you have seen his age.

Norman Timberlake is going to die in jail. It's just a question of when, and that's the thing now is this isn't -- this isn't some abstract thing. I mean when we asked you before on your questionnaires about what the death you thought about the death penalty, a lot of you said that you hadn't really thought a lot about it. Some people were against it. Those are obviously none that are on the jury today. And some people thought they might be for it, some thought they were totally for it.

But it was just something that you thought about in the abstract. You didn't have to think about it, and then even when we talked about it in voir dire when the State asked you questions and we asked you questions, some people said well, you know, I kind of had to think about it to fill out the questionnaire, and now that we are talking, I thought about it some more. And a lot of people were surprised when they examined their opinions and thought about it and some people did say that they thought -- well, some people thought that they approved of it a lot and some people thought maybe they didn't approve of it as much as they did and some people just thought they would have to think about it and consider it and that it was an awesome responsibility.

It is and it should be. It should be. It shouldn't ever be mandatory. In fact, neither our Constitution nor the United States allows it to be, and the statute is very easy, you heard him say that. We know the aggravator is proven. We know it wouldn't be very hard for you to do any weighing, but what you can do is not do it and that's why, as I said, I wish I could think of some scripture to read to you or some movie to tell you about or some quote or some passage, and I can't. I tried to think of some good analogy to you that would really, really send this message home and make you feel -- make you feel that you shouldn't do it in this case, but it's an individual decision and maybe there is individual things about each of you that you could think about before you would do it that you would think about it in some way, and you would, because no matter what, the statute says you may.

It doesn't say you should. It doesn't say you shall. It says you may and that's all I can do is just beg to you in this case not to do it. Just beg, just plead, just because Norman Timberlake is a human being, just because all life has value. Just because you take away one life doesn't mean that you are -- that you can bring that person back.

Certainly that should be true. Mr. Newman's right. If somebody's convicted of murder, they should be punished. A lot of people are in prison punished for murder and he could be one of them.

We can't take -- the dignity of Mr. Greene will never be taken away and Norman Timberlake should be punished, there is no question there. We are not relieving him of responsibility. There is no excuses. But we all think in religions and other personal thing. Some people are religious, some are not, and everyone is in their own way and so what they think about, but religion isn't just about punishing people.

It's also about compassion and empathy and caring about the people that society or individuals care the least about. And he is one of those people. It's real easy not to like someone like him. It's real easy not to care about someone like him, but that's why you should. That's why you should ask about -- care about him, because it's more difficult.

And we heard about wars, acts of war. This is an act of war and this is our self-defense. But we are all living in the society, and the best way for us to get along is to figure out a better way to do it. To kill somebody and show that killing is wrong doesn't change it, and that's what we have always been doing and it hasn't helped us, it hasn't stopped.

Talked about his acts of war and he mentioned Iraq, and there is a place you can think of and think about how people are being -- fighting and killing there all the time or almost anywhere in the Middle East or in northern Ireland or in Bosnia, for example. I remember once there was a place that I thought was called Yugoslavia. We studied about it as part of the Cold War. Suddenly that was gone and now there is people that fight each other and kill each other.

They've all called themselves those names and made all those republics we never heard about, and to them it's acts of war is to kill each other, and they do. One kills, another kills, another kills, another kills, and that doesn't solve their problem any more than it solves ours.

There must be some answer, and I'm certainly not smart enough to tell you what it is, and it's all I can do is hope and ask you to think about your oath and think about the things that we talked about, and just this once just really think about it individually as you are required to do, not jointly, not as a society and not because Mr. Newman as the Prosecutor has asked you to or not because you are worried that somebody else is going to be mad about what you thought; but in your own heart and conscious think about it, somebody as an individual that has life, somebody -- and that all life should have some meaning, all life.

Because we talked about this in voir dire and some people said it would be a very difficult decision. Some people said they couldn't do it. Some said it would be awesome that -- they would think. One of the jurors said that it should be

automatic and, in fact, it was a burden to ask the jury to do it, said it would be easier if the Judge could do it because then it could be done as it should be done but it was a burden for the jury. But that's why you are here and it is a burden. It is something hard and I don't mean to insult you. I would never come here and insult you and act -- say what the State said I would say, that you weren't taking your job seriously. I would never mean to do that. I understand that all cases making a decision ever as being in judgment is not an easy thing to do and you've all been very serious in taking this responsibility very hard, and I hope you will continue to do it.

So I don't -- and to ask you to do your job shouldn't be an insult because we are-all proud to do that, we're proud to be in this society, we all agreed, and Mr. Newman even said before it was the best society, the best way, our criminal justice system was the best way, and so that's what we what we have to do.

This is the best way. it should be a burden. It shouldn't be easy to kill somebody. it shouldn't be automatic, and you have punished, you have convicted Mr. Timberlake for killing Mr. Greene because murder is wrong, but here we are not talking about -- the decision now is whether you'll kill Norman Timberlake. And I have got to ask you, I have got to beg you because that's all I have left and that's why I'm just asking you as simply as I can, and I suppose I could cry if Mr. Newman wants me to, bring lots of tears and all those things that would help, but it's too late to cry.

It's all I can do is appeal to each and every one of you individually, just to do what the law allows, just to do, just to think about it, not automatic, not that you found someone guilty and that's the next thing, that the rest of society will be on your shoulders, the whole fate of our world and our country will be because you decided to spare a man's life, because all life has some value. That's all I can of to spare one all life has do is just ask you just this one time just to think about it, to consider it, each and every one of you as individually as you can, and really make that decision and understand that it is a personal one and that all life has value and we are not -- we arenot saying that Norman deserves to live more than Mr. Greene, and we are not saying his life has more value. We are not saying that.

I was hoping that there might be some better way for all of decide, to think and -- as but perhaps you could find a way for us make society better, a way for us to get along that we wouldn't have to, that people wouldn't kill.

If we can do all the things we can do in the world, make wonder drugs, go to the moon, there is all kinds of analogies, I thought I could tell you about how great our society is and if we can do all

these things, why, why do we have to kill each other, but I can't make it work for you. I can't tell you the right words that would matter to you or that would sound right or wouldn't sound like fake or trick or anything, so I'm just saying as a human being, this is a man you know very little about and all life has value, and please don't make it automatic. Please don't decide that that's all you have to do is go back there and say yes, there is aggravation, there is no mitigation, this is what we should do. Please don't do that.

Because when we are talking about the law and what the Courts have said and what the statutes have said, and there is a statute here that was created by the legislature about the death penalty but it was created years later, years after our Constitution was written, and in Indiana the people that wrote our Constitution carved out a whole section, Article 1, Section 18, about the prison system, about the penal code and in there they said it was based on rehabilitation, it should be. All our laws, all our decisions should be based upon that.

That's what when our state was founded people thought was important and should be considered, and it's still our Constitution. It's just the law as much as everything else and that's why we have this ability. That's why it can't be mandatory for you to think, for you just not to make it automatically and actually consider the value of life.

Because as he pointed out, we could point out, we could be here for weeks and years talking about the goodness of Mr. Greene and no one can take that away from him, and murder is wrong and people should be punished. That's all there. But it is, it is the way societies can be judged, it's the way individuals can be judged it's sometimes not by the way that they treat the best of society or the nicest or the greatest because that's easy, it's easy. But how we can as human beings, as individuals, as people, how we can treat the worst. If we can treat the worst people with dignity and respect and value anything at all of them that there is to value, then we are getting somewhere and we are getting better.

And I'm sorry, right now I can't cry. I can't cry. I can't get on my knees and use all those Kleenex and I just can't do it because it's just too late for that. It's all I can ask is simply and as eloquently as I can is don't kill him. Please, please don't kill Norman Timberlake.

#### CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE STATE OF INDIANA.

**MR. NEWMAN:** Ms. O'Connor says that she can't cite words of famous men or the Bible or authority or movies or plays or anything to support her message to you that she just delivered, and I suggest to you that that's because there is no message. There is no message there. She's just asking you to not follow - to not impose the death penalty. That's the message. There is no message.

She talks about New York City. This isn't New York City. In New York maybe they haven't had the death penalty, in New York City they haven't had the death penalty. If we wanted to live in New York City with the level of fear that exists there, that's probably where we'd be, but we live here.

She talks about Bosnia. Why is Bosnia and Iraq and places like that, as dangerous as they are, why is human life so depreciated in these societies? Because there is no law. There is no system of justice like we have here. There aren't all of the rights accorded to the people that have been accorded to Norman Timberlake in this case, the kinds of rights that Mike Greene never had.

Because we live in a society where you folks are a barrier against injustice. I mean I can't sign a piece of paper and go to the Judge and ask him to impose the death penalty. I have to come to you and I have to ask you to share that responsibility. You are the barrier against lawlessness and injustice and I have to ask you.

And it may seem unfair to you. May say why me, why couldn't it be someone else, and in any given time in our life we make those sacrifices, but there you are. You are the barrier against injustice, you're what separates us from being in Bosnia, and that's important, and indeed you even separate us from-being in New York City for that matter.

The law makes me responsible and it makes you responsible., and I'm asking you to follow that law which says that this is an appropriate case for the death penalty. Not mandatory, certainly, that's not the point.

You know, I only got to talk to you two ways one time during jury selection. We had some conversations and we haven't been able to talk since. It's strange, I have to speak to you and you don't get to speak to me and we don't get to talk, but I do feel during the course of the last two weeks that I have kind of come to know you somehow just by being in this room with you and watching you. Of course, I do watch you. You wouldn't be sitting in those chairs if everybody in this room didn't feel that you were strong enough people, strong people, strong enough to come

back and follow the law and do what the law says and impose just punishment in this case.

We can't bring Mike Greene back. Miss O'Connor is right, we can't bring him back, but we can make sure that his death is not in vain, and that's what we're about. And you may think that I'm a hard man to come on behalf of the people of Indiana and ask you to do this, but I am not a hard man. This is hard on all of us. I have compassion. I have compassion for Norman Timberlake, and I have compassion for everybody, I care. But you know what, I'm not ashamed to beg. Ms. O'Connor isn't the only person in this courtroom that can beg.

I am standing here now and I'm begging you for justice. I am begging you on behalf of Mike Greene and everybody that ever knew him and the people of the State of Indiana, I am begging you to do justice. Please do that.

[The jury unanimously recommended a death sentence for Timberlake, who was sentenced to death by Judge Moellering on August 11, 1995. The conviction and sentence was affirmed on direct appeal by the Indiana Supreme Court at *Timberlake v. State*, 690 N.E.2d 243 (Ind. December 30, 1997). Timberlake died of natural causes on Death Row in 2007.]

# CLOSING ARGUMENTS

## State v. Wrinkles Vanderburgh Circuit Court 1995

**CASE SUMMARY** After continuous marital problems with her husband Matthew Wrinkles, Debbie moved out of the house with their two children, going to live with Debbie's brother, Tony, and his wife, Natalie. After Debbie filed for divorce, Wrinkles stalked her. On July 21, 1994 Wrinkles again dressed up in camouflage and drove to the home of Tony Fulkerson, where Debbie and the kids were staying. He parked a block away, cut the telephone wires, and kicked in the back door. He was armed with a .357 handgun and a knife. When he was finished, Natalie was dead on the front porch with a gunshot wound to her face; Tony was dead in the bedroom with four gunshot wounds, to his face, hip, chest, and back; Debbie was dead in the hallway with a gunshot wound to her chest/shoulder area. One of the children, Lindsay Wrinkles saw her father shoot her mother, then open her shirt and attempt CPR. Lindsay told him she was going to call police, and he fled from the house. Wrinkles was later arrested at the home of his cousin, where the .357 murder weapon was recovered.

Wrinkles was convicted of Murder (3 counts) in the Vanderburgh Circuit Court, Judge Richard Young presiding. Prosecutors Stan Levco and Mary Margaret Lloyd represented the State. Dennis Vowels and Michael Danks represented the defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. LEVCO:** Members of the Jury, I'll be brief in both the opening part of my argument and in my final. I'll probably be even more brief in my opening than in my final. In the opening I want to go over with you just very briefly, what some of the instructions are here, and what it is that you need to decide in order to return a verdict. You have a - - part of your task is simple. The Judge is going to give you a lot of complicated instructions about you need to find beyond a reasonable doubt that aggravating circumstances exist. Aggravating circumstances are defined as follows: more than one murder, such as that. You've already decided that. You have decided by your verdict of two or more Counts of Murder that there was more than one murder. So, you don't need to worry about whether aggravating circumstances exist. You've already determined that. He'll also tell you that you need to consider mitigating circumstances. You don't need to worry about whether mitigating circumstances exist,

because they do. You've heard testimony of what some of the statutory mitigating circumstances are.

The bottom line is this, you need to decide whether the aggravating circumstances outweigh the mitigating; and, if they do, does the case justify the death penalty. If you decide that the mitigating outweigh the aggravating, that's it. You can't recommend the death penalty or life without parole. If you decide the aggravating outweigh the mitigating and it seems like an appropriate case for the death penalty, then you can recommend the death penalty.

Now, the Judge is going to give you one verdict form this time and I want explain it to you, if I can. I'm sure you'll be able to figure it out anyway, but it took me a while to figure out what you needed to do depending on what your verdict would be. The first one you'll have is: "We, the Jury, recommend the death penalty be imposed for the Defendant." If that's what you wanna do, the foreman should sign that one and that's it. If you decide that you think life without parole is the appropriate punishment, it would actually be the third line: "We, the Jury, recommend life in prison without parole." You'd sign that one. If for some reason, and actually it doesn't make a whole lot of difference in this case - - if for some reason you decided you didn't want to recommend either the death penalty or life without parole and what would happen then is the Judge would sentence. Then, you'd actually have to sign both line 2 and line 4, which is: "We, the Jury, recommend the death penalty not be imposed" and "We recommend life in prison without parole not be imposed." And you have, as you've been told, three different sentencing things, in essence. The Death penalty, life without parole, and having the Judge sentence. But I submit to you that number 2 and 3 are essentially exactly the same. This is not like life without parole is a compromise between the death penalty and having the Judge sentence. Because, as Mr. Vowels told you in his statement yesterday, even if you had found him guilty of Manslaughter, he was confident that Judge Young would sentence him to so many years that he'd never get out of jail. And I feel, with a reasonable degree of certainty, you've heard that a sentence for Murder is up to 60 years, I feel fairly comfortable in telling you, although it's ultimately Judge Young's sentencing, that if he doesn't get sentenced to life without parole or the death penalty, he'll get sentenced to so many years that he will in fact spend the rest of his life in jail. So, you, in a sense, have two

decisions here. One of two decisions - death penalty or life without parole and the other, which are the same thing.

This particular offense qualifies for the death penalty because there's more than one murder. The death penalty statute has a number of different times where the death penalty could apply where the State could ask for it. If a person is guilty beyond a reasonable doubt of breaking into someone's home with the intent to commit a felony therein and then intentionally murders someone, he is eligible for the death penalty. So that if, in this case, if you believe the facts were that he broke into the Fulkerson home with the intent to kidnap the children, which is a felony, and intentionally murdered Tony Fulkerson, he would have been eligible for the death penalty. The reason I tell you that is those would be facts that you could consider and legitimately decide that would be enough for you to recommend the death penalty. But, in this case, you have three times as much. Because he committed what, essentially, is a death penalty offense three different times.

I don't wanna go over much of the evidence that you heard this morning. I'm sure you remember it as well as I. Just one thing kind of struck me. It seemed like one of the main reasons they're trying to tell you, and certainly an emotional reason they give you for not giving the death penalty, is his daughter, Lindsey, maybe 10 or 20 years from now will want to see her father. And, if you give him the death penalty, you know, it might be too late. Of course, on the other hand, they argue that he's gonna be -- he won't be executed for so long, so maybe, it would be that she'd be able to see him in 10 years. But, uh, that doesn't speak to the question of what about Matthew and Kim. They're gonna want to see their father 10 years from now, 20 years from also. But they're not going to be able to because he murdered their father. And I can assure you they're not going to have any interest in seeing Eric Wrinkles 20 years from now. So, if for some reason you feel that that's a mitigating fact, that Lindsey's not going to be able to see her father, and I don't wanna minimize that, that doesn't have anything to do with whether or not he should get the death penalty for murdering either of the Fulkersons. And I think you could probably decide that, if it had only been Debbie Wrinkles that were murdered, perhaps, that would be enough of a mitigator to outweigh it. Perhaps not. But, in any event, it doesn't apply in this case. Mr. Vowels is going to tell you what he thinks are the important things for you to consider and, after he does, I'll reply to what he said.

#### CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT.

**MR. VOWELS:** I wish I could tell you this is a good afternoon and wish you, good afternoon, but I hope sincerely that is not for any of you. I'll put my watch in front of me so I don't talk forever because I probably could. I assure you that I believe that you are open-minded. I assure you that I believe that you recognize what you're doing. And, if I come on too strong, understand that my emotions are in this too. And I clearly don't wish to irritate you. I want to explain to you how things work.

You know, a lot of times when you're on breaks and you're sittin' in that room wonderin' what are we doing, uh, there are approximately 750 to 800 felony cases filed in this Judge's Court every year. The Judge has a Magistrate and between the Judge and his Magistrate they sentence people all the time. I do, probably, 60 or 70 of them a year myself. So does Mike. And when you're sittin' in a jury room, what's happening is he doesn't stop. He just goes from this Courtroom down the hall and he sentences people. And so I want you to understand that even though you're told repeatedly, even by this man, to just make a recommendation to him, uh, I've practiced in front of him for almost seven years. And, you know, I can't predict. I mean, you know, it's one of those things you don't do. You don't walk in a Courtroom and say this is what a Judge is gonna do. But, I assure you, if you recommend that Eric die, chances are better than not that's what this man seated to your left is going to do. Rick Young is a man of good judgment. He's educated, he's kind, he's compassionate. But he also believes, as does this attorney and this, there are 12 minds that will make this decision. And how fortunate for you that you don't have to participate, or hopefully you won't.

But Stanley Levco is a serious-minded man and he takes his job to heart. And I don't question it for a second that he believes Mr. Wrinkles deserves to die for what he did. But he is a person, a single person. And what you will be doing is validating his judgment, and it's not any more complicated than that. And whether you should validate it or not, I pray, that you do not; but it is that man's judgment that you will be validating. We go on to the next case; we fight the next fight. You may think, you know, it's a low-down, dirty lawyer trick to tell you this; but, it's true. And you can ignore it. But I tried to tell you, and probably not so directly, so I'm going to hit you right between the eyes with this statement, right now. I begged you that attorney, and that attorney, and me, and this police officers, in

juries. And he is not going to discount what you do. So, you know, I'm not going to beat this like a dead horse. What I'm trying to tell you is, if you come back with a recommendation of death, I can't see, knowing what I know of this man, that he's going to ignore you. And I'm not beggin', I'm just tellin' you. I'm here all the time, every day. This is what I do. I practice in this Courtroom almost exclusively, as does he. The State of Indiana is personified in this case by Stanley Levco. He's also a nice man. I work with him a great deal. Many of his Deputy Prosecutors, like Ms. Lloyd, and I work with them a great deal. And we fight, and argue, and haggle, negotiate, plea bargain, beg. Occasionally, you know, we come in here and fight a fight. And you've seen one this week. But what I want you to understand is yesterday, don't bring back more than one Murder conviction. That way, he doesn't have to consider a death case. Because, as I explained to you, and I'll just be real blunt, if you only found one Murder and two Manslaughters, under the law as he charged it, you couldn't have - the Judge is not allowed to consider the death penalty under State law.

So, here's my low-down, dirty statement: Don't do it to him. You know, just because Eric goes and kills three people, don't do it to him. And Mr. Levco will say, he's doing what every good defense lawyer is supposed to do. He's supposed to appeal to you anyway he can. Well, that's true. I'm here to argue for my client. But, you know, uh, I don't - I don't think that - I can't say I don't think you recognize it. But, I don't think you have to carry this the way that he will. So, don't do it to him. Don't give him a recommendation. Take this recommendation and just don't bring it. Don't bring a recommendation of death. There is -- and I've spent a lot of time studying this. This is the third case of this character I've had. I've been to a lot of seminars. He and I have to have certain training qualifications to even walk in here and try these kinds of cases, and we go to schools for this. One of the things that I know, and it makes lots of sense and it's real simple. If you get in the jury room and you think, well, you know, deterrence is a reason for sentencing. Where, you know, if you, as a jury, say that Mr. Wrinkles should die, it will deter others from conduct of this character. In other words, the media says that Matthew Eric Wrinkles gets a death sentence; that message is spread and it's going to stop other people from like conduct. But, there is no study that shows that that's accurate. None. It's not there. And the way you can conclude that that's valid is this. Think about this, do you really think that if under -- and you were out a couple of hours, so that tells me that you were pretty strongly convicted that - boom - he did it. So, do

you think it was realistic that before he went in the back door that he said, you know, I probably ought not to do this because people who do these sort of things go to the electric chair or, you know, get a lethal injection? So, there's not that moment of reflection that occurs with people who commit crimes like this, where they stop and think, gee, others are going to the electric chair or gettin' a lethal injection, so I better not do this. And it doesn't -- you know you think it through in any way, shape or form and any kind of heinous or disgusting crime you can think of that you know a person is put to death, and you're not going to be able to even entertain the idea that, gee, that person, if they had known that others went to the electric chair for this kind of conduct, they just wouldn't have done it. So, the deterrent aspect of death penalties do not exist. They don't. And it's not hard. That's not strangled reasoning.

You 12 are in a no-win situation. And one of the things that I have learned, as a lawyer, is that when you're in a no-win situation, you know, you're damned if you do one way and you're damned if you go the other. You should err on the side of caution. Prudence dictates in any form of endeavor that, if either choice is a bad choice, if you're going to make a bad choice and it might be a mistake, then make the most cautious decision. That, too, is not hard to realize. So, when you discuss this amongst yourselves, and I hope there is some dissension amongst you as to this - whether or not you're going to want him executed - remember, structured decision-making. In any decisions where you have to pick from one evil or another evil -- and let's face it, life without parole or a death sentence, neither of them are very nice things. But, if you are going to make a mistake, make sure, please, that you make your mistake on the side that says that, he does not get killed.

The Indiana Constitution is a rather unusual Constitution in a couple of respects, but it does make you the finders of the law and of the facts. And there's only one other Constitution in the United States that does that. I don't know the State, although, I think it's Massachusetts. But the other 48 States say that juries find facts. But you find the facts and the law. Now, the Judge will tell you, you can't ignore the law. You have to apply it. But, in the first Article of the Indiana Constitution, it says that the Penal Code of this State is based on principles of reformation, which means that vindictive justice is inappropriate. So, if you determine that one of the things you think of is that, you know -- and Mr. Troy McIntire, last witness up here, he deserves, Eric deserves what he gets. That is, an eye for an eye. That is vindictive justice. And, under the first Article of our

State Constitution, that is inappropriate. Now, Mr. Levco will tell you that there are a number of cases in this State at our Supreme Court level that say that the death penalty is not unconstitutional under that section of the State Constitution. But you can apply the law as you see it. And the first Article of our Constitution has a provision that says that. The Penal Code is based on the principle of reformation. Now, reformation for what? I mean, what's he being reformed for?

There are times when I like this man intensely. There are times when I can't stand him. But, at least, he has the straightforwardness to tell you that Mr. Wrinkles will never see a day of freedom. It's not going to happen. I mean, you should have some faith in this man's judgment. You know, he's an elected official. He's not gonna put someone back on the streets whose killed three people. And I told you, and I meant it when I said it. You find the facts. There's not an Appellate Court that is going to change any of our determination of the facts. If you don't believe that, it's so simple to prove. You find facts. You're exclusive fact-finders. This Judge doesn't find any facts. The 12 of you do. So, to that end, I want you to understand, Mr. Wrinkles is never going to see a day of freedom again. Ever. He's not going to a restaurant. He's not going to know if Taco Bell has a new inside. He's not going to make love to a woman. He's not going to get anything that you and I take in normal day-to-day life. It's not going to happen. He's going to remain without freedom for the balance of his life.. As of May the 1st, 1994, there was one person in the entire Indiana Department of Corrections, in every prison in this State, there was one person over the age of 80. Now, you might say, well, that means that they got out. Let's do some simple math. Life without parole means life without parole. Even if, you know, you know, I'll play this to you straight. I don't think you're going to recommend against life without parole, and I don't think you're gonna recommend -- and hopefully, I don't want you to recommend a death sentence. So, let's just get real. Murder carries a maximum sentence of 60 years. Indiana, you get a credit time of a day for day. You read a lot in the papers, in Federal systems, I think it's 80 percent. So, if you get a 10 year sentence, you do eight years. There are certain jurisdictions where you get a three cut. So, for every day you do, you get three days credit. Indiana is a day for a day. So, it's a 50 percent cut. So, if you get a 60 years sentence, it's a 30 year sentence. There are three dead people. You multiply 60 times three for 180 years, you divide by half for a sentence of 90, and you add that to his existing age. He is 35, as he sits there. That makes him 125 years old when he

serves his time. There are probably less than a hundred people on the face of the earth that are even near that age, if any. I watch Willard Scott on Today. I think every once in a while they'll talk about somebody closing on 120. I don't know if I've heard of anybody older than that. So, as a practical matter, not a day of freedom - ever.

There are lots of ways -- and Stanley Levco's right. You know, you make an emotional appeal to the 12 of you to stop this craziness. Uh, I practice a lot in this Court; I defend a lot of people charged with crimes. I would hope, at least, you would believe me when I tell you this. I know what the criminal code is in this State. I know it pretty well. I've been a lawyer for 10 years and most of that time has been involved doing this in this Courtroom. If you give Mr. Wrinkles life without parole, his resources for appeals - in other words, how much money is available to him for lawyers and experts - is significantly less than it is if you issue a death recommendation and Judge follows it. Now, I tell you that because there -- you know, you read in the papers that appeals go on forever. And you know, there anywhere from nine to 17 years. Indiana's a little more efficient. The cycle of executions is going to pick up pretty soon. But, if you give him life without parole, the probability of having to do this all over again is significantly less. Now, you may think that, to use Mike's word, I'm bamboozling you. But, please, believe me. I know what I'm talkin' about. Judge Young has very little discretion in terms of the resources that we can use to defend him. And you've seen us. I mean, you know, you've seen us. We can hire who we need to and, you know, we knew we had an uphill fight last August, when we got this case. But, understand something. Rather than follow this track -- here's the track of an appeal process in a death case. If Judge Young gives him a death sentence, here's the track. It goes from here directly to the Indiana Supreme court. The Appellant's brief filed by Mr. Danks, as lead attorney in this case will be do something near Christmas. The government will then have somewhere between 30 and 90 days to respond. The Appellate Court will then, around Easter of 1996, assign the case for some form of hearing either with or without oral argument. Now, we're at the Indiana Supreme Court. Sometime in the summer of 1996, over a year from now, they will render an opinion. And more likely, in the fall of 1996, because we're very good at getting extensions. We are. We're very good at getting extensions. We are. We're very good at getting extensions on filing. So, you're into the fall of '96. Assume the death sentence is upheld. First Petition for Post -- I'm sorry. First Petition for Habeas Corpus into the Federal system, you take it across the street to Judge Brooks' Court and

allege a Federal Constitutional violation. You're lookin' at maybe a year before that may be reviewed in totality. Judge Brooks rules against it or in favor of the death penalty, it goes up to the Seventh Circuit Court of Appeals in Chicago. You're in late 1997, maybe even mid '98.. Assume the Seventh Circuit Court of Appeals for the Federal system in Chicago denies it. You can then ask for transfer to the Federal Court -- United States Supreme Court. They are generally going to deny transfer, but that usually takes three or four months. So, you know, you're still -- you're in late '98. Comes back. Judge Young sets a new execution date. Post-Conviction Relief Petition number 1 gets filed. Now remember, in a death sentence, he gets a battery of lawyers, a battery of experts. And so on the first Post-Conviction Relief Petition, you know, they come after us, Mike and I. And say, you know, what did you guys do wrong. Why didn't you do this, and why didn't you do this, and why didn't you do this, and why did you leave this juror on, and why did you do this. And by the time that Petition is heard by this Judge, another five to eight months has gone by. Because remember, this Judge has got 750 to 800 felony cases to deal with in a year. So, you're at 2000 or thereabouts. Judge Young denies it, death penalty is still in place, he sets another execution date. Post-Conviction Relief Petition gets appealed to the Indiana Supreme Court. Now, that's the first round. You can do it all over again, maybe as many as two more times. And you are into 2005. The second half of that whole process is cut off, if you give him a life sentence without parole.

Finality is sooner. Now, I want you to understand that simply because there should be a point at which the legal system should be efficient enough to carry out your recommendation. You know, if you think he should die, you certainly will recommend that. But you probably, if you're going to make that recommendation, you want it done efficiently. But, Constitutional rights are individual in character and whether you like it or not, whether you like it or not, they get argued exhaustively in Appellate Courts and in trial Court, after this point. Whether you like it or not, the legislature, the Governor, the Prosecutor, they can complain until Haiti freezes over. It will not change. I have resources in Indianapolis, in Washington, D. C. and in Chicago, Illinois, who I call, who do nothing but these kinds of cases. They exist for all kinds of cases of this character. And, let's face it, if you're going to end his heart beat, we should be cautious with it whether you like it not.

You know, even if you're a conservative person, it's still not going to change. Like that or not, do not think that your decision is ever gonna

be reversed. Probability is, it is not. It is not gonna be reversed. The facts of this case are strong. You proved that to me yesterday when you were out for two hours or less. You probably found it faster than that. So, the facts are strong. Evidence is overwhelming. Those are the statements of Appellate Courts. There is no contest as to who shot who. The subsidiary facts do not have to be proved by the government. The facts most favorable to the State are these: that Mr. Wrinkles knowingly killed these three people and that will be that. So, your fact finding never changes.

Now, I tell you that litany of things because you should recognize that there will come a day - I don't know - it was about a month-and-a-half ago, two months ago, there was an article in the Evansville Courier about the new execution room up at Terre Haute, Indiana - Federal execution room. I'm not sure the Governor signed the law, but I'd be willing to bet he did. Now, Indiana used to have an electric chair. It was made out of wood from the old gallows, when they used to hang people. When they stopped hangin' people, they took the woods from the gallows and they refashioned it into the Indiana electric chair. So, you know, recycling, right? Well, very recently, lethal injection is now the method by which a person is killed in this State after a jury finds a death sentence, the Judge gives a death sentence, and the appellate procedures are exhausted. No one's been killed by lethal injection in Indiana. So, there's a symmetry that's involved here that follows all the way through these kinds of cases. For example, the State legislature says, you're a recommending body only. That this is the man who makes the decision. You are one step removed. So, you know, you've got an out. You can say to yourselves, we did not do this. But, unlike most jury selection, we got to know you a little better, and I think most of you are pretty serious-minded people. So, I don't want you to believe that you're all that removed from Judge's decision. You know, he's a nice man and he's gonna say, well, you know, I can ignore your decision if I want to, or I can follow it. The State Legislature has done that neatly. And it allows you to be one step removed from the actual execution. Well, the execution room in Terre Haute is also one step removed. I've noticed how it's designed. There is a chamber and a gurney. And you strap, you know, he gets strapped in on a gurney. And they put these heavy nylon straps around and they're velcroed and then they're tied off, so that no limb or trunk of his body, or his head can move. And they insert an I.V. into a main vein, 'cause they put a cuff on and pump up a vein and they put it in. And they lead the tube into the wall and in the wall is poison. No one is in

the room when the poison is injected. It is one step removed. Just like you're one step removed from this Judge's decision. So, there's a symmetry involved in killing someone legally in this country. There is a glass panel on the side of the wall. And by law, certain people, only certain people are allowed to witness Mr. Wrinkles' execution. Unfortunately, I'm one of those people. But you won't. But there will come a day where they will pull the curtain, and there will be a glass wall in front of me, and he will be laying on a gurney with vel - with nylon straps tied down on every limb, and his head tied in place with an I.V. line in.

And on the floor of 4119 Tremont, and on the porch, there's three dead people. And you can't escape that fact and don't think that I don't know that. But it is my fervent hope to all of you that you recognize that this is - - you know, havin' a baby, gettin' married, buyin' a house, you know, those are all real important decisions. But, uh, can-can you imagine? I mean, this is - - I can't - I can't fathom how you can make a more important decision. And recognize, that it is my opinion, Judge Rick Young is gonna do what you recommend. There is an instruction that Judge reads - - I'm almost done. I'm almost done. There's an instruction that Judge reads you. And, as you know, there's a case from the 1970's called Furman vs. Georgia. It was a United States Supreme Court case. And the purpose of that case was to invalidate death penalty laws because they were being applied unfairly. So, the United States Supreme Court said to the States, if you enact legislation which allows men like Stanley Levco to only ask for death in cases in very narrow sets of circumstances, then we're going to allow you to ask that people be killed. So, our legislature created that. It's Indiana Code, Title 35, Chapter 50, Section 2, Subsection 9, and this is filed under subparagraph B, I think, 8. And it says under those narrow circumstances under which he can ask for a death sentence that one of the findings is two or more murders, two or more murders. There's lots of 'em, murder for hire, killing a child under a certain age, killing a person over a certain age, nasty things you can imagine. And in those instances you can ask for a death sentence. But what the Federal law said, and it mandated the State, is that you have to enact this legislation so that you can consider - and when I say you, I mean the 12 of you - so you can consider when and under what circumstances you should forgive a death sentence. Now, remember something. When I use the word forgive, if you go up to the Wabash Valley Correctional Center, which is in between Terre Haute and Vincennes. It's on the right side of the road as you're heading north. And it's got all that concertina wire around

it. Okay? They're nine by nine by nine feet cells. They're nine feet long, nine feet wide and nine feet high. And they're locked down 23 hours a day. Do you understand that I'm standin' here beggin' you to lock him in that? So, for the balance of his life - he's 35 years old, probably won't live past 65, and even if he does, he's gotta live to 125 to get out under the maximum sentence. Life without parole in Indiana, and let's face it, those of you who are from here and most of you who have been here a while, this is real conservative State. Life without parole is literally that, sir. It is life without the possibility of ever having freedom. And I can tell you just as you might - - you think the legislature's gonna change that? It's not gonna happen. It's not popular. It's not gonna happen. So, it strikes me as an irony. I'm standing here beggin' you to lock him up in a nine by nine by nine cell for 23 hours a day for the rest of his life instead of putting an end to his misery. And maybe, if Troy McIntire took a visit up to Wabash Valley correctional Center, he would want his bloodletting in a different way. And he's entitled to his opinion and I don't mean to diminish his loss; but, nine by nine by nine 23 hours a day. I thought about bringing some duct tape and taping out nine feet by nine feet. I should have. So, I'm begging you for that alternative.

Here's the law. And this is the opposite number, okay. You end up with a jury, and I recognize this. You wanna do the right thing and you don't wanna take this cavalierly (inaudible). So, please, for God's sakes, read this - read this. I'm not gonna skip a word. Read this. "Evidence has been introduced" - and this is Judge's instructions to you and I asked all of you, will you follow Judge's instructions and you said, yes. "Evidence has been introduced tending to prove the following mitigating factors or circumstances. (1) Mr. Wrinkles, the Defendant. . ." - and of course they call him a Defendant so you can take one step back and he's less of a human - "the Defendant has no significant history of prior criminal conduct. (2) The Defendant was under the influence of extreme mental or emotional distress when he committed the murders. (3) The Defendant, Eric Wrinkles' capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired as a result of mental disease or defect, or intoxication by alcohol or drugs. Or, (4) Any circumstances you may find which mitigate the actions of Mr. Wrinkles." You may find that other evidence tends to prove other mitigating factors other than the one's noted just now.

Each of you, individually - so, you know, when I told you the other day you had to have a unanimous decision, listen to this. Each of you,

individually, may consider any evidence regarding the murder or the Defendant's life which you believe should be weighed against a sentence of death or life imprisonment without parole. And each of you is free to conclude that such evidence proves factors which you believe to be mitigating other than those listed above. And that's the four we talked about. Steve Brock. Steve Brock, seated back here, got up here and explained it to you, okay? So, the last paragraph. Existence of a mitigating factor does not have to be found unanimously. In other words, unlike yesterday, you all don't have to agree. You can disagree. You can disagree. So, the existence of a mitigating factor doesn't have to be found unanimously. And the existence of a mitigating factor does not have to be found beyond a reasonable doubt. Any one or more of you may find the existence of specific mitigating factor, if you find that factor has been proved by a preponderance of evidence. Proof, by preponderance of evidence, is proof which convinces you that the thing to be proved is more likely true than not true. Each of you must weigh any and all mitigating factors you individually find proven by a preponderance of the evidence against any aggravating factor or factors you all unanimously find to have been proved beyond a reasonable doubt. Now, you can shake that apart. I mean there's some of you have some pretty high-powered education that's in this box. You can shake this out. You can diagram this thing out. What it comes down to is this. You already know, in the general selection process, you prove a case beyond a reasonable doubt in criminal Court. That's the way it happens. Beyond a reasonable doubt each element of the offense -- they're back there on that blackboard. I can't see it from this angle. But you found all those beyond a reasonable doubt. That's necessary. It's a matrix of information. That's how you do it. Okay, well, I you remember I told you you have to err on the side of caution. If you wanna kill him and you're not certain, go the other way. Don't kill him. this instruction I just read you builds in you erring on the side of caution. It does not create a level playing field. In other words, we have the high ground. Mr. Levco has proved to you in his case, beyond a reasonable doubt, that Mr. Wrinkles killed three people. Okay, you found it. You found it. Then, all I have to do and all you've gotta find, is that it is more likely true than not true that, not beyond a reasonable doubt. You just have to find it's more likely true than not true. And you swore to me you'd follow Judge's instructions. You did. I ask you all. You have to find that it's more likely true than not true that he has no significant history of prior criminal conduct. (2) That he was under the influence of extreme mental or emotional

disturbance when he committed the murders. (3) His capacity to appreciate the criminality of his conduct or to conform his conduct to the requirement of the law was substantially impaired as a result of mental disease or defect, or intoxication by alcohol or drugs. Or, you have to find it more likely true than not true, (4) Any circumstance you may find which mitigates the actions of Mr. Wrinkles. Now, remember something. You don't have to all agree on this unanimously. You have to agree unanimously on aggravation and it exists. Let's face it, it exists. But you swore to me you would follow the instructions, so it's not all that cut and dried and it's not complicated. If you find that it's more likely true than not true that Dr. Engum's information - not beyond a reasonable doubt, but more likely true than not true, that what he's telling you that he's got severe personality disorders is true, you find its existence. If you find that he's a crank addict more likely true than not true and that his crank use impaired his judgment, you've found another mitigator.

If you can't appreciate his criminality - one of the things that really bothered me, and how would you like to sit here and answer Mr. Levco's questions? One of the things that really bothered me, because you know we sit here passively trying not to react so you can't see us go, Oh, God. You know, smack in the fact. I watched you react. Eric says well, I'm partly to blame. And Stanley Levco wants to say, well, what part of the blame is yours and what part is not? And what he's trying to do is to get Mr. Wrinkles to say, well, you know, somebody else is at fault. So, think about this for a minute. If he says, well, I'm partially to blame, do you think that for a minute - and you heard him testify - that he fully appreciates what he did? I mean I've been watchin' you people like hawks. I mean, do you really think that he really appreciated what he did? Do you? So, all you gotta do is find that that's more likely True than not true.

Now, Stanley Levco is gonna get up here and he's gonna tell you that, you know, I'm splittin' hairs. But darn it, you know, I gotta man's life on the line here and so do you. And don't split hairs. I'm tryin' to be common sense. I'm beggin' for this man's life. So remember, after you weigh these things through - and on our side, you know, you don't have to find them unanimously, you just have to find it's more likely true than not true, any one of you, that they exist. And then you go into a weighing process. And your weighing process is, you know, do you find that the aggravating circumstance of these three deaths outweigh these four mitigators? God, I hope not.

I pulled a low-life tactic. I had to. I knew what Lindsey Wrinkles would say to you. Thought

about it, thought about it. Aw, man, you know. So, I did it and I knew she didn't want her daddy dead. And I knew that Mary Winnecke would bring tears to everybody's eyes. I knew it. I knew what she had to say. I knew how she felt. And I knew that Carolyn Casper would tell you that she didn't want him killed. Now, those three people don't want him dead. They know him. And their reasons for not wanting him dead are different. Carolyn Casper's is that the appellate process is too long and I've told you it is, and you can't do anything about that. Mary Winnecke's is that she is a member of the Catholic church and she opposes death penalties for anyone and everyone. And I didn't have the guts to ask Lindsey. I just didn't. I couldn't do it. So. It's more likely true than not true that all those factors exist. I assure you it will happen, if you recommend it, in a heart beat.

You don't wanna be a part of this. I told you yesterday and fortunately, Mr. Levco picked up on this. You don't want to go down this path. I have been down it. I've been down it. I've spent hundreds if not thousands of hours thinking about this. I have read a great deal about it. I am studied. You do not want to be a part of this. It is not something that will leave you easily no matter how harsh you may believe this killing was. It will stick with you. Now, there is no doubt you're going to remember this occasion for the rest of your lives. But to be a part of a process that lawfully ends a heart beat is not anything you can readily ignore. It will stay with you no matter how tough you think you are. No matter how experienced or how justified you believe you are. Because there will come that day that they'll put that I.V. line in a pumped-up vein and they will put poison in his body and his heart will stop beating. It will happen. You can stop that. And remember, it is one person. He didn't have to file Count IV. He didn't have to file it. It was one person who made the decision and it takes a perverse track through your 12 brains and into his. You don't have to even consider Eric Wrinkles ever having a day of freedom. It ain't gonna happen. I'm not pointin' away from what he did. I'm not. There's three dead bodies on a video tape at 4119 Tremont on July 21st at two o'clock in the morning blown to pieces. So, I don't wanna take your focus off that. I have - I am sorry that you've embarked on this path. I wish that you had brought back two Manslaughters and a Murder. That way, nobody had to be there. Bit I've been here, standing here. I've done this before. I don't wanna do this again. But, I'm tellin' you. You know, if Stan Levco gets up here and tells you that you should not consider the impact of this man, or you shouldn't consider the impact on yourselves; that you should consider Natalie Fulkerson and Tony Fulkerson and Debbie Wrinkles, he's right. He's right. But it

doesn't change the fact that you're pulled into this, even if you think it's right that he should die, even if you feel justified in your decisions. Well, the only thing I can tell you is not very literal. Please, don't do this.

#### CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.

**MR. LEVCO:** Members of the Jury, I want to reply specifically to some of the things that Mr. Vowels said and also tell you why I think the death penalty is the appropriate recommendation in this cause. Although, as I was sitting listening to Troy McIntire this morning, I almost have the feeling I'd do just as well to play a recording of what he said and just sit down. Because I don't think I'm going to be able to say it any better than that. Mr. Vowels, if you noticed, almost his entire argument was telling you why the death penalty as a concept is not an appropriate penalty. He spent very little time telling you why the death penalty shouldn't apply in this case, other than you shouldn't give the death penalty at all. And if you buy that overall argument, as Mary Winnecke does - and I wanna say with Mary, just like what Troy said. I have a tremendous amount of respect for someone who doesn't believe in the death penalty and can go through that and still hold to that belief. So, I certainly respect her opinion. And if you feel that way, then you shouldn't recommend the death penalty. But, apparently, from all the questions that we had on voir dire, you don't feel that way. You do feel that the death penalty is appropriate in some circumstances. And the question is not whether the death penalty is an appropriate penalty, but whether it's the appropriate penalty in this case.

Mr. Vowels said, if you recommend the death penalty, you'll be validating my judgment. I suppose that's technically true since I filed it. But I don't see it that way and I hope you don't see it that way. I look at this as this is an independent decision for you to make. I wouldn't expect any of you, and I would be surprised if any of you would say, you know, I don't think the death penalty oughta be applied in this case but Levco filed it, he must know what he's doin', so I'm gonna go ahead and do it. I don't want you to do that. I think, you know, on technical points of law, I think I might have more expertise than you do and I might know more about what proves a case beyond a reasonable doubt than you do, but I don't pretend to know any more than you do about whether a person deserves to die for what he did. So, I expect you all to make that as an independent evaluation.

Mr. Vowels, it seems to me, is trying to lay a guilt trip on all of you. Putting it very simply. He's

trying to make you feel responsible. That if you recommend the death penalty, it's gonna be your fault, and you're gonna be the one that caused a man to die. You didn't murder three people. You didn't break into that house that evening. This is not your fault. He says it's gonna bother you for the rest of your life. I don't believe that's true. I can tell you that I've done this over the years and I don't wanna minimize it. It's not a pleasant thing, it's not something I laugh about; but, I don't have a problem with it - I don't lose sleep at night. My feeling is I'm doin' the right thing and I'm doin' the best that I can, and somebody that I argue should die, I believe, deserves to die. And I think that's the right thing. And I think all of you -- I don't see this, as a matter of fact, I don't know how many of you are on here. I can see one or two that I remember said I know didn't want to, would prefer not to serve on the death penalty case, if they had a choice. But I know a lot of you said, if you had a choice, you'd rather serve on an important case. And I see this, and I think you should also, as an opportunity to do the right thing and to do something, and to do something you think is right. Instead of . . . I suspect you've probably sat there before and watched things and said things. You know, what's wrong with the criminal justice system? Why do people get away with things? If I ever had a chance to do something about it, I'd do it. This is your chance. This is your chance to do what you think is right. And after you've deliberated on it, if you think it's the right thing to do, I don't think you'll have a problem with it. I think you'll take pride in knowing you've done the right thing. And I know all of you, before you do it, would consider it and consider the ramifications of it.

There are actually quite a few things that I agree with Mr. Vowels on and even points that he made. So, some of them I'll tell you what some of them are. He says he believes Judge Young will do what you recommend. Uh, I believe that also. I don't know that. I would expect that. I would expect he would do it. He may not. It's not out of the realm of possibility he'll go against your recommendation. But, this is for certain. You should assume that he's gonna do what you recommend. I don't think any of you should take this lightly and say, well, he knows better than I do, he can overrule my decision if I'm wrong, so I'll just go ahead and recommend the death penalty. You should also personally decide that this is the appropriate penalty. Although I thought it was strange when he said, as one of the reasons not to recommend it is, don't do it to him. I mean, that's his job. I don't believe that I've practiced in front of him as long as Mr. Vowels has. And I don't believe he shrinks from this responsibility in any way. I don't think that, if you recommend the

death penalty, he's gonna go, "Oh, my gosh. How could the jury have done this awful thing to me." I mean, if he didn't wanna sit on this case, uh, in a sense, nobody does a voir dire process with him, but every case he has, if he doesn't wanna sit on it, he can just get another Judge to do it. So, I don't think worrying about Judge Young's concern about what to do in this case should be a concern of yours.

Mr. Vowels says that you're in a no-win situation, you're damned if you do and you're damned if you don't. Well, you aren't damned. Uh, there's only one person in this Courtroom, if anyone is going to be damned, as a result of what happened that evening. And you certainly shouldn't feel any sense of personal damnation if you decide to recommend the death penalty. You followed an oath. You all said that you could under the appropriate circumstances and you followed an oath -- and you will follow an oath to evaluate this case based on the facts.

Mr. Vowels says, he talked about the deterrent factor, and it has no deterrent effect. I think the Judge is going to give you this instruction. If not, I know it to be the law, so, I'll go ahead and tell you. You can't find, recommend for the death penalty solely for the point of deterrence. In other words, you can't say, You know, I don't know whether the death penalty is appropriate or not, but maybe it's going to deter somebody else, so, I'll give him the death penalty. However, when the Judge tells you you can't do it solely for the purpose of deterrence, that certainly can be a factor in finding for the death penalty. And Mr. Vowels says that no study says that the death penalty is a deterrence. You know, you know that's gotta be wrong because anytime there's any question you always got people doing studies on both sides of the question. So, I'm sure either of us, if we wanted to, could have brought in people from both sides telling you the death penalty is a deterrent, and the death penalty is not a deterrent. I mean, who knows? Would the death penalty had deterred Eric Wrinkles in this case? If at 2 a.m. on July 1st somebody whispered to Eric as he was going in, Eric, if you kill two people you may get the death penalty, would that have stopped him? Probably not, probably not. You know, up until this time he had a restraining order and it wasn't until the restraining order was lifted that he did this. Although, I doubt that that's why he did it. But I would be willing to accept Mr. Vowels' representation that it wouldn't have stopped Eric, but maybe it would stop somebody else. I mean, just because you're giving him the death penalty in this case wouldn't stop somebody like Eric Wrinkles, it doesn't mean it wouldn't stop somebody else. What if there's just one person out there in Vanderburgh County or

somewhere else in Indiana who hears about this case, or it somehow has some affect, and one person decides not to kill a witness or commit a murder that they would have committed because they're worried about the death penalty. Wouldn't that be a reason to recommend the death penalty? And certainly, any doubts on that question it seems to me oughta be resolved in favor of some potential innocent victim of the future, than some guilty murderer of the present.

One point that Mr. Vowels made that at least is true, whether its valid to the point that you shouldn't recommend the death penalty, I guess would be up to you; but, he talked about the time and the death penalty appeals and that it's a long time. And I think you know that anyway. You read that stuff in the paper how long people have been on death row. The Supreme Court of Indiana is trying to cut that down. I tried a case a while back, about 10 years ago, and it took literally two years for the Court Reporter to type a transcript of the trial. So, nothing happened on this death penalty case for two years. Because, strange situation, but the Judge wanted his Court Reporter to type it and nobody else could and it took two years for it to get started. Because of that, the Supreme Court passed a rule that says, and that's one of the reasons we have two Court Reporters here, that you now have to do it within 90 days. So, at least, we have now cut off, at least in that case, it would have been almost two years off that process. And generally speaking, it seems to me Courts are heading in the direction where they are trying to limit the time it's going to take, to resolve this death penalty case. But, uh, you know, that it's going to take a while whatever it is. Whether it's as long as it is today, it's still never, or in the near future it's never going to be a short period of time. But I've also seen a lot of non-death penalty cases, a lot of murder cases that go on for years and years and years for 10 years and 12 years, and appeals and post convictions, and reversals and things like that. So, just because you don't recommend for the death penalty doesn't mean there won't be appeals, and it doesn't mean that this case won't go on for a long time. Although the fact is, the probability is, it is more likely to go on longer if there's a death penalty than if there isn't a death penalty. And Mr. Vowels is also right that he'll have more resources at his disposal if it is a death penalty than if it isn't a death penalty. But is that an appropriate reason for not recommending the death penalty? if it's the right thing to do, if the facts justify it? Because it's going to take a long time, don't do it? You know, that sounds to me - it's not quite as offensive as saying to you, don't return a guilty verdict so you won't have to come to Court tomorrow. But it sounds a little like that. Don't return a death penalty recommendation not

because he doesn't deserve it, but don't return it because it's gonna take a long time. Of course, the reason it's going to take a long time is he's the one that's going to be appealing it. And is that an appropriate reason not to? Maybe, but I don't think so.

Mr. Vowels says, there will come a day that he'll be laying on a gurney - and I didn't take it down, note for note - they're gonna put a needle in him and that's not a pleasant death. And I doubt that very many deaths are pleasant. And I'm sure that one would not be a pleasant death either. But I can tell you this. It won't be as horrible as the death that Debbie suffered that evening. It won't be the death that Tony had when he had four bullets, including two into his back and one into the back of his head. And it won't be as horrible as the death that Natalie suffered when she had a .357 Magnum within a foot of her face and had the bullet go through her cheek and outside the other side of her face.

Mr. Vowels did talk about one of the mitigators is that he's a crank addict. You know, that's in the statute. To me, it's almost laughable. You have to consider it. That's true. But that doesn't, the statute doesn't tell you how much you have to consider with. It just means that you have to talk about it. And I don't know somehow it doesn't seem to me we should reward people for being drug addicts. Now maybe, if they went in a hospital and they had some kind of operation and they had to have pain killers and built up a dependency on drugs that way and became a drug addict, I suppose that would be a mitigating factor. But you have to consider that for what it's worth. And I would suggest to you that's worth nothing. He shouldn't be rewarded for it. And the interesting thing is, and I think you could see it from his being in the Courtroom during this week. He's not on drugs now. But you can tell he's still the same. Those drugs aren't what made him go in there that night. He's still a bully, he's still a liar, he's still manipulative. It's not the drugs that did it. It's Eric Wrinkles that did it.

Mr. Vowels is begging you not to kill him. And it reminded me of Lindsey begging him not to kill her mommy. And about Lindsey, Mr. Vowels mentioned Lindsey, but I thought it was real interesting. I don't deny in his own way that Eric Wrinkles or I'm not going to argue that he doesn't love his children. But I think it's real interesting that, uh, when Mary Winnecke was talking this morning, that the only mention he made of Lindsey was that she needed to have the hell knocked out of her. And the only other thing you heard about Lindsey is when he told her to shut up. Mr. Vowels talked about how, if you put him in prison, he's never gonna be able to go into a restaurant and he's never gonna be able to go

outside. And that's true. But consider this. If he stays alive in prison, he'll have the opportunity to see his children someday; but, Debbie never will. Natalie and Tony will never see their children. Matthew and Kim will never see their parents. If he isn't sentenced to death, even with a life without parole sentence, in a strange sort of way, he will have succeeded for what he tried to do that night. He will have won. Because at least he has the potential to have some relationship with his children now. But he's made certain that their mother never will. And that's exactly what he tried to do that night, assuming you believe one of his stories. He said, "I wanted to break in there, steal those kids, and disappear, and make sure that Debbie would never see the children again." And it's still a relationship, even though it isn't much. But one thing that's certain, it's more of a relationship than she's ever gonna have, or that Matthew's gonna have, or Kim is gonna have.

And if you're tempted to show sympathy for Eric Wrinkles, I think Troy McIntire said it better than I can. I think you ought to show him exactly the kind of sympathy that he showed to Natalie, and Tony, and Debbie. When you're considering this case, I would say, ask yourself this question: What right does he have to suffer a lesser penalty than what he inflicted on the three victims? Certainly, the kind of life he's lived doesn't justify it. Certainly, the facts of this case don't justify it. You also said, you all said that you believed in the death penalty in the appropriate circumstances. When you look at the facts of this case, if this case doesn't justify the death penalty, what case does?

There's one - I don't wanna use the word, good - but there's one good argument for not giving the death penalty in this case. It's 'cause you don't believe in the death penalty. If you don't believe that the death penalty is ever appropriate, then don't give it. And I don't wanna minimize that as an argument. But you all, apparently, do believe the death penalty is appropriate. If you do, it would appear to me that this case certainly justifies it. I think it goes without saying, obviously, that the worst thing about Eric Wrinkles - the worst thing he's ever done, obviously, is to kill these three people. But, besides that, there are just so many other offensive things that he's written and said. I mean, the letter that he wrote to his mother. Telling Lindsey to shut up. Telling you that he's partly responsible for this. You know, Tom Black told you what he said about Natalie. He said, that bitch deserved to die. Natalie Fulkerson didn't deserve to die, Debbie Wrinkles didn't deserve to die, Tony Fulkerson didn't deserve to die, and Eric Wrinkles doesn't deserve to live.

[The jury unanimously recommended a death sentence for Wrinkles, who was sentenced to death by Judge Young on June 14, 1995. The conviction and sentence was affirmed on direct appeal by the Indiana Supreme Court at *Wrinkles v. State*, 690 N.E.2d 1156 (Ind. December 31, 1997). Wrinkles was executed by lethal injection in 2009.]

# CLOSING ARGUMENTS

## State v. Lambert Delaware Superior Court 1991

**CASE SUMMARY** On December 28, 1990 Muncie Police Officers were dispatched to a traffic accident and observed an abandoned utility truck. The truck was towed and Lambert was found nearby crawling under a vehicle. Lambert had spent most of the night getting drunk and after telling officers he was trying to sleep, was arrested by Officer Kirk Mace for Public Intoxication. He was patted down and placed into the back of a police car driven by 31 year old Muncie Police Officer Gregg Winters for transport to jail. A few minutes later, the police vehicle was observed sliding off the road into a ditch. Lambert was still handcuffed in the backseat and Officer Winters had been shot 5 times in the back of the head and neck. A .25 handgun was found laying on the floorboard. It was later learned that Lambert had stolen the .25 pistol from his employer. At trial, a demonstration / re-enactment video was introduced into evidence showing the manner in which a gun could be retrieved and fired while handcuffed. A statement by the defendant was admitted despite his .18 BAC.

Lambert was convicted of Murder in the Delaware Superior Court, Judge Robert L. Barnet, Jr. presiding. Prosecutors Richard Reed, J. Cummins, and Jeffrey Arnold represented the State. Ron McShurley and Mark Maynard represented the defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.**

**MR. REED:** Thank you, Judge. If it please the Court, counsel for the defense, and ladies and gentlemen of the jury, this is the opportunity that we have to address you and to argue to you and to attempt to persuade you to our point of view.

The issue in this case, as we discussed with you from the beginning of jury selection, was whether or not you were the type of person who could carry out the obligation of the oath and follow what the State of Indiana will suggest to you is your duty in this case. We appreciate the fact that you have thus far been willing to do your duty. We asked you at the close of the trial on the issue of guilt to be the defender of Gregg Winters, and you responded. We're going to ask you to do your duty one more time. And I want to talk to you just a little bit about what that means.

Duty. I have on my desk a dictionary and thesaurus. A personal sense of what one should do, a moral obligation, conscience, liability, charge,

accountability, faithfulness, pledge, burden, good faith, honesty, integrity, sense of duty, call of duty. See also responsibility. Every one of those words applies to Gregg Winters. He carried out his duty. It cost him his life. You'll notice that among these definitions, it doesn't say anything about fun or pleasant. Not something you want to do, but an obligation, a burden. The antonyms or opposites of the word duty are as follows: Dishonesty, irresponsibility, disloyalty, betrayal, faithlessness, falsehood, treachery. I cannot think of any better words to describe the Defendant in this case.

Mitigate means to make or become less severe, less painful. You're being asked to consider whether or not the State of Indiana has proved beyond a reasonable doubt the existence of an aggravating circumstance. I suggest to you that the aggravating circumstance that we have alleged has never been in doubt even in the slightest. That being that the Defendant killed Gregg Winters while he was in performance of his duties. Proven beyond a reasonable doubt. No question. Never really at issue. That is proven.

Then what is it that you must decide? According to Webster's, whether there are factors that will make this become less severe and less painful. There are four, Judge Barnet will tell you, possibilities. The Judge is not telling you that anything about these four does or does not exist. He's simply telling you that these are the things that you may consider to determine if any of them exist. And if they do, weigh them against the aggravator, the intentional killing of a policeman in the line of duty.

Number one: the Defendant has no significant history of prior criminal conduct. If it exists, it can be a mitigator. I suggest to you it does not exist. No significant history of prior criminal conduct. You heard the evidence. This Defendant was minor consuming at age 16 and rapidly moved up the ladder. Burglary, theft, forgery, crimes against his own mother, conspiracy to commit burglary, another burglary, more theft, carrying concealed weapon, carrying a pistol without a permit, crimes relating to consumption and use and possession of alcohol, lying, stealing, cheating. Doesn't care about the rules that you and I live by. I asked him. If this isn't significant, what is? And he had no answer. That's not mitigating. Not by a long shot.

Well, extreme mental or emotional disturbance when the murder was committed. Was the Defendant acting under extreme mental or emotional disturbance. That's something you have

got to get inside his head to know, but it's his trial. What did he tell you? He had some personal problems. He says that's extreme mental or emotional disturbance. He had some personal problems. Who doesn't? Does everybody who's in a divorce go out and shoot a policeman? Does everybody who doesn't have custody of their child go out and shoot policemen, commit burglaries? Where is the extreme mental or emotional disturbance? It's imaginary. It doesn't exist.

Skipping down, it says any other circumstances appropriate for consideration. I don't know what that is. I suggest you probably don't know what it is. And I know that the Defendant doesn't know what it is because I asked him. Can you think of anything else that could mitigate this crime? And he had no answer. I sure have no answer.

Now we get down to the real issue. The Defendant's capacity to appreciate the criminality of his conduct or conform his conduct to the requirements of the law was substantially impaired as a result of mental disease or defect here. Never been alleged. No evidence to support that. So we're right back to where we started in jury selection. What about intoxication. Can it mitigate a crime? Even if you assume it exists, can it really mitigate a crime? He told you why he drinks. He likes it. It's fun. It's pleasurable. Have a good time when you're drinking apparently. Does that really mitigate what happened in this case? Can it? Even if it exists.

Let's talk about whether it exists. I want to talk to you just a minute about an unrelated case. There's a case that's reported in the law books. It's called Spranger v. State. It's a case that was decided in Wayne County Circuit Court by Judge James Puckett. I'm sure that that name doesn't mean anything to you except that he was an excellent judge, highly respected, maybe one of the top five or ten in the State. I'm not talking about this case because of any law it contains, but it may be of use to you to know how somebody who deals with this all the time can decide an issue like whether intoxication applies. Facts are somewhat similar to this, somewhat.

1983, a young man named Spranger who was 18 years of age and his buddy were out vandalizing cars. Neighbor calls in. Town marshal of the town called Avilla shows up in response. He gets in a fight with Spranger's buddy, and in the process the marshal's gun falls to the street. Spranger runs over and while his buddy is fighting with the marshal, picks up the gun and shoots the marshal one time in the back and the marshal dies.

Spranger was intoxicated at the time. Judge Puckett had to deal with that, and here's what he said: "There is evidence the Defendant had been

drinking, but he had the presence of mind to be driving from Fort Wayne to Avilla, to direct traffic at the scene, to flee after the shooting, to discuss the incident with his brother, to dispose of the flashlight and service revolver, and to later recall events surrounding the incident." What you see there is Judge Puckett looking at what the Defendant did to determine whether or not intoxication had any bearing on this crime. We talked about that at length.

In comparison, let's talk about those same kind of things in this case. The Defendant had the presence of mind to leave the truck and walk away because it had stolen property on it, to attempt to hide from Kirk Mace, to deny knowledge of the truck, to maneuver to get the gun, maneuver into firing position, to fire it six times, to attempt a seventh shot, to complain about his treatment on the snow, to create a story about being set up by the Southside Gun Shop due to his custody case, to recall most of the events, respond to questions, deny being drunk when he thought it was in his interest to deny being drunk, to walk okay, talk okay, write okay, comply with demands, ask questions to the officer and if it was a .25-caliber automatic pistol that was used, and to make up a story about how that gun was stolen to set him up.

Presence of mind? No doubt about it. So I say to you, there's not a single mitigating circumstance that exists in this case; not one. Not one. But if by imagination of something in the evidence that I don't see, you can decide that perhaps there is something mitigating here, then you must decide whether or not it outweighs the aggravating circumstance.

One of the things you may want to consider is whether anything could outweigh the aggravating circumstance. We're talking about the killing of the police officer in the course of duty. Policemen are the symbols of our ordered society. Not so many weeks ago, October the 15th of this year, the President of the United States was addressing a gathering called the dedication of the National Law Enforcement Officers Memorial in Judicial Square, Washington, D.C. I want you to listen to some of his words:

"For too long America's law men and women have been the forgotten heroes. Forgotten until there is trouble. Until we're stranded on the side of the road or frantically dialing 911 at our homes. Today we remember these heroes and heroines. Visitors will come here. Some will be children. Perhaps looking for a father or mother they never really knew. Who were these people they will ask. These are people who devoted themselves to the timeless values that society shares. They valued the law. They valued peace, the peace of a civilized community that protects children at play, families at home, and storekeepers at work. They

valued human life so much they were prepared to give their lives to protect it. They gave much and asked little. They deserve our remembrance, and here, in America's capital, for as long as these walls stand, they will be remembered. They didn't ask for honor, though honor them we will. We can honor them in a more profound way, a more lasting way, by strengthening the law they swore to uphold. When society asks someone to put on a badge and place it over his or her heart, we make a sacred covenant, a covenant that says we as a society stand behind those officers who enforce the law against those who break the law. May God bless the law enforcement officers of our great country."

What about policemen? The aggravating circumstance. Can it be outweighed by anything? I want to talk to you now about another case. This one is called Roberts v. Louisiana, and it was decided by the United States Supreme Court. It happens to have occurred in 1977, and it's notable not for the law that it contains, but for the reasoning of some of the Justices of the United States Supreme Court. And what was at issue there was the Louisiana law that said in Louisiana if you kill a police officer in the course of duty, automatic death penalty. Automatic. No jury determination about whether that's right or wrong. Automatic. And the United States Supreme Court looked at that and decided in their wisdom that automatic should never apply. Always give a defendant an opportunity to argue his case to a jury. Let the jury, the conscience of the community, as the Judge will tell you, you are the conscience of the community, let the conscience of the community decide whether or not anything can override the gravity, the horrendous implications of killing a police officer on duty.

Here's what all of the Judges said in a per curiam opinion. "There is a special interest in affording protection to these public servants who regularly must risk their lives in order to guard the safety of other persons and property." We recognize the life of a police officer is a dangerous one. Statistics show that the number of police officers killed in the line of duty has more than doubled in the last ten years. More than doubled in the last ten years. How do you get men and women to put on that badge? People who go to work wearing bulletproof vests. What kind of a job is that? Where every time you put on your work clothes, you have to think about dying. What kind of a job - what are we asking these people to do? And what is the agreement we make with them when we ask them to do that?

I digress. "The arguments weighing . . ." and Justice Rehnquist says now, Justice White agreeing with him, "the arguments weighing in favor of society's determination to impose a death

sentence for the murder of a police officer in the line of duty are far stronger than in the case of an ordinary homicide. In all murder cases and, of course this one, the State has an interest in protecting its citizens from such ultimate attacks. We do have an interest in protecting anybody. "This is surely at the core of our social contract idea. But other, and more important, state interests exist where the victim was a peace officer performing his lawful duties. Policemen on the beat are exposed in the service of society to all the risks which the constant effort to prevent crime and apprehend criminals entails. Because these people are literally the foot soldiers of society's defense of ordered liberty, the State has a special interest in their protection. With what sanctions is the State entitled to bring into play to assure that there will be a police force to see that criminal laws are enforced at all? It is no service to individual rights, or individual liberty to undermine what is surely the fundamental right and responsibility of any civilized government; the maintenance of order, so that all may enjoy liberty and security. Policemen are both symbols and outriders of our ordered society. The State, therefore, has an interest in making unmistakably clear . . .," listen to this part, "unmistakably clear, that those who are convicted of deliberately killing police officers acting in the line of duty be forewarned that punishment, in the form of death, will be inexorable."

These aren't my words. Like Mr. Justice White, I am unable to believe that a State is not entitled to determine that the premeditated murder of a peace officer is so heinous and intolerable a crime that no combination of mitigating factors can overcome the demonstration that the criminal's character is such that he deserves death. Think about it. All of these cases talk about criminal behavior, burglars and thieves of every kind and description who are willing to break any law there is, save one. When confronted with a police officer, they will yield to that authority. When finally confronted by the badge, they know the game is over. And they yield to the authority of society. Only a very select few have the audacity not to yield and reply against society's guardians with deadly force. That's the definition of heinous crime. That's the definition of heinous crime. That's the definition standard of somebody who cares not one whit about our rules or anybody else's. Whose only interest is in his own hide and whatever he can get away with. And that's the definition of Michael Lambert. Whose rules did he ever follow? Where's the mitigator? What can possibly outweigh the aggravating circumstance in this case?

Duty. Heavy burden, not pleasant, but you have demonstrated an ability to set aside whatever

personal discomfort you may find in the following of this law in doing your duty under the oath that you have taken and make the single recommendation that's appropriate in this case, the only one that makes any sense. For to come back with any verdict other than a recommendation of the death penalty would be an affront to the law and a direct insult to the memory of Gregg Winters.

And I want to leave you with just one more collection of words by somebody much more talented than I in expressing what this case is really about. And it's a poem. It's a poem that was given and read at Gregg Winters' funeral. "Somebody killed a policeman you say and a part of America died. A piece of our country he swore to protect will be buried with him at his side. The beat that he walked was a battlefield too just as if he had gone off to war. Though the nations' flags won't fly at half-mast, to his name they will add a gold star. The suspect who shot him has stood up in court with counsel to protect all of his rights. While a young widowed mother must do for her kids and spend many long lonely nights. Yes, somebody killed a policeman we say in a place that we call yours and mine. While we slept in comfort behind our locked doors, a cop put his life on the line. Now his ghost walks a beat on a dark city street, and he stands at each rookies' side. He answered the call all to himself, gave his all, and a part of America died."

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. MC SHURLEY:** Thank you, Your Honor. Ladies and gentlemen. Mr. Reed. And I also would thank you for what you have gone through and what you're going through right now. On behalf of Mike, I thank you, and also Mark, we thank you. Probably the most unpleasant circumstance that you've ever been involved in.

I agree in part with what Mr. Reed has said. I disagree in part with what he has said. And I disagree - I agree that what we have had is a terrible tragedy; one like this county has perhaps never seen before. And that tragedy continues right now. And you will decide when it stops. This is something that, this type of case, that affects not only Gregg Winters, Molly, Terry, Molly's children, the police departments, the court personnel, and, yes, the attorneys, all the attorneys involved in this. And it affects you, and it will affect you the rest of your lives, what you're doing. So I agree that there's a tragedy, and we have to decide when the tragedy is going to stop.

I had a lot of notes prepared and outlines made, things I wanted to talk about, but I really can't get up here and read to you from cards. I

can't read from an outline, three by five cards. I have to talk to you from the heart, so I just put the notes down and didn't bring them with me. I can't do it that way.

A lot of talk. You have been involved in this process now for weeks. It started when you were coming up here for the jury selection process. That's something you need to remember because during that process you received perhaps a lot of education about the law, laws you didn't know about, laws that some of you agreed with, laws that some of you disagreed with. But we're here today and part of what we're talking about is the law.

We use these words, and we talked about them before; aggravators, and one of those being the killing of a police officer in the line of duty. And we talk about the mitigators, and we talked about those in great detail. We all had different definitions for those. This is what it's coming down to right now is you're going to have to use the law, the language, your instructions and your duty.

Now Mr. Reed would have you believe that when we talk about these mitigators that we have four. He told you there were four that you may be instructed upon. I submit there are thousands of mitigators, not four. I do want to talk about some of those mitigators briefly. The first one they talked about was no significant history of prior criminal conduct. I ask you, ladies and gentlemen, don't be misled with what is stated up here. When you deliberate, go from your own memory as far as what was said. Put things together, use your common sense, use your judgment, your intelligence.

They read off a list of criminal conduct. And they started back with a minor consuming charge that Mike was involved in. He admitted that. Talked about a burglary he committed when he was a juvenile, and he told you about that. And if you'll remember those circumstances, that's the same night, his mother testified to it also. That his father had gotten intoxicated, drunk and taken a shotgun, forced all the children out of the home, locked them out and was going to kill his mother. He's not saying that was an excuse on why he went and broke in. Coincidence? I don't know. It happened the same night though. He went with a buddy. Broke in, stole some cigarettes, a couple of \$2 bills, and he had a juvenile record as a result of that. What did he do? He went in, he admitted it, worked two or three jobs, saved up his money, paid the restitution. State talks about another incident of criminal conduct; being arrested again on a minor consuming. Remember the rest of the list that they read to you. That happened over a seven-and-a-half-day period. Don't be misled into some extensive list of criminal conduct here. Especially something that caught my attention. Mr.

Reed mentioned the other burglary. Mike admitted that. Then he told you conspiracy to commit burglary. That's the same incident. That's the way the law reads. It's not another one. Don't be misled. Carrying a concealed weapon. That's back to the burglary. He had been drinking. Carrying a gun without a permit. On and on, they try to just pile on this criminal conduct. It all arose out of the same incident, ladies and gentlemen, seven-and-a-half-day period that took place.

Another one: Was he under the influence of extreme or mental disturbance when he committed the murder. Mr. Reed - the custody of his son, the problems Mike was going through, nowhere to live, his job situation, his income situation, situation with his estranged wife at that time working as a prostitute at the Southside Gun Shop. You decide if that's stress, if that could cause some emotional stress.

Number three: Capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication. Again, we go way back on that one. During the jury selection process., and today the State still comes in and maintains, do not look at intoxication. It's not a factor for consideration. And remember on the chalkboard they kept putting down .10, that doesn't mean anything. .15, that doesn't mean anything. .18, they're telling you that doesn't mean anything. You heard the experts testify as to what that meant. Especially when the ultimate test came in, it was .22, .22 at the time of the incident. They're saying ignore that; that just pertains to the fact that he couldn't drive a car. Doesn't mean he was intoxicated. Had nothing to do with what happened that night. We would ask you to consider that Instruction carefully and look at that language and think about that.

We're not - when we're talking this mitigator, this factor, we're not talking responsibility. You have determined responsibility. Mike accepts that. He holds no grudge to any of you, no ill feelings. He accepts your judgment. We're talking now degree of punishment. Not responsibility. Keep that in mind.

Mr. Reed also indicated there's a fourth mitigator you can look at: Any other circumstances appropriate for consideration. Now there are not subparagraphs below that where it says 1 through 5, or 1 through 15 or 1 through 20. It's endless. Thousands, hundreds of thousands, of things you can consider, and we would ask you to consider. Consider his age. Don't be misled again. You heard something earlier that he was not under 18. That's true. You can consider his age. You can consider, as I told you when we were selecting the jury, anything and everything you have heard from this witness stand, and that's what we're asking

you to do. And then to balance those.

When I thought about this the other night as far as what's really gone on here since December 28th of last year, I thought, well, this is - it's really like a war that we've had and that we're involved in today. Because I submit when Officer Gregg Winters was shot, the State of Indiana declared war upon Mike Lambert. And to that end the State gathered the police officers of the County and the City to act as their soldiers and go out and gather evidence to be used against the enemy, Mike Lambert, and they did that. They gathered the evidence, processed the evidence. Endless hours spent to that end. And then the battle plan changed on January the 8th when Gregg Winters died. Then the State declared we're still at war, but we don't want to just take prisoners; we're going to kill the prisoners of this war. And you have been a part of this process, and, believe it or not, during this jury selection process, I guess that was maybe an attempt to have you become some of the soldiers in this battle.

And think back to how that process went and what was trying to be done at that time. State of Indiana was recruiting some soldiers that would kill upon command. You're directed to kill. You kill, you don't ask any questions. Don't use your common sense. Especially don't use your heart. Don't use any logic. Don't question the orders. Kill upon command. And you remember some of the questions we asked you. We were looking for soldiers also. And I asked all of you if you could keep an open mind. Consider the case before you made a decision on what you would do. Look at all the factors. Use your common sense, use your logic, and at that time, perhaps see if this war could be won without the killing of another person. And that's why the tragedy goes on because right now we have had a terrible tragedy. It's going on right now. And I guess what I'm asking you is, is it necessary to take one more life to win this war? Is it necessary at this time to execute the prisoner? I think not. I think it's time that a cease-fire be declared, a truce declared, and that there be no more casualties. Let the healing process start. Let's not create another scene where David Lambert is going to his father's funeral. Thank you.

#### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. MAYNARD:** Ladies and gentlemen, Mr. Reed was talking to you about duty, to do your duty. We want you to do your duty, too. What your duty is, is to weigh these things, is to think about this aggravator and these mitigators. We can talk to you about those mitigators, but those mitigators are things you'll find yourselves. You'll find them. And what's a mitigator to one may not be a

mitigator to another of you, but that's okay, because what you've got is a balancing process. It's an individual balancing. Before you can decide that you want to tell the Judge to kill Mike in the electric chair, each one of you is going to have to be convinced beyond a reasonable doubt that they have proven the aggravating circumstance to you. And each one of you in your own heart is going to have to weigh mitigation against that aggravator and come to your own individualized decision as to whether or not that aggravator so outweighs the mitigators that it justifies the taking of a life. You may not, each one of you may not give the same weight to the same mitigators. It's something you have to do on your own. And that's what we're going to ask you to do.

And it's going to be a tough job. I agree with Mr. Reed. Police Officers, I have a high - very, very high regard for. They do get out there, they put their lives on the line for people like us. And we've got tragedy. We lost one, a very good one. Mike needs to be punished for it. Oh, yeah. Does he need to be killed? Is that what it takes?

You know being a criminal defense attorney, I don't get very many nice clients, believe me. They're awful hard to like. Real hard. They really are. When I first started representing Mike on this case, first met him, I had read in the newspapers what had gone on, and I thought what kind of an animal am I going to be dealing with this time, what kind of a cold animal. Expecting that's what I'd find in Mike.

I like him a lot. I hate what he did. I hate it. But I have come to like him. He's a person. Mr. Reed asked you, is there any mitigation whatsoever that could outweigh killing a police officer? I'm going to suggest something to you; humanity, humanity. As we've sat through these proceedings, you have seen Mike maybe smile just as you people have smiled from time to time. You have seen him cry just as you have cried from time to time. It's because he's a human being. He's got feelings. He's got emotions. He's a loving father of a little boy.

Folks, we're asking you to search your hearts. You don't leave your compassion at the jury room door. Mike is here. His skin is warm. I can feel his heart beat. We're asking for your compassion and your humanity.

#### CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF STATE OF INDIANA.

**MR. REED:** Counsel for the defense does a fine job as usual in working with what he had to work with. Where was the mitigating factor? Where was there any conversation about some reason in law or the evidence. He's asked you to display sympathy. Nothing wrong with sympathy. I

expected every one of you to come in here with a certain amount of sympathy. You're human beings. You're good people. You have hearts and souls and you care. But you have taken an oath to follow the law and the evidence. We all knew you'd have sympathy when you came here. He's so young, and he's got a baby boy. He can procreate. And he can smile. And where is the mitigator? Where is anything that makes the intentional slamming of six shots into the back of a police officer's head by ambush something less than what it is? When is it? When did they talk about that? Did I miss it completely?

There are shields in this case. We talked about war. It is a war. This war is going on every day. Sometimes you hear about it. Sometimes you don't. Most of the time you're safe at home when the war is going on. Prisoners are being taken. Lives are being ruined every day. All you have to do is look around this room, and you see a lot of the soldiers, your soldiers, who are fighting that war every day. What are they fighting against? They're fighting against any enemy, an enemy who would like to take your money, your body, your life, your freedom, your rights. What's between you and that enemy? A shield. That shield. That's the shield that's between you and that enemy, this enemy.

Yes, we're not asking any more for prisoners. We do take prisoners in this war from time to time. Maybe a lot of the time. Sometimes we run up against an enemy who won't be taken prisoner. This is an enemy who would not be taken prisoner. Oh, he held up the white flag, and he surrendered all right. But then he assassinated his captor. Violating every precept of common decency and humanity. And now he asks that of you. He wants you to not follow the law, not follow your oath, and not follow the duty to follow the law. The duty, the same duty of following the law that cost Gregg Winters his life.

What's the message? What do we say to people who are willing to kill the cop? What do we say to the people who will not yield to the authority of that badge? That's a special kind of criminal, a special kind of enemy. They want to cease-fire and a truce. Boy, that would be nice if we could have a cease-fire and a truce. Wouldn't it be nice if all of these people in blue and brown with the shield on their chest could lay down their weapons and simply go home. Wouldn't it be nice if we didn't need a prosecuting attorney and courtrooms and juries and prisons and death penalties. I'd like to have that truce. I'd like to have that kind of peace. Unfortunately for all of those, there are too many Mike Lamberts in the world for that to ever happen.

You're not our soldiers to kill. You're our soldiers to apply the law. You take an oath very

much like the oath these officers took, an oath very much like Officer Winters took to uphold the Constitution and the laws of the State of Indiana, so help me God. He followed his oath to the best of his ability. That's all we ask. Follow your oath. Make the one recommendation in this case that makes any sense under the law. It's a matter of duty, honor, dignity. There is no other choice. Thank you.

[The jury unanimously recommended a death sentence for Lambert, who was sentenced to death by Judge Barnet on January 17, 1992. The conviction and sentence was affirmed on direct appeal by the Indiana Supreme Court at Lambert v. State, 643 N.E.2d 349 (Ind. December 6, 1994). Lambert was executed by lethal injection in 2007.]

# CLOSING ARGUMENTS

## State v. Wisehart Madison Superior Court 1983

**CASE SUMMARY:** Anderson Police received an anonymous call to go to a certain apartment where they would find a body. Police did so and found the body of 61 year old Marjorie Johnson. Her clothing was torn and wrapped around her mid-section, her head was beaten and bloody, and there were 13 stab wounds in her chest area. Johnson was a regular visitor to the Christian Center, where Wisehart resided. Another resident testified that Wisehart had sent a letter to Johnson before the murder, talking about going to old people's houses and robbing them. Upon his arrest, Wisehart gave a confession, admitting that he had stabbed Johnson several times with several weapons, punching her with his fist, and striking her in the head with a whiskey bottle. He stated he took \$14 and admitted he was the one who tipped off police.

Wisehart was convicted of Murder, Burglary, Robbery, Theft in the Madison Superior Court, Judge Thomas Newman, Jr. Presiding. Prosecutor William Lawler represented the State. Garry W. Miracle represented the defendant.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE STATE OF INDIANA.**

**MR. LAWLER:** May it please the court, counsel for the defense, ladies and gentlemen of the jury. This is the last time that the . . . at least in this procedure . . . that the . . . we will have an opportunity to talk to you about this particular situation. Obviously at this time, we are here to talk about the sentencing procedure and what is to be recommended for the . . . this particular defendant. We believe that the evidence is . . . and I will talk to you a little bit about the law, as to what takes place . . . what you have to look for, because I think sometimes the instructions pass by pretty quickly. It's pretty difficult to grasp exactly what's in the instructions.

We have . . . reference the law in this particular instance the law regarding the death penalty and if you down through the years, we have had a number of decisions, more particularly in 1972, the decision known as Furman v. Georgia. The Supreme Court set forth certain guidelines whereby they have to have these guidelines in order to give the death penalty. In 1976, the Supreme Court, in a number of cases, including a Florida case, a Texas case, a North Carolina case, the U.S. Supreme Court again further honed the situation as to giving the death penalty.

In the first instance, and I think each and every juror here would admit that since you're placed in this position, that there ought to be some guidelines, and the Supreme Court has set certain

guidelines. And through this and down through the years, our legislature has tried to accommodate those situations and comport . . . make them to comport with the guidelines of the U.S. Supreme Court in giving the death penalty. They said that, you know, you just can't arbitrarily or capriciously give the death penalty, and, therefore, with these guidelines . . . and these guidelines have been set forth . . . have indicated that . . . how the death penalty can be given. The Indiana legislature, in its last act regarding the death penalty and the guidelines . . . and we have what we call aggravating circumstances. We have mitigating circumstances, which you, as the jurors, will have to take into consideration in making your determination. The Court will read you the instructions regarding this particular law and if I may, just for the sake of maybe repetition . . . maybe helping you folks in reading this law. I've got the instruction which I might have, and this is the law of the State of Indiana regarding the guidelines to you folks as to giving the death penalty.

The law says, "The State may seek the death sentence for murder by alleging on a page separate from the rest of the charging instrument," which is the Information . . . the Count 5, which you're going hear read by Judge Newman in the final instructions . . . "the existence of at least one of the aggravating circumstances listed in Subsection B of this section. In the sentencing hearing after a person is convicted of murder, the State must prove beyond a reasonable doubt the existence of at least one of the aggravating circumstances alleged. The aggravating circumstances are as follows . . . It's set out in nine in this particular . . . what you can look to, what you have to look to. "The aggravating circumstances are as follows: The defendant committed the murder by intentionally killing the victim while committing or attempting to commit arson, burglary, child molesting, criminal deviate conduct, kidnaping, rape or robbery. Two, the defendant committed the murder by the unlawful detonation of an explosive with the intent to injure a person or endanger property. Three, the defendant committed the murder by lying in wait. Four, the defendant who committed the murder was hired to kill. Five, the defendant committed the murder by hiring another person to kill. Six, the victim in the murder was a corrections employee, fireman, judge or a law enforcement officer, and either the victim was acting in the course of duty or the murderer was motivated by an act that the victim performed while acting in the course of duty. Seven, the defendant has been convicted of another murder. Eight, the defendant has committed another murder at any time regardless

of whether he has been convicted of that other murder. Nine, the defendant was under a sentence of life imprisonment at the time of the murder. And then, those are the aggravating circumstances that you can look to that's set out by our legislature as a guideline to determine whether or not the State has proved . . . proven to you folks beyond a reasonable doubt that he has committed . . . or it comes under any one of these aggravating circumstances.

C . . . then it spells out not only do we have to have aggravating circumstances, but also we have to have mitigating, or things that take away from that aggravating circumstances. The law reads as follows: "The mitigating circumstances that may be considered under this section are as follows: One, the defendant has no significant history of prior criminal conduct. Two, the defendant was under the influence of extreme mental or emotional disturbance when he committed the murder. Three, the victim was a participant in or consented to the defendant's conduct. Four, the defendant was an accomplice in a murder committed by another person and the defendant's participation was relatively minor. Five, the defendant acted under the substantial domination of another person. Six, the defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of the law was substantially impaired as a result of mental disease or defect or of intoxication. And then, Seven, any other circumstances appropriate for consideration."

If I might consider the aggravating circumstances, I think in this particular situation, rather than going through all those . . . and the Court . . . the State in filing the charge back on October 18, 1982, set the tenor as to what the aggravating circumstances were. The aggravating circumstances, and here again we have prepared for you this . . . setting forth the particular section . . . and here I've mentioned to you one through nine . . . the sections which we have for aggravating circumstances. Admittedly by the State, it cannot be anything between two and nine because we did not prove that. The section that is . . . has to do with . . . what you folks are here to determine today as an aggravating circumstance would be the first section. Again, the law provides for the penalty of death upon a conviction for the crime of murder under one or more of the following circumstances. The defendant, one, committed the murder by intentionally, by intentional killing the victim while committing or attempting to commit an arson, burglary, child molesting, criminal deviate conduct, kidnaping, rape or robbery. It says "or" and you will be instructed . . . and you folks in rendering your verdict here last Saturday evening . . . I might call to your attention the important part of this . . . intentionally. Secondly, it spelled out burglary or robbery. We have, in the first, in my opinion,, two aggravating circumstances in this

case that you can consider. I think that we've proven that beyond a reasonable doubt. I think the best evidence by the fact that you found him guilty on Saturday evening of those particular offenses. Intentionally is the key word. We know, now, from his own statement, that he said that he saw the name that he intended . . . he went there with the intent to kill. So, you see, by his own words . . . by his own actions in the horrible and terrible way he beat and the way he stabbed this woman . . . certainly, if he had not have said that he intentionally did it, it could be inferred that he intentionally did it. So, in my opinion, we have strong evidence of an inference that he intentionally did it. Not only that, we have even stronger evidence that he said he intentionally did it. That is the uncontested evidence in this particular case.

So, I submit to you, ladies and gentlemen of the jury, that in . . . under this particular one, we have shown that he . . . there are two aggravating circumstances under this particular section. One, that he committed the murder by intentionally killing the victim while committing the crime of robbery. Secondly . . . the second aggravating circumstance is he committed the murder by intentionally killing the victim while intentionally committing the felony of burglary. So we have two,

I think that there is no question. In my opinion, it is uncontested that this person has been proven guilty beyond a reasonable doubt, that he has . . . at least has two . . . under our scheme of things under Indiana law . . . that there have been proven beyond a reasonable doubt two aggravating circumstances in this particular case.

Let us look . . . because you have to consider it . . . and by law you must consider it and it's right that you should consider the mitigating circumstances. Let's look at that in a little bit more detail. Mitigating circumstances . . . the defendant has no significant history of prior criminal conduct. We simply know that that is not true. We simply know that that is not true. You have heard evidence . . . and remembering that the evidence that you received in the guilt-finding section of this particular trial is also incorporated in and is a part of this sentencing trial. That was the reason we requested it in your presence here and the Judge allowed it. So all of that evidence goes before you. And you can consider all of that evidence. Now, we see that the mitigating . . . there is none . . . we see all kinds of criminal conduct on this part of this defendant. We see all kinds of criminal conduct in that he was . . . and we went back quite a ways as to when this all started. But we've seen criminal conduct through the time that he started when he was 10 years old. We've seen the conduct progress where we hear about him breaking a girl's jaw, about the use of dope, about drugs, about the use of . . . about other things that are criminal. And ultimately we know that in the year of 1981 he was convicted of . . . pursuant to

testimony . . . he was convicted of arson and burglary for the Anderson Hotel fire and burglary. So we see that there was all kinds of evidence of a criminal background.

So, in my humble opinion, this could not be a mitigating factor. The second mitigating factor, that he was . . . the defendant was under the influence of extreme mental or emotional disturbance when he committed the murder. There is absolutely no evidence of that, absolutely none that I can recall that was put into evidence that he was under any influence of any extreme mental or emotional disturbance. None at all. There was some evidence . . . and I think the best evidence that they have for the defendant that maybe he didn't have a place to go. His grandmother . . . and you heard his grandmother testify that he couldn't go because he was on probation. And I got the impression from her testimony that he could have gone had he not been on probation. So that would be the farthest thing . . . that would be the thing that you'd have to stretch to . . . to fit Paragraph Two here . . . that he was under the influence of an extreme mental or emotional disturbance when he committed the murder. That, in my opinion, just has not been shown.

The victim . . . three, the victim was a participant in or consented to the defendant's conduct. I don't . . . there is absolutely no evidence that that took place. Four, the defendant was an accomplice in a murder committed by another and the defendant's participation was relatively minor. Absolutely no evidence that his participation was minor in this particular incident. Absolutely no evidence that there was anybody else who participated, in fact. So this could not be a mitigating factor. Five, the defendant acted under the substantial domination of another person. Absolutely nothing regarding to that. So this could not be a mitigating circumstance. Six, the defendant's capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was substantially impaired as a result of mental disease or defect or intoxication. This you ruled upon when you were in the guilt phase of this particular trial. You ruled upon it, and if you recall that . . . they were used in the test that we had here on the blackboard . . . mental disease and defect . . . and you ruled, apparently, from your conviction of this individual, that that did not apply, and we believe that the evidence substantiates that that certainly does not apply, and this would not be a mitigating circumstance. Under Seven, any other circumstances appropriate for consideration. There have been no other circumstances shown to you appropriate for your consideration.

Therefore, the . . . in listing those things, and you will have the opportunity to hear those things when the court gives you the instruction, you can see, in my opinion, that the jury has been shown beyond a reasonable doubt that under Paragraph

One of the aggravating circumstances, there are two aggravating circumstances to which you may consider. You only have to find one, and there are two.

And under the mitigating circumstances, in my opinion, the evidence is absolutely devoid of any mitigating circumstances. So we believe that under that, without saying more, that the jury is in a position under this and under the guidelines given to you by the legislature to recommend to Judge Newman that this man should be put to death. We see a situation, and you will be given an instruction, regarding the penalty, and this is something that you may . . . might consider. During the course of the trial, you were intentionally kept in the dark because of the law . . . because the case law in the State of Indiana . . . not . . . not knowing the penalty and I think that, if you recall, the Court said that that's not something you should be concerned about because that's something the Judge has to be concerned about . . . on sentencing. And that's the reason that you were not given it until now. But in this particular part of the procedure, you may know what the penalty may be to this man for what he has done and what you have convicted him of doing. The law setting forth the penalty for murder in Indiana is as follows: "A. A person who commits murder shall be imprisoned for a fixed term of 40 years with not more than 20 years added for aggravating circumstances, or not more than 10 years subtracted for mitigating circumstances. In addition, he may be fined not more than \$10,000." So for murder, he may get anywhere from . . . according . . . depending upon if he is not given the death penalty, he may get anything from 30 years to 60 years. The law goes on to say that "B. Notwithstanding Subsection A of this section, a person who commits a murder may be sentenced to death under Subsection 9 of this chapter," which is exactly what procedure we're in at the present time. What I read to you is Section 9, applying to death penalties.

The law goes on to say . . . you might say, well, why . . . you know, we . . . he was convicted of murder, he was convicted of robbery, he was convicted of burglary and he was convicted of theft. How does that apply? The instruction will go on to say, "The crimes of robbery and burglary are charged in the information in Count 1, murder, as the underlying offenses. Case law holds that the Court has no authority to, and, in fact, cannot impose a separate penalty for the convictions of the defendant, Mark Allen Wisehart, for robbery as set forth in Count 2, of burglary as set forth in Count Number 3, or for the theft, as set forth in Count Number 4." So, in this particular case, if the death penalty is not given to this defendant, the Judge has a range of from 30 to 60 years. There cannot be anything added because of the extra crimes of burglary and robbery because they are, by case law, underlying case . . . they're the

underlying felonies and therefore . . . what the Supreme Court says, it merges, and the Court cannot give him a consecutive term. He cannot give him a consecutive term for robbery or for burglary or for theft.

The instruction goes on to state that "It is the duty of the Court to finally determine a sentence within these guidelines. The law in Indiana in regard to parole is as follows: A person imprisoned for a felony shall be released on parole when he completes his fixed term of imprisonment less a credit time he has earned with respect to that term." Now, the credit time is determined this way . . . one hundred . . . this is all statutory law: A person assigned to Class I earns one day of credit for each day he is imprisoned for a trial or confined awaiting trial or sentencing. One day of credit for each day that he spends incarcerated. For . . . a person in Class I is a person who gets no . . . in no trouble in the institution. Now a person who gets in some trouble can go down to what we call a Class II. And under that circumstance, he earns one day of credit time for every two days he is imprisoned for a crime or confined awaiting trial or sentencing. So, if he gets in some trouble where the Department of Correction puts him in Class II, then he only gets one day for each two days served. And, three, if he gets in a lot of trouble, he can . . . and assigned to Class III, earns no credit time. But a person who goes into the institution, under our parole procedure right now . . . for example, Mark Allen Wisehart, if the Judge should see fit to give him the maximum, or if the Judge should see fit to give him the minimum of 30 years, 15 years is what he would have to serve. If the Judge would see fit to give him 60 years, then 30 years is what he would have to serve. Remember, we're assuming that he doesn't get in any trouble while he's in the institution because there could be more time added. And we think that this definitely should be a consideration in your decision in this case.

I told you about the Supreme Court. This has not been a hurried thing on the part of our U.S. Supreme Court because, if you recall, for a number of years they failed to make any decision on it and for a long, long time, many people lingered, and, I think, rather unfairly, in the institutions on Death Row. And as I said, in 1972 they came along with certain guidelines. In 1976 they refined the guidelines and said that we should do certain things. In Indiana, as well as the U.S. Supreme Court, the . . . we have . . . we have the Eighth Amendment to the U.S. Constitution, which talks about cruel and unusual treatment. This has been handled by the U.S. Supreme Court and also by the Indiana Supreme Court. It has been held by the U.S. Supreme Court in most recent decisions, and held by the Indiana Supreme Court in most recent decisions, that under the Eighth Amendment it is not cruel and unusual treatment or punishment. We have seen that in this, also, that there are questions regarding the holdings of

our Supreme Court about certain things. And this . . . what's the purpose? What do you look to as far as the death penalty is concerned? Why are we talking about it? Why are we even considering the death penalty?

Our Supreme Court, in the case of Williams v. State, which the . . . it's a fairly recent case. It's a case that was determined by our U.S. Supreme Court on January 19, 1982. There was a rehearing denied on March 26, 1982, said these things, and Justice Hunter was . . . wrote the opinion. "Defendant's final specification in this Brewer case of constitutional error is that the death penalty statute violates Article I, Section 18, of the Indiana Constitution, which requires our penal code to be founded on the principles of reformation and not of vindictive justice. However, this provision has been consistently interpreted by this Court not to prohibit capital punishment. We have found that this section is an admonition to the legislative branch of the state government and is addressed to public policy which the legislature must follow in formulating the penal code. It applies to the penal law as a system to insure that these laws are framed upon the theory of reformation, as well as the protection of society." The two things that Justice Hunter said in the 1982 opinion is reformation . . . reformation of the individual and protection of society.

Let us consider, under those two headings as outlined by Justice Hunter, what we have in this particular case. Reformation. We have seen a complete history of this defendant, as I said earlier, from the date he was, I think, 10 years old, of breaking into Automobiles, stealing things. You have information that at that age, there was also . . . he stole a gun. We have at that . . . also we have some background which was brought in by the defense in this cause under . . . by the . . . remember the lady from Cross Roads. Then we have, I think, during a period of time maybe a little bit more background in this particular case as to . . . make the determination as to whether there's been reformation than we have in most cases. Because we see that we had a history there in Cross Roads, a place where this person was sent rather than Indiana Boys School because they felt that they might be able to help him there. That he was sent there in March of 1978 . . . March 13th, 1978. That he remained there till July 14th of 1980. Now, what did we see happen during that course of time . . . reformation . . . what did we see happen? We see, during that course of time, truancy, drug abuse . . . (inaudible) these people . . . and you saw these people . . . Ken Rausch . . . you saw the Howells that were in here, I believe, that truly attempted to help this person. Some people, you can't help. And I submit to you that this defendant can't be helped. He cannot be helped.

You saw those people come in here and testify and tell you what they tried to do as far as this person was concerned. You heard the Bradshaw

lady, who came in and testified that how she worked with this person maybe 300 hours . . . 300 hours of counseling, of going through these things with him and what happened? As I say, there was a response of truancy in school, being kicked out of school, losing jobs, lying, cheating, physical abuse to other people, including the breaking of a girl's jaw, of fights . . . there were either 12 or 16 fights, all during the course of a relatively short time he was at this institution. I brought out on cross examination with Mrs. Bradshaw, if you recall, that . . . she was talking about certain reports that they . . . she prepared. And I brought her out . . . if you recall, we talked about she prepared them quarterly. These reports were prepared. And despite her 300 hours, despite what all these other good people did or tried to do for this defendant, that he still did all these things and she admitted in the quarterly reports that she prepared, which she submitted, and which she had care of at the time, that these things were shown to be consistent on all the reports. Speaking of Mark Allen Wisehart, he is physically aggressive, bossy, bragging, teasing, defiant, resistive, resentful, sneaky, cheating and overall delinquent in his behavior and thinking. Now, that was the last report submitted. This is what happened over that period of time. I think that we see progress. We get out of Cross Roads and Mark Allen Wisehart progresses a little bit more. As I told you, he was out from . . . in 1980 . . . July 14, 1980. We seen, then, that the next thing he gets to . . . and remembering that he is 20 years old at the present time, his birthday being November 21st of 1962 . . . that shortly after he reached the age of 18 years of age, that he became involved in burning or arson . . . burning . . . setting fire to the Anderson Hotel, and burglarizing. You heard about those convictions. You heard about how he was sent to the Indiana Youth Center.

Again, we have a good history . . . a good history with some candor . . . with some candor. Because we have, in considering these things and the potentiality and what this man is all about, we have the letters that you recall that you read. And I'm certain that they were quite shocking to you, as they were to me. I don't think I've ever read anything quite like them. I think that we see that . . . from the tenor of those letters . . . that we have a criminal mind, and if I might coin the phrase or at least the behavior pattern that's set out in what we talked about as DMS3, an antisocial personality . . . a person who continually gets in trouble. A person who continually gets in trouble. Let me read a little bit . . . and remember the Supreme Court has said that what we must look to in these things . . . in sentencing . . . is reformation . . . reformation and the protection of the public. That's what you folks have to look to.

And just in taking some of the items from these particular exhibits . . . and I know that you can't be a in position that . . . to remember all

these things, but I just wanted to excise some of these statements just to show you . . . just to show you just how this person thinks, how he thinks. You've seen how he committed murder, a horrible murder, but we have some guidelines under that point, you see. We go from Cross Roads to IYC to letters that he sends to his friend, Scott. These are quotes from his letters. It's State's Exhibit 75A, "I know I'm not going to be out of money no more. What we can do is buy a car with our profits . . ." profit . . . profits in quotes . . . "After a year, Anderson will be too much for me to handle. Hello, trains. Man, you don't know how anxious I am. We gonna be bad. I appreciate the kind words on my half about how we will always be brothers. I feel the same way. We ain't gonna take no shit. We gonna give it. We ain't gonna sit on our ass. We gonna live it." And then, "I just made that up. I think that's pretty sharp. Yeah, I know I was scared at first, but then after we started doing more and more, we got more bolder. Oh, yeah, we was bold. Remember what we were supposed to do on the night we got busted? The bus station and B & B Jewelers. Shit, we bad. Uh-huh, we bad." And as I said in my argument in the first part, that might be fine if you say immaturity, but we see the propensity for this man to carry out those things, and I say it's not immaturity. It's the thinking of this person. It's been the thinking of him since he's 10 years of age. He goes on to say on 75A, . . . I think that you got some damn good ideas on killing people. So we're agreed. If our freedom is threatened, then we waste somebody. Cool. Thought you knew, but I already got a target on Ricky Richards'. He's dead meat. Period." State's Exhibit 75D, "I guess I'm trying to start a record here at the big . . ." in quotes, 'the big, bad IYC. Whatta you think? Well, I'm not, I'm too burned out to think of anything else to say." 75 . . . State's Exhibit 75E, "If we was to get our story straight before anything ever went down, leave no fingerprints . . ." In the same exhibit, "Did you get any of the stories on us in the paper? I heard we made headlines for days. That's what we wanted anyway, except we didn't want to get busted." 75F, "Now that it is almost over, do you still feel the same way about our crime splurges? I do." 75G, "So I went up to the desk and told him to give me the Herald. They got an article in there about all of 181 fires and I got the five sentences it said about our escapade. About that church job. First I got to know if you're serious. I'll be able to do anything except fag tricks. Roll fags, yes. Also, yes, Bill do have some guns. If you do break in there before I get out, get me one and save it for me. Be cool. I will be going back to Fort Wayne and when I leave, Ricky fucking Richards will be dead. You may not want to hang with anymore when we hit the bricks, but I will take no shit off of nobody. And I'm going to be a thievin' motherfucker and Janice Myers at YMCA, watch out. And they better hope that they ain't thrown my shit away." 75G,

"So what do you think? Are we gonna be bad or not? Roy White started talking some shit to me so I went off on his ass. I mean, man, I really hurt him. Broke his glasses in his eyes, broke his nose and knocked his front two teeth out.' The rap on how we got busted. I fucked up. If I had shut up, the only thing that they would have known about was the Pittsburg Paints burglary. But when they took us to those little rooms at the cop shop, they took my shoes and asked my why the bottoms of them was so black. Man, I was scared. I ain't gonna lie. I was terrified. All I could see, now, in prison, was years. So, yes, I spilled my guts. I've been in jail, juvenile centers, group homes, children's homes and now prison and, Scott, it ain't shit." Going on, "In case you're wondering, if I would have got charged with everything we did, I was facing 210 years, but I took a plea bargain and got two years for the burglary and 10 years for the hotel arson, but I got the 10 years suspended." Going on, "I still say it was fun." State's Exhibit 75N, "Had six major writeups, two for fighting. If I don't cool it, I won't be leaving in August. But, man, I ain't got no place to go. I don't even have my clothes or nothing and these fucks gotta pay. And they will. Yeah, Bill Lemon does got guns. I don't plan on ever getting caught again.' 75K, "Head on my coat laying on the table and a nigger guard came in and told me he picked me to push laundry carts and I told him to kick fuckin' mud. Well, he left and about five minutes later he came back in and said, 'Are you ready to do the laundry carts?' and I said no and I didn't even lift my head off the table. I said, Joe Smith . . . he asked my name. I said Joe Smith. Now leave me the fuck alone. I think that made him a little mad. Well, the next day, the dude gave me a writeup, Major Class B, lying to an officer. Ain't that a bitch?" "Let me . . . ", going on in the same letter, I . . . let me see now. The reason we was going to bust into the bus station was to get the squares out of the machines and the money and things." State's Exhibit 75L, "So tell me. What do you want to do to the Y, cause I think maybe they might have tossed our shit. It just might call for drastic measures. Good idea on the piece, man." As you recall, what a piece is under that type of lingo, is a gun. "I'm gettin' one, too. Get into some serious action. But we too smart to get caught. I know we are. You got to admit we were smooth on the bricks. If it wouldn't have been for that bitch at the Y, we still would be walking. I snitched like a baby 'cause I was scared." State's Exhibit 75O: "Oh, well, I'll guess I'll just have to wait for a gun. Also, I was thinking of another place to rob. How about if we get some reefer and some beer and just go on a rampage through Anderson. We'll show what real Anderstonians are lot alike. . . . or are alike. Just let try to stop me."

Going on in the same letter, "But Ricky Richards is just short. I'm going to make the boy sorry he was ever born. I'm telling you now, and

yes, we will find him." Then going on, "Robbin' gem of torpedoes and flares. Those were the days and they will be again." State's Exhibit 75M, "I'm kind of like a celebrity around here cause I slammed that guard while we was watchin' New Yearls.' Going on in the same letter: "My suggestions on what you should do about the Y business is this: Wait for me to get out and if they ain't got our shit, but if they do, super cool. Pick it up." And then I think in one of the most revealing letters of all is State's Exhibit 76, which reads as follows, where he talks about going out in the country, "Check this out. We got a car, right? Okay, then we cruise out in the country where people live all by themselves. One of us knocks on the door and asks to use the phone. Then when you get inside, you make sure that there is nobody else in there, then you pull out the gun and you signal for the other one to come in. We tie up the person or persons and then commence to rob the fuck out of them. Tell me what you think." "And I plan . . . , in the this same exhibit, "And I plan on having a gun with me when I do something so if it comes down to it I will at least shoot anybody that gets in the way, cause I don't want no more time. That doesn't mean I'm going to go around putting targets on people's heads, but I will kill if I have to."

Lastly, as to reformation . . . reform . . . here's a person that you had the . . . the occasion to see and follow for a number of years from the testimony in Court. "Yeah, buddy, I remember our crime splurges. I remember we were scared as hell one day about breaking that guy's window and all of a sudden we're doing every motherfuckin' thing. We covered just about every crime except murder and rape. Remember our assault on that fat motherfucker in the park. I don't know about you, but I enjoyed the fuck out of it, and I know it was stupid, but if I had to do it over again, I would. And I will, but I won't get caught. How does that sound to you? Remember when you brought up the subject of killing people in your last letter? Well, here's my views on what you already know that I am not reformed and I plan on having a good time no matter what when I hit the bricks. Well, if we get caught again, I'm down for at least 11 years and they will waive you to adult court."

Those are just excerpts from those letters. We're not talking about a real young . . . a young person in years, yes, but a person that, in my mind, is so infected with mind . . . infected with criminal thoughts . . . criminal designs and what he's going to do that, in my opinion, there is no chance for reformation for this particular defendant. He said he wasn't reformed. After all that he had gone through. After being sent to the IYC. No reformation. The other thing, if you recall, when I read Justice Hunter's opinion in Brewer v. State, is that you must look to the protection of society . . . the people in society. That's part of your responsibility, too. That's a part of your consideration in making this determination. I told

you that at the very optimum . . . the very maximum . . . he would only spend 30 years in the prison, and I don't think that that's consistent with what the crime he's committed. You have to make that determination. But I think that under this, as I've spelled out to you, and looking at reformation . . . and I think that you have to agree with me that that's not going to take place, that he has the possibility, a potential for getting out in 30 years from the date that he's sentenced. That certainly isn't going to take care of it, either.

So, given the fact that there's not any reformation. Given the fact that our Supreme Court has said that the other part that you can look to is protection to society. I think it's your responsibility as jurors in this particular segment . . . this particular case to find that . . . and recommend to Judge Newman that he should be given the death penalty. I sincerely believe that, and that's not . . . I'm not sitting in your position. I don't mean to usurp your job in this because it's very difficult. I can understand that. But the evidence is there. The evidence is there. The law that I walked through with you at the present time, and what I read to you here. As I said, I think it . . . in fact, it's scary to me. It's positively scary that people think that way. We don't see a progression of where he's getting better. We see a progression of where he's getting worse. And 30 years, in my opinion, if that's all that he has to do, he's going to walk the streets . . . walk the streets. Protection of the people, protection of society, protection of people in this community. I think that the only recommendation that you can do in the guidelines is to recommend to Judge Newman that he be given the death penalty. That's regarding the law, what the Supreme Court says regarding applying what you find and what you have as far as the law is concerned.

Now, let's look a little bit farther, and I'm not talking about vindictive justice when I talk about this, because the Supreme Court says that's not to be considered. But I'm talking about the horrible crime itself . . . the horrible crime itself, as to what happened to Marjorie Johnson on October 9, 1982. Can you imagine in your own eyes, can you imagine in your own mind what horrible, horrible things went on with that woman? As I indicated to you in the first part, the guilt part of this case, and before you folks deliberated . . . deliberated and found this person guilty, that you have to remember that there was a victim. You have to remember that there was somebody besides the defendant. And I'm certain you are going to hear pleas about mercy, you're going to hear pleas about how he is a young man, you're going to hear pleas about why he should not be given the death penalty. That's fine. That's defense counsellor's job. But I ask you to consider . . . ask you to consider what horrible things went on, what this defendant did to this woman of 61 years of age. I indicated to you that she had a right to live. He took that life. Of

his own free will and volition, he took that life. The manner that it was taken. Can you imagine any more inhuman way that he did this, by first stabbing with scissors, stabbing with knives, stabbing with . . . or beating her head, by his own admission . . . this is not me saying it, this is what he said in his statement . . . by his own admission hitting her in the head with a wine bottle. You saw that wine bottle with the spout. He saw it. He hit her. What terrible agony . . . what terrible agony she must have gone through. That has to be a consideration of yours, too. Is the penalty consistent . . . of death . . . consistent with the crime? I think so. I put up on the board in the other argument, certain . . . certain things and certain pictures. I would like to call your attention and show just what an inhuman way this person killed this woman. When you go to thinking about mercy for him, no mercy was shown for her. Stab wounds to her back . . . Stab wounds to her back. As I told you in the first part of my argument, I feel rather . . . I sometimes have problems just trying to bring home to a jury that there was, in fact, a victim . . . in fact, a victim. She died October 9, 1982. You know, she's not around . . . not around for you to think about. You've had the opportunity to view this defendant in the Courtroom. You've had an opportunity to see him, and for whatever . . . whatever feeling that would be, we do not have the chance with Marjorie Johnson. Remember there was a victim. Remember what horrible wounds were inflicted by him by scissors, by knives, by a bottle. What an inhumane and inglorious way for a person to be in her own home and to be murdered and mangled by this man. Murdered and mangled. Look at that. Look at that. The scene as the police saw it. Almost nude. Row horrible . . . mangled and battered she was as the police saw her. Did he give Marjorie Johnson the benefit of the doubt. Did he give Marjorie Johnson the benefit of having 12 people determine whether or not she should live or die? No, he didn't do that. He set upon a course on his own to take the life of Marjorie Johnson, by his own admission, and did this. A person that does that should have mercy? I would think not. I would hope that we're past that. Another picture which I put up here, which I'm going to put up here again to show you people . . . to remind you during the course of the rest of this trial that Marjorie Johnson was the victim. Marjorie Johnson was a human being who had a right to live, and I think I mentioned that she had a right to live in that cluttered apartment if that's what she wanted to do. I imagine she was rather happy doing that. I don't know. But she did have a right to live. She had a right to do the things that she wanted to do. There's no indication that she'd ever done anything wrong. I'm sure she had, but there's no evidence of that.

But this man . . . this man did do something . . . did do something. Took the life of a person in a horrible, horrible way. Would have been more

merciful if he'd have shot her. Wouldn't that have been more merciful? No, battered and mangled. I think that the punishment of death for this defendant is warranted by the crime that's been committed. I've outlined for you the law which the Court will read to you . . . the law that applies in this case, and that, I believe that from the evidence that there is shown beyond a reasonable doubt that there are two aggravating circumstances in the law which can be held against this defendant. Remember, there only has to be one, and that there can be no mitigating circumstances that have been shown in this cause.

I indicated to you in the other part of the argument that this person had bragged in his letters about how he'd done about everything except rape and murder . . . rape and murder. Now he's committed murder. I think that his past history . . . his track record would indicate that there's always going to be a life of crime. We've seen progressively he gets worse. For the protection of society, because we know from his own words he's not going to be reformed, I ask you to recommend to Judge Newman that this man be given the death penalty.

**CLOSING ARGUMENT (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. MC SHURLEY:** May it please the Court, ladies and gentlemen of the jury, Mr. Lawler. When I started this case 10 months ago, as I told you in final argument, I was convinced Mark Wisehart committed this crime. And as I also told you in final argument, I don't believe he did. You, on the other hand, have listened to the evidence and you decided in your own mind beyond a reasonable doubt that he committed these crimes. We accept that judgment. What we have to determine at this hearing is what is the appropriate sentence for Mark Wisehart to have. Should he live, or should he die? Should the State, in fact, kill Mark Wisehart? That's what you're deciding.

The death penalty . . . is a nice, simple way of saying should the state be in a position to kill somebody. Now, the U. S. Supreme Court and the Indiana supreme Court say that the State has a right to kill. Do they? The statute says that, but in good Christian conscience, can anyone say that they have the right to kill? Every other state, every other sovereign state in the free world, with the exception of France, has abolished the death penalty. The only major countries that still have the death penalty, besides the United States, are the Soviet Union, the communist bloc countries and the Arabs. Everyone else has recognized that the State has no more right to kill cold-bloodedly than someone accused of committing a murder. And that's what we're talking about here. Is the State proper in cold-bloodedly killing Mark Johnson? No, they're not.

The reason why they're not is not just one reason. It's several reasons. What we have to look at here is why Mark was involved in this. Now, I ask you all to listen to me because I realize this has been a very long proceeding, and I feel very sorry that you had to go through all this. It's a terrible thing that we've had to go through all of this, and remember, I've carried the burden of this man's life on my shoulders for 10 years... excuse me, 10 months. Shortly, the burden will be passed to you, and it's an individual choice. Each and every one of you people are going to have to make an individual choice of whether you can intentionally recommend someone die, and then we will be passing the burden on to Judge Newman and it will be his final choice to make the decision about whether Mark lives or dies. It's a very, very weighty decision we have here. We're talking about sitting down and thinking through whether we're going to kill someone, much the same as the State has been accusing Mark of doing.

Did Mark sit down and rationally think through what he did in this case? Consider the evidence. Mark has a long, long history of mental disturbance. There's no doubt about that. Now, the prosecutor says, well, that's not a mitigating factor. It is definitely a mitigating factor. Mark was born, raised in a family, consumed by all sorts of problems around him. He is a factor, not only of his genes, but his environment. Somewhere along the line', something short-circuited in this boy. Are we to condemn him because he is a freak of nature? Are we to condemn him because there's something missing in his character that ought to be there? That there something wrong with his brain? Maybe, just maybe, Mark can do good. Maybe he can't. We don't know.

The other thing we need to consider . . . this is also a very important consideration . . . remember the 29 things that I listed . . . the incongruities in the statement as to time and weapons and all sorts of other things? When you're considering what's appropriate, you have to consider whether there's ever any possibility that Mark did not do what he's been convicted of. Is there even the slightest inkling in your mind that maybe, just maybe, that's not what actually happened here. Lt. Moberly sat there on the stand and admitted that there was a possibility that other people had done this . . . that there were other suspects. We need to consider these facts. If you kill someone, it's irrevocable. We can't bring him back tomorrow from the grave and say, Mark, we made a mistake. We can't bring back Mrs. Johnson from the grave. That's true. She's already dead. What we have to consider is are we going to do something that's irrevocable or are we going to do something that makes sense? Can we kill intentionally? Can we do something that's irrevocable?

When I was a child growing up, one of the things I did was go to church every Sunday. This

is a Bible I got when I was 10 years old. Earned this Bible selling pictures door-to-door and it's meant a lot to me over the years. It's something that I think we need to consider because all of us wander away from this every once in a while. I know I have. Over the 10 months that I've been involved in this case, though, it's made me appreciate the teaching of the Lord that much more, because the Lord I learned about when I was in school... the Lord I learned about on Sunday... Jesus Christ that's mentioned in this New Testament... what did he teach? He taught mercy and love and understanding. He talked about redemption. He talked about vengeance being the Lord's work. Remember back during that time period, the New Testament was the book that the Jews followed. Yet there....excuse me, the Old Testament was the book the Jews followed. And in there they had what they called the Mosaic Law, and they killed people for practically everything. You could get killed for eating meat on the Sabbath. You could get killed for not obeying the Sabbath. You could get killed for adultery, for blasphemy, for all sorts of things. But remember the Sermons on the Mount? Remember what happened there? They had the adulterous woman who came up. They were getting ready to stone her to death, and Jesus Christ said that's not the proper thing to do. It's not proper to kill another person. Let those among us without sin cast the first stone. And the moral of that story is that Jesus Christ... God makes the final decision of who lives and who dies. What right do we as individuals have to determine who should live and who should die? Why should we shorten the days that God has given this boy? That's not our province at all.

As a great theologian said in 1951, "If what we are to attest in the spirit of human punishment is not a self-conceived imaginary lifeless justice, but the righteousness of a true God who has acted and revealed himself in Jesus Christ, capital punishment will surely be the last thing on our minds. If this righteousness is what we truly attest, the punishment of the criminal must take the form in which the forgiveness won for him in Jesus Christ is revealed to him and to the less wicked by being constantly reminded. This punishment should not be . . . should not shorten the allotted time which still remains to him before he has the opportunity of fulfilling it better than he has done in the past. It must restrain him from further lapses, but also stimulate him positively to take his place orderly in human society. He must not go unpunished, but he must be punished in such a way that his life is affirmed and not denied."

There is absolutely no place in the teachings of Jesus Christ, not one word in the New Testament, the book upon which we all who are Christians believe, that says it is right to take another human life. Not one. Not one. A good, true Christian can never take a life, except possibly in self-defense. Mark Wisehart should not have his

life taken intentionally. Punishing by death attacks the very thing that it tries to protect. It's a brutalizing, brutalizing thing to have in our society. How dare we call ourselves civilized and still say that it's proper to go around killing people? And that's what capital punishment says we can do. Killing Mark Wisehart will not bring back Marjorie Johnson. Killing Mark Wisehart will not deter other people from killing. We know . . . we know this for fact. Remember when we used to public hangings? Did that stop people from killing? We used to have public beheadings. Did that stop people from killing? No, none of those did. All we're talking about in capital punishment is a vengeance, and vengeance of the most brutal and the most ultimate. It is incredible. The problem is it's irrevocable. You can't go back and bring (inaudible). The only . . . the only person . . . the only being that could bring people back from the dead is God. And I'm not aware of him having done it for the last 2000 years, but we know of many instances throughout the history of criminal justice where people have been convicted of things they didn't do. In this State, just three years ago, Larry Hicks, who . . . a man who was convicted of murder and was sitting on Death Row, was released because they found he did not commit the crime he committed. In Ohio this last year, there were two people convicted of murder who were set free because they found out they didn't commit the crimes. Those people who have been found guilty and sentenced to death as they were . . . and been convicted . . . excuse me, and then executed, what would happen? What would you say to their families? I'm sorry, we made a mistake. we followed the law and this is it. He's still dead. We can't change that. Death is too final a punishment for anyone to ever impose upon one person. Would you, by your own hand, go out there and kill this man? Would any of you, by your own hand, go out here and kill this man? Or are you going to push that off on the State and say, oh, excuse me, I just voted for it. Somebody else pulled the switch. Can't do that. You can't, because if you vote for it, and Judge Newman follows it, all 13 of you are responsible. Every single last one of you. I couldn't go through life with that load on my conscience. I really couldn't because there is too much of a possibility that a mistake could be made.

I'm sure Mr. Lawler will probably come up here on rebuttal and say, well, you're taking these things out of context that really . . . it's all right to go around killing people. That it's not against the Christian faith. Every major denomination . . . I have a list right here . . . every major Protestant denomination in this country . . . the Catholic conference . . . we're talking Southern Baptists, American Baptists, Methodists, Episcopal, Church of Christ, Church of Brethren, all three Jewish faiths . . . and remember, they're the ones who believe in the Old Testament . . . the so-called eye

for an eye and a tooth for a tooth... every last one of them has said that capital punishment is not a proper punishment for good, true people and is not something that is bound up in the Scriptures as being an appropriate punishment for any true human being of Christian or Judaic beliefs to follow. Israel has even abolished capital punishment. These are things we need to consider. Can we as good Christians condemn a man to death? I say we can't. It's not right. It's not an appropriate punishment. I don't care whether the . . . when the courts talk about what's cruel and unusual, they're talking about torturing people to death. They're not talking about what's right. All they say is, well, we set these guidelines down and if you meet the guidelines then you can kill somebody. Is that right? Should . . . should the desire for vengeance overrule the desire for being a good Christian? Should the desire for vengeance reduce us back to the barbaric ways that we've been trying to get away from for centuries? What would make us any better than the barbarians that lived in the past who clubbed each other and ate raw meat? We're supposed... supposedly we've come a long way since then.

Capital punishment is an anachronism. It's been abolished in eight states in the country. It's been abolished in over 40 developed countries around the world. Even though it is supposedly proper in this State, you don't have to impose it if you don't want to. The law does not say that you have to impose capital punishment. The law says you can consider it, and if it's appropriate you can impose it. In this case, it is not appropriate. In no case involving a human being is it appropriate. Not one. Not ever. Not if you claim to be a Christian.

Mr. Lawler says there are no aggravating circumstances . . . or excuse me, no mitigating circumstances here. Remember all the evidence we had. We had witness after witness after witness for both the prosecution and the defense talk about the mental problems Mark had. Every last one of them did. Now, admittedly, you rejected it as a possible mitigating factor on his responsibility for the crime, but the law allows you to consider that as to whether the sentence is proper. And for those of you who do not feel that your Christian beliefs are strong enough to consider that, consider the other. Consider whether Mark's mental condition was such that he did not commit this crime . . . or that he should not be executed because of this crime. And I think if you . . . if you look at all those factors, there's only one conclusion you can reach, that it is not proper to impose the death penalty in this case. It will not bring Marjorie Johnson back. It will not do anything except satisfy the desire for vengeance.

Mr. Lawler says, well, he could be out in 30 years. The statute says the Judge will sentence the person up to a maximum of 60 years. How he . . . how much time he spends in jail, how much time . . . he may go to jail and get killed himself.

Who's to say that putting somebody in jail is not more cruel than killing them? Our prisons are not a pretty place. I've been involved in too many cases arising out of the Pendleton Reformatory to think that that's a nice idyllic place to go to. It's not a country club. It's a jungle. It's a place where the inmates are just as much in fear of their lives as the guards. It's a terrible place. It's not a picnic. In actual fact, it's not a place that anyone would want to go to in their right mind. Mark, as you've heard time and time again, has a desire to be institutionalized. It's been my contention all along . . . I still feel this . . . that he committed . . . that he confessed to this crime because he wanted to be put away. I still feel that way. He didn't have to tell those police officers what happened. There was no way in the world they could put him in there. Remember, they had absolutely no physical evidence to put him in that building. Not one single shred of evidence. No fingerprints. Absolutely nothing to put him in that building. But he sat there, yeah, I did it. Lock me up. Remember that? Great desire to be punished. He wants to be locked up because he's very masochistic to himself. Masochism means somebody who hurts themselves, and he's . . . Mark has hurt himself more than anyone ever could. It's very, very sad. It's a very, very frustrating experience to be standing here in front of you and trying to explain to you what Mark is really like. It's difficult to tell.

You hear those letters. They sound terrible. But those are the letters of an immature, diseased mind. A little boy who has never grown up. A little boy who has a very bad problem with inferiority . . . with being able to express himself. There's no indication he ever shot anybody. They talked about it a lot. Did they go out in the country? He can't even drive a car. Remember that? The one guy that was saying that... how he was trying to teach Mark how to drive a car. Mark didn't even know how to drive a car. It's just part of his fantasy life. It's very sad, indeed. I feel so inadequate trying to explain to you what I've... what I've experienced with Mark over the last 10 years and what you really need to know.

The only thing I can tell you is look deep in your hearts. Make sure that if you come back with a verdict recommending death that you can live with that, that there's no doubt in your mind that that's a proper sentence because, believe me, from this day forward you're going to remember this. You're going to have to live with it, and be satisfied with your verdict. If it's right for you, and each one of you individually, you vote your conscience, but don't do something that you really have a doubt about. In this case, remember Mark is a human being, a living, breathing human being with a lot of good qualities. You heard those good qualities. He can be loving at times. He gave cards and stuff at Mothers' Day. He looked after little kids, took the blame for other people for things they did wrong.

Mark is not all bad like the prosecutor wants you to think he is. Mark is a human being with both good and bad qualities, like we all are. The only problem with him is because of his mental problems sometimes they're exaggerated one way or the other. Will you kill someone like that? What good would it serve society? What good does it do us to kill people? It doesn't do any good at all. Life is the most precious commodity we have. It's the one thing that God gives and takes. Who are we to stop in the middle and say, yeah, I've decided I'm going to take this man's life. It's not right. It's not proper. It's not Christian. It's never right. It wasn't right, if Mark truly did this, for him to do it. It's not right for you to take his life if you do it.

Remember, there are other people involved in this case, as well. There's Mark's family. His mother has been in the hospital for weeks because of the tension and because of the sorrow it has caused her. What do you think is going to happen to her if Mark is put to death? What about his other family members? What about the sorrow it's caused them? Mrs. Johnson's family has already experienced a loss. Why should we compound the injury? Why should we brutalize ourselves and brutalize society any more by committing... killing ourselves? It's not right. It's not proper, and I beg you to return a verdict recommending against it. Thank you.

**CLOSING REBUTTAL (DEATH PENALTY PHASE)  
PRESENTED ON BEHALF OF THE STATE OF  
INDIANA.**

**MR. LAWLER:** May it please the Court, counsel for the defense, ladies and gentlemen of the jury. I can understand why Mr. Miracle did not want to leave that picture in front of you. I can understand from his argument . . . if you noticed, it was poignant with cries of mercy, it's not Christian, you shouldn't do this. But again, I portray to you it is part of the case . . . this victim. How cruelly, how cruelly, how inhumanly she was killed. Terrible. Horrible. Whatever words you want to use to describe that, that's what you can do. You remember this picture, and I showed you a couple besides this one a little while ago. I don't think that the penalty of confinement as proposed... and I've told you what the minimums and maximum could be . . . is adequate for this particular case.

I don't think it was . . . as spelled out in Brewer v. State as the opinion written by Justice Hunter, where it says what you look to is reformation and protection of the public. And I think that's what you have to look to. Mr. Miracle has indicated to you that no place in the Bible does it talk about, except in the Old Testament, about punishment. I believe if you would check the 13th Chapter of Romans you'll find that in that particular chapter is delegated solely to talking about how the... a person . . . a Christian should look to government and obey the laws of the government and the

responsibility of the governments to the individual. That's what the law . . . what it says. There's no place in the New Testament that talks about that the death penalty should not be given. Many of you had indicated in your beliefs, and I think it was asked of many of you, you know, whether your beliefs prohibited this. I think that you indicated that, no, they did not.

He said that this person is masochistic. He wants to serve time in an institution. Quoting again from his letters, talking about confinement, "And I plan on having a gun with me when I do something so if it comes down to it, I will shoot anybody who gets in my way because I don't want no more time." Does that sound like a person who wants time? Let's put this in proper perspective. This is what the evidence is, not what Mr. Miracle said. in his letters to his friend. Let's put it in the proper perspective.

The evidence that was submitted to you was improperly stated. He said that John Moberly said that there was a possibility that other people did this. That's not what John Moberly said at all. He didn't say that at all. That's not the evidence. You folks . . . I know it's been some time . . . but that was not . . . there's no evidence to that effect. There was a question asked as to whether or not there was possibly somebody else who was involved, but nobody . . . he was not asked was there somebody else who did it. That was not asked. And keep those in proper perspectives.

Mr. Miracle, he's done a good job. A very difficult job he had representing this defendant. At the beginning of this case each one of you were asked if, in certain circumstances, you would follow the law, if you could give the death penalty. And each and every one of you said that you could. I'm not here to prey upon your sympathies, because I don't think that that's a part of it.. As I told you in the early part of my argument, that certainly you ought to have empathy for this person. Anybody ought to have empathy. We're in terrible shape if we don't have for our fellow men.

But then it comes down to the legal part that we must look to . . . the legal part . . . for your guidance. Those are the things that have to be considered that are written by the legislature, and as I have indicated to you before that in this particular instance, you have to . . . you have to find beyond a reasonable doubt that there are two aggravating circumstances. I'm sorry, one aggravating circumstance. And as I pointed out in my argument to you earlier, that again we look to the law and in Paragraph 1 of that law, which the Court will read to you, we say a person that committed the crime by intentionally killing the victim while committing or attempting to commit a burglary. The second aggravating circumstance is committed the murder by intentionally killing the victim while committing or attempting to commit robbery. Those are two aggravating circumstances. And I say to you that under the

law, there have been absolutely, absolutely no mitigating circumstances shown. The law directs you folks to look at those things and consider them . . . to look at them and consider them. That's what you're here for.

You told me you could follow the law. At that time I believed that you would and I . . . and you have. And I believe that you will. The penalty is not commensurate . . . confinement is not commensurate with the terrible crime that's been committed. Under the law of the State of Indiana, both the case law and statutory law, the aggravating circumstances have been shown, and show that this . . . in fact, there are two aggravating circumstances and, in my opinion, no mitigating circumstances. In that situation, the statute says you may make a recommendation to the Court. We feel that under the facts of this case, they were very strong, very strong.

Search your hearts. You promised you could follow the law . . . follow the law as it is. Follow it in the evidence . . . the evidence that was submitted to you, and from that we believe that there can be no other conclusion from this jury that you recommend to Judge Newman that this defendant be given the death penalty.

[The jury unanimously recommended a death sentence for Wisehart, who was sentenced to death by Judge Newman on September 26, 1993. The conviction and sentence was affirmed on direct appeal by the Indiana Supreme Court at Wisehart v. State, 484 N.E.2d 949 (Ind. October 31, 1985). The conviction and death sentence was remanded by the U.S. Court of Appeals at Wisehart v. Davis, 408 F.3d 321 (7th Cir. May 10, 2005). On remand, Wisehart pled guilty and was sentenced to 75 years imprisonment in 2010.. He was discharged from IDOC in 2020]

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# CLOSING ARGUMENTS

## State v. Judy Superior Court 1980

**CASE SUMMARY:** Hunters discovered Terry Chasteen's body in White Lick Creek in Morgan County on April 28, 1979. A police search of the creek led to the discovery of the bodies of 3 small children, aged 2, 4 and 5. Terry Chasteen was found naked, with her hands and feet bound with strips of material torn from her clothing, and her head covered with her slacks. She had been gagged and strangled with other strips of cloth.

At trial, Judy presented an insanity defense and testified at length concerning his commission of the rape and murders. Judy stated that he was driving on Interstate 465 when he passed Terry Chasteen's car and motioned for her to pull over to the shoulder of the road, indicating that something was wrong with her car. The two vehicles pulled over and Judy purported to assist the victims. In the process, he removed the coil wire, thereby rendering Terry Chasteen's car inoperable. Judy then drove the victims to the location of the killings and pulled his truck off the road. He testified that he directed them on foot toward the creek, then raped Terry Chasteen and bound her hands and feet and gagged her. At that point, he strangled her and threw her body into the creek. Judy testified that he then threw each of the children as far as he could into the water. Judy returned to his truck after attempting to eradicate his footprints. He then drove away from the scene. Judy's version of the events very substantially corroborated the evidence presented by the State. At the death phase of the trial, Judy ordered his attorneys not to present any evidence of mitigating circumstances, and at one point told the jury, "it may be one of you next, or one of your family."

Judy was sentenced to death by Special Judge Jeffrey V. Boles, and was executed by electric chair on March 9, 1981.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE STATE OF INDIANA.**

**MR. GRAY:** Thank you. Your Honor. Ladies and gentlemen. At this phase you are to determine several things. It will be somewhat complicated unless you can fully understand the mechanics of it.

The Judge will instruct you that you must go back and deliberate and find at least one out of a list of nine, aggravating circumstances. Two of those circumstances I believe apply to this case. That would be number one, the defendant committed the murder by intentionally killing the victim while committing or attempting to commit arson, burglary, child molesting, criminal deviate conduct, kidnaping, rape or robbery. The rape of Terry Chasteen is an aggravating circumstance. You have found that already by, beyond a reasonable doubt. You cannot now impeach your own verdict. You found it before. I feel you must

find it now.

Another aggravating circumstance that you must find, I believe, number eight, the defendant has committed another murder at any time regardless of whether he has been convicted of that other murder. He has committed three other murders. You found that beyond a reasonable doubt. Therefore, you cannot impeach your own verdict.

Another part of the instruction, once you found the existence of aggravating facts, you must compare these to the mitigating facts and there are seven there. It says compare. Then you must weigh those. That's all the language says, you must weigh. If you find mitigating circumstances you cannot find aggravating circumstances unless the aggravating circumstances outweighs, is heavier, of more weight to you than the mitigating, if there might be any. Once you do that and I feel under the evidence you have no alternative but to find aggravating circumstances do exist.

There will be a form. You must put in there each one of the sentences in the instruction that you find are, in fact, aggravating circumstances that are outweighed or weighed heavier in your decision than any mitigating circumstance. You must find it, you get to write it out in long hand. Once you find that, the statute says you may either vote for the death penalty, vote for no death penalty or make no recommendation. You have three options there. You cannot go to that option until you complete the form finding an aggravating circumstance.

Ladies and gentlemen, I ask that you recommend the death penalty. Mr. Judy's own words are my best argument. Short of the ultimate punishment, how can we prevent this from happening again? He says we cannot. I feel that taking that statement away, we still or you should still find the death penalty. It is harsh. It's the ultimate punishment, I'll grant you that. But what was the ultimate punishment for Mark, and Steve, and Misty, and Terry? It was death and they didn't do anything wrong. Did Mr. Judy not do anything wrong? Did Mr. Judy not do anything wrong? Does he not deserve the ultimate penalty? Under the evidence and with the defendant's desires and wishes, ladies and gentlemen, it should take you five minutes to write the phases down and come back here with a death penalty verdict.

### **CLOSING ARGUMENT (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE DEFENDANT.**

**MR. JUDY:** It shouldn't take them five minutes. Let's get it over with. I'm tired.

### **CLOSING REBUTTAL (DEATH PENALTY PHASE) PRESENTED ON BEHALF OF THE STATE OF INDIANA.**

**MR. GRAY:** That's all.

## **INDIANA DEATH ROW 2022**

1 CORCORAN, JOSEPH E.

6 OVERSTREET, MICHAEL D.\*

2 GIBSON, WILLIAM CLYDE, III

7 RITCHIE, BENJAMIN DONNIE

3 GIBSON, WILLIAM CLYDE, III

8 WARD, ROY LEE

4 HOLMES, ERIC D.\*

9 WEISHEIT, JEFFREY ALAN

5 ISOM, KEVIN CHARLES

\* Overstreet have been adjudged currently "not competent to be executed."

\* Holmes has been adjudged currently "incompetent" for further habeas proceedings.

- ◆ There have been no Indiana death sentences since April 15, 2014 (Gibson).
- ◆ Only 4 Indiana trials have resulted in a death sentence since January 25, 2008.
- ◆ No Indiana death row inmates have been executed since December 11, 2009. (Wrinkles)
- ◆ In the last 7 years, Indiana Prosecutors have filed a Request for a Death Sentence only 7 times: 3 resulted in LWOP, 1 resulted in a 300 year sentence, and 3 are still pending.

## **CURRENT DEATH ROW (JANUARY 1, 2022) ALPHABETICAL**

## **INDIANA DEATH ROW 2022**

1 HOLMES, ERIC D.	28 yr, 281 d	6 ISOM, KEVIN CHARLES	00 yr, 084 d
2 CORCORAN, JOSEPH E.	22 yr, 127 d	7 WEISHEIT, JEFFREY ALAN	08 yr, 299 d
3 OVERSTREET, WAYNE D.	21 yr, 154 d	8 GIBSON, WILLIAM CLYDE, III	08 yr, 035 d
4 RITCHIE, BENJAMIN	19 yr, 047 d	9 GIBSON, WILLIAM CLYDE, III	07 yr, 260 d
5 WARD, ROY LEE	14 yr, 207 d		

**CURRENT DEATH ROW (JANUARY 1, 2022)  
BY LENGTH OF TIME ON DEATH ROW AWAITING EXECUTION**

## **INDIANA DEATH ROW 2022**

1	RITCHIE, BENJAMIN	41 yr, 216 d	6	OVERSTREET, MICHAEL D.	55 yr, 044 d
2	WEISHEIT, JEFFREY ALAN	45 yr, 279 d	7	ISOM, KEVIN CHARLES	55 yr, 362 d
3	CORCORAN, JOSEPH E.	46 yr, 258 d	8	GIBSON, WILLIAM CLYDE, III	64 yr, 083 d
4	WARD, ROY LEE	49 yr, 165 d	9	GIBSON, WILLIAM CLYDE, III	64 yr, 083 d
5	HOLMES, ERIC D.	53 yr, 131 d			

\* Average Age = 52 Years, 320 days

**CURRENT DEATH ROW (JANUARY 1, 2022)  
BY AGE OF INMATE**

# INDIANA DEATH ROW (1977 - 2022)

1 ALLEN, HOWARD A.	50 LOWERY, TERRY LEE
2 AVERHART, RUFUS	51 MARTINEZ-CHAVEZ, ELADIO
3 BAER, FREDERICK MICHAEL	52 MATHENEY, ALAN LEHMAN <sup>7</sup>
4 BAIRD, ARTHUR PAUL, II	53 MCCOLLUM, PHILLIP
5 BARKER, CHARLES E.	54 MCMANUS, PAUL MICHAEL
6 BELLMORE, LARRY	55 MILLER, PERRY S.
7 BENEFIEL, BILL <sup>7</sup>	56 MINNICK, WILLIAM A. <sup>2</sup>
8 BENIRSCHKE, WILLIAM J.	57 MOORE, RICHARD D. <sup>2, 5</sup>
9 BIEGHLER, MARVIN <sup>7</sup>	58 OVERSTREET, MICHAEL D. <sup>1</sup>
10 BIVINS, GERALD W. <sup>7</sup>	59 PATTON, KEITH LAMONT
11 BOYD, RUSSELL ERNEST	60 PETERSON, CHRISTOPHER D.
12 BREWER, JAMES	61 PETERSON, CHRISTOPHER D.
13 BROWN, DEBRA DENISE	62 POTTS, LARRY DALE
14 BURRIS, GARY <sup>2, 7</sup>	63 PROWELL, VINCENT JUAN
15 CANAAN, KEITH B.	64 PRUITT, TOMMY R.
16 CASTOR, MARVIN D.	65 RESNOVER, GREGORY <sup>7</sup>
17 COLEMAN, ALTON <sup>7</sup>	66 RITCHIE, BENJAMIN <sup>1</sup>
18 CONNER, KEVIN <sup>7</sup>	67 ROARK, DENNIS RAY <sup>2</sup>
19 COOPER, PAULA	68 ROCHE, CHARLES EDWARD, JR. <sup>3</sup>
20 CORCORAN, JOSEPH E. <sup>1</sup>	69 RONDON, REYNALDO GORIA
21 DANIELS, MICHAEL W.	70 ROUSTER, GREGORY
22 DAVIS, FRANK R.	71 SAYLOR, BENNY LEE
23 DAVIS, GREAGREE C.	72 SCHIRO, THOMAS N.
24 DILLON, RICHARD	73 SMITH, CHARLES
25 DYE, WALTER L.	74 SMITH, ROBERT A. <sup>7</sup>
26 EVANS, CHARLES G.	75 SMITH, TOMMIE J. <sup>7</sup>
27 FLEENOR, D. H. <sup>7</sup>	76 SPRANGER, WILLIAM J.
28 GAMES, JAMES	77 STEPHENSON, JOHN W.
29 GIBSON, WILLIAM CLYDE, III <sup>1</sup>	78 STEVENS, CHRISTOPHER M.
30 GIBSON, WILLIAM CLYDE, III <sup>1</sup>	79 STROUD, PHILLIP A.
31 HARRIS, JAMES ALLEN	80 THACKER, LOIS ANN
32 HARRISON, JAMES P.	81 THOMPSON, JAY R.
33 HICKS, LARRY <sup>6</sup>	82 THOMPSON, JERRY K. <sup>2, 4</sup>
34 HOLLIS, DAVID <sup>3</sup>	83 TIMBERLAKE, NORMAN H. <sup>5</sup>
35 HOLMES, ERIC D. <sup>1</sup>	84 TOWNSEND, JOHNNY, JR.
36 HOUGH, KEVIN LEE <sup>7</sup>	85 TRUEBLOOD, JOSEPH L. <sup>7</sup>
37 HUFFMAN, RICHARD D., JR.	86 UNDERWOOD, HERBERT A.
38 INGLE, JOHN E.	87 VAN CLEAVE, GREGORY
39 ISOM, KEVIN CHARLES <sup>1</sup>	88 VANDIVER, WILLIAM C. <sup>7</sup>
40 JACKSON, DONALD LEE, JR.	89 WALLACE, DONALD RAY, JR. <sup>7</sup>
41 JAMES, VINCENT	90 WARD, ROY LEE <sup>1, 2</sup>
42 JOHNSON, GREGORY SCOTT <sup>7</sup>	91 WEISHEIT, JEFFREY ALAN <sup>1</sup>
43 JUDY, STEVEN T. <sup>7</sup>	92 WILKES, DANIEL RAY
44 KENNEDY, STUART S. <sup>2</sup>	93 WILLIAMS, DARNELL
45 KUBSCH, WAYNE D. <sup>2</sup>	94 WILLIAMS, EDWARD EARL
46 LAMBERT, MICHAEL ALLEN <sup>7</sup>	95 WILLIAMS, LARRY C.
47 LANDRESS, CINDY LOU	96 WISEHART, MARK ALLEN
48 LOCKHART, MICHAEL LEE <sup>7</sup>	97 WOODS, DAVID LEON <sup>7</sup>
49 LOWERY, JAMES <sup>2, 7</sup>	98 WRINKLES, MATTHEW E. <sup>7</sup>

<sup>1</sup> On Death Row as of January 1, 2022 (9) <sup>2</sup> Resentenced to Death Again After Sentence Vacated on Appeal (10) <sup>3</sup> Committed Suicide on Death Row (2) <sup>4</sup> Killed while on Death Row (1) <sup>5</sup> Died of Natural Causes on Death Row (2) <sup>6</sup> Motion to Correct Errors Granted Before Appeal (1) <sup>7</sup> Executed (20 in Indiana / 1 in Texas / 1 in Ohio)

# INDIANA DEATH ROW (1977-2022)

1 BREWER, JAMES	03-01-1978	55 CASTOR, MARVIN D.	07-29-1988
2 HICKS, LARRY	09-01-1978	56 ALLEN, HOWARD A.	08-30-1988
3 DANIELS, MICHAEL WILLIAM	09-14-1979	57 BENIRSCHKE, WILLIAM J.	08-31-1988
4 JUDY, STEVEN T.	02-25-1980	58 POTTS, LARRY DALE	10-06-1988
5 LOWERY, JAMES	07-11-1980	59 BENEFIEL, BILL J.	11-03-1988
6 WILLIAMS, LARRY C.	08-25-1980	60 CONNER, KEVIN	11-03-1988
7 MOORE, RICHARD D.	10-24-1980	61 LANDRESS, CINDY LOU	06-26-1989
8 BURRIS, GARY	02-20-1981	62 LOCKHART, MICHAEL LEE	07-19-1989
9 RESNOVER, GREGORY	07-23-1981	63 ROARK, DENNIS RAY	10-29-1992
10 SMITH, TOMMIE J.	07-23-1981	64 TRUEBLOOD, JOSEPH L.	04-12-1990
11 DILLON, RICHARD	08-21-1981	65 MATHENEY, ALAN LEHMAN	05-11-1990
12 SCHIRO, THOMAS N.	10-02-1981	66 ROCHE, CHARLES EDWARD JR.	11-30-1990
13 MINNICK, WILLIAM A.	06-10-1982	67 JAMES, VINCENT	02-28-1991
14 HOLLIS, DAVID	11-12-1982	68 MILLER, PERRY S.	05-20-1991
15 THOMPSON, JAY R.	03-18-1982	69 BURRIS, GARY	11-22-1991
16 AVERHART, RUFUS LEE	05-25-1982	70 HARRISON, JAMES P.	12-14-1991
17 WALLACE, DONALD RAY, JR.	10-21-1982	71 LAMBERT, MICHAEL ALLEN	01-17-1992
18 LOWERY, JAMES	01-07-1983	72 KENNEDY, STUART S.	04-28-1992
19 BIEGHLER, MARVIN	03-25-1983	73 PETERSON, CHRISTOPHER D.	05-15-1992
20 VAN CLEAVE, GREGORY	05-27-1983	74 PETERSON, CHRISTOPHER D.	06-05-1992
21 WISEHART, MARK ALLEN	09-26-1983	75 BIVINS, GERALD W.	06-05-1992
22 BOYD, RUSSELL ERNEST	10-04-1983	76 ROARK, DENNIS RAY	10-17-1989
23 SMITH, CHARLES	10-18-1983	77 WILLIAMS, EDWARD EARL	03-02-1993
24 SPRANGER, WILLIAM J.	12-08-1983	78 HOLMES, ERIC D. <sup>1</sup>	03-26-1993
25 FLEENOR, D. H.	01-04-1984	79 SAYLOR, BENNY LEE	02-17-1994
26 VANDIVER, WILLIAM C.	01-20-1984	80 PROWELL, VINCENT JUAN	05-05-1994
27 DAVIS, FRANK R.	01-25-1984	81 STEVENS, CHRISTOPHER M.	03-14-1995
28 HARRIS, JAMES ALLEN	02-10-1984	82 WRINKLES, MATTHEW E.	06-14-1995
29 GAMES, JAMES	04-05-1984	83 TIMBERLAKE, NORMAN H.	08-11-1995
30 PATTON, KEITH LAMONT	07-20-1984	84 AVERHART, RUFUS LEE	03-18-1996
31 DAVIS, GREAGREE C.	10-26-1984	85 THOMPSON, JERRY K.	05-24-1996
32 TOWNSEND, JOHNNY, JR.	03-18-1985	86 SMITH, ROBERT A.	07-12-1996
33 MCCOLLUM, PHILLIP	03-18-1985	87 BARKER, CHARLES E.	12-30-1996
34 WOODS, DAVID LEON	03-28-1985	88 STEPHENSON, JOHN W.	06-17-1997
35 RONDON, RENALDO	05-10-1985	89 DYE, WALTER L.	01-20-1998
36 MARTINEZ-CHAVEZ, ELADIO	05-10-1985	90 INGLE, JOHN E.	11-23-1998
37 THACKER, LOIS ANN	06-27-1985	91 CORCORAN, JOSEPH E. <sup>1</sup>	08-26-1999
38 UNDERWOOD, HERBERT A.	08-23-1985	92 MOORE, RICHARD D.	01-13-2000
39 HUFFMAN, RICHARD D., JR.	08-23-1985	93 OVERSTREET, MICHAEL D. <sup>1</sup>	07-31-2000
40 MINNICK, WILLIAM A.	10-16-1985	94 KUBSCH, WAYNE D	08-28-2000
41 LOWERY, TERRY LEE	12-19-1985	95 THOMPSON, JERRY K.	09-29-2000
42 BELLMORE, LARRY	04-14-1986	96 MCMANUS, PAUL MICHAEL	06-05-2002
43 COLEMAN, ALTON	05-07-1986	97 STROUD, PHILLIP A.	09-04-2002
44 JOHNSON, GREGORY SCOTT	06-19-1986	98 RITCHIE, BENJAMIN <sup>1</sup>	10-15-2002
45 BROWN, DEBRA DENISE	06-23-1986	99 WARD, ROY LEE	12-18-2002
46 COOPER, PAULA R.	07-11-1986	100 PRUITT, TOMMY R.	11-21-2003
47 EVANS, CHARLES G.	09-19-1986	101 KUBSCH, WAYNE D.	04-18-2005
48 CANAAN, KEITH B.	11-26-1986	102 BAER, FREDERICK MICHAEL	06-09-2005
49 BAIRD, ARTHUR PAUL, II	03-13-1987	103 WARD, ROY LEE <sup>1</sup>	06-08-2007
50 ROUSTER, GREGORY	03-20-1987	104 WILKES, DANIEL RAY	01-25-2008
51 WILLIAMS, DARNELL	03-23-1987	105 ISOM, KEVIN CHARLES <sup>1</sup>	03-08-2013
52 HOUGH, KEVIN LEE	06-11-1987	106 WEISHEIT, JEFFREY ALAN <sup>1</sup>	07-11-2013
53 KENNEDY, STUART S.	03-21-1988	107 GIBSON, WILLIAM CLYDE III <sup>1</sup>	11-26-2013
54 JACKSON, DONALD LEE, JR.	06-07-1988	108 GIBSON, WILLIAM CLYDE III <sup>1</sup>	04-15-2014

<sup>1</sup> On Death Row as of January 1, 2022 (9)

# INDIANA DEATH ROW (1977 - 2022)

1	COOPER, PAULA	15 yr, 262 d	50	SMITH, TOMMIE J.	26 yr, 309 d
2	PATTON, KEITH LAMONT	17 yr, 089 d	51	LOCKHART, MICHAEL LEE	27 yr, 013 d
3	THOMPSON, JAY R.	17 yr, 131 d	52	CANAAN, KEITH B.	27 yr, 056 d
4	MINNICK, WILLIAM A.	18 yr, 066 d	53	HARRIS, JAMES ALLEN	28 yr, 152 d
5	DILLON, RICHARD	18 yr, 086 d	54	COLEMAN, ALTON	28 yr, 225 d
6	MCCOLLUM, PHILLIP	18 yr, 162 d	55	MCMANUS, PAUL MICHAEL	28 yr, 227 d
7	ROUSTER, GREGORY	18 yr, 186 d	56	WARD, ROY LEE	28 yr, 356 d
8	SPRANGER, WILLIAM J.	18 yr, 244 d	57	JAMES, VINCENT	29 yr, 002 d
9	GAMES, JAMES	18 yr, 357 d	58	SMITH, CHARLES	29 yr, 061 d
10	WOODS, DAVID LEON	19 yr, 244 d	59	PROWELL, VINCENT JUAN	29 yr, 084 d
11	DANIELS, MICHAEL W.	19 yr, 314 d	60	RESNOVER, GREGORY	29 yr, 121 d
12	WISEHART, MARK ALLEN	19 yr, 322 d	61	THOMPSON, JERRY K.	29 yr, 362 d
13	TOWNSEND, JOHNNY, JR.	19 yr, 336 d	62	JACKSON, DONALD LEE, JR.	30 yr, 067 d
14	HICKS, LARRY	19 yr, 359 d	63	LANDRESS, CINDY LOU	30 yr, 094 d
15	WILLIAMS, DARNELL	20 yr, 012 d	64	DAVIS, FRANK R.	30 yr, 138 d
16	SCHIRO, THOMAS N.	20 yr, 045 d	65	BENEFIEL, BILL	30 yr, 249 d
17	LAMBERT, MICHAEL ALLEN	20 yr, 068 d	66	OVERSTREET, MICHAEL D.	30 yr, 321 d
18	RITCHIE, BENJAMIN	20 yr, 122 d	67	KUBSCH, WAYNE D.	30 yr, 330 d
19	JOHNSON, GREGORY SCOTT	20 yr, 125 d	68	BIVINS, GERALD W.	31 yr, 040 d
20	VAN CLEAVE, GREGORY	20 yr, 140 d	69	FLEENOR, D. H.	31 yr, 044 d
21	STEVENS, CHRISTOPHER M.	20 yr, 316 d	70	TRUEBLOOD, JOSEPH L.	31 yr, 233 d
22	WILLIAMS, LARRY C.	21 yr, 015 d	71	DYE, WALTER L.	31 yr, 294 d
23	HOLMES, ERIC D.	21 yr, 085 d	72	BAER, FREDERICK MICHAEL	32 yr, 129 d
24	BREWER, JAMES	21 yr, 177 d	73	LOWERY, JAMES	32 yr, 198 d
25	HOLLIS, DAVID	21 yr, 197 d	74	STEPHENSON, JOHN W.	32 yr, 241 d
26	BROWN, DEBRA DENISE	21 yr, 220 d	75	MARTINEZ-CHAVEZ, ELADIO	33 yr, 068 d
27	STROUD, PHILLIP A.	21 yr, 259 d	76	BIEGHLER, MARVIN	33 yr, 360 d
28	PETERSON, CHRISTOPHER D.	21 yr, 327 d	77	WEISHEIT, JEFFREY ALAN	34 yr, 013 d
29	PETERSON, CHRISTOPHER D.	21 yr, 332 d	78	WRINKLES, MATTHEW E.	34 yr, 199 d
30	DAVIS, GREAGREE C.	22 yr, 087 d	79	VANDIVER, WILLIAM C.	34 yr, 206 d
31	CORCORAN, JOSEPH E.	22 yr, 099 d	80	BARKER, CHARLES E.	35 yr, 196 d
32	WALLACE, DONALD RAY, JR.	22 yr, 133 d	81	RONDON, REYNALDO GORIA	35 yr, 279 d
33	CONNER, KEVIN	22 yr, 305 d	82	WILKES, DANIEL RAY	37 yr, 267 d
34	JUDY, STEVEN T.	22 yr, 339 d	83	MATHENEY, ALAN LEHMAN	38 yr, 118 d
35	BURRIS, GARY	23 yr, 043 d	84	ALLEN HOWARD A.	38 yr, 153 d
36	HUFFMAN, RICHARD D., JR.	23 yr, 157 d	85	BELLMORE, LARRY	38 yr, 209 d
37	LOWERY, TERRY LEE	23 yr, 319 d	86	HARRISON, JAMES P.	39 yr, 069 d
38	UNDERWOOD, HERBERT A.	23 yr, 330 d	87	PRUITT, TOMMY R.	39 yr, 102 d
39	WILLIAMS, EDWARD EARL	24 yr, 193 d	88	BAIRD, ARTHUR PAUL, II	39 yr, 212 d
40	BOYD, RUSSELL ERNEST	24 yr, 195 d	89	ISOM, KEVIN CHARLES	41 yr, 214 d
41	SAYLOR, BENNY LEE	24 yr, 217 d	90	MILLER, PERRY S.	43 yr, 031 d
42	BENIRSCHKE, WILLIAM J.	25 yr, 133 d	91	CASTOR, MARVIN D.	45 yr, 088 d
43	KENNEDY, STUART S.	25 yr, 293 d	92	SMITH, ROBERT A.	45 yr, 119 d
44	ROARK, DENNIS RAY	25 yr, 297 d	93	TIMBERLAKE, NORMAN H.	45 yr, 175 d
45	HOUGH, KEVIN LEE	26 yr, 081 d	94	INGLE, JOHN E.	46 yr, 271 d
46	EVANS, CHARLES G.	26 yr, 172 d	95	MOORE, RICHARD D.	48 yr, 154 d
47	AVERHART, RUFUS	26 yr, 242 d	96	POTTS, LARRY DALE	49 yr, 069 d
48	ROCHE, CHARLES EDWARD, JR.	26 yr, 263 d	97	GIBSON, WILLIAM CLYDE, III	54 yr, 167 d
49	THACKER, LOIS ANN	26 yr, 280 d	98	GIBSON, WILLIAM CLYDE, III	54 yr, 181 d

\* Average age at time of Murder = 27 years, 354 days

## BY AGE AT TIME OF MURDER

# INDIANA DEATH ROW (1977 - 2022)

1	COOPER, PAULA	16 yr, 320 d	55	ROARK, DENNIS RAY <sup>1</sup>	29 yr, 200 d
2	PATTON, KEITH LAMONT	17 yr, 362 d	56	MCMANUS, PAUL MICHAEL	29 yr, 326 d
3	THOMPSON, JAY R.	18 yr, 141 d	57	RESNOVER, GREGORY	29 yr, 345 d
4	DILLON, RICHARD	18 yr, 252 d	58	SMITH, CHARLES	30 yr, 008 d
5	MINNICK, WILLIAM A.	18 yr, 293 d	59	PROWELL, VINCENT JUAN	30 yr, 062 d
6	ROUSTER, GREGORY	19 yr, 044 d	60	JAMES, VINCENT	30 yr, 077 d
7	SPRANGER, WILLIAM J.	19 yr, 073 d	61	WARD, ROY LEE	30 yr, 151 d
8	GAMES, JAMES	19 yr, 258 d	62	COLEMAN, ALTON	30 yr, 182 d
9	MCCOLLUM, PHILLIP	19 yr, 262 d	63	DAVIS, FRANK R.	30 yr, 261 d
10	HICKS, LARRY	20 yr, 200 d	64	KENNEDY, STUART S. <sup>1</sup>	31 yr, 099 d
11	WOODS, DAVID LEON	20 yr, 233 d	65	LANDRESS, CINDY LOU	31 yr, 157 d
12	WILLIAMS, DARNELL	20 yr, 236 d	66	JACKSON, DONALD LEE, JR.	31 yr, 309 d
13	SCHIRO, THOMAS N.	20 yr, 284 d	67	FLEENOR, D. H.	32 yr, 067 d
14	WISEHART, MARK ALLEN	20 yr, 309 d	68	BENEFIEL, BILL	32 yr, 153 d
15	VAN CLEAVE, GREGORY	20 yr, 360 d	69	BIVINS, GERALD W.	32 yr, 181 d
16	TOWNSEND, JOHNNY, JR.	21 yr, 071 d	70	KUBSCH, WAYNE D.	32 yr, 309 d
17	LAMBERT, MICHAEL ALLEN	21 yr, 088 d	71	TRUEBLOOD, JOSEPH L.	33 yr, 107 d
18	JOHNSON, GREGORY SCOTT	21 yr, 121 d	72	DYE, WALTER L.	33 yr, 110 d
19	DANIELS, MICHAEL W.	21 yr, 190 d	73	LOWERY, JAMES	33 yr, 117 d
20	BREWER, JAMES	21 yr, 264 d	74	BAER, FREDERICK MICHAEL	33 yr, 233 d
21	MINNICK, WILLIAM A. <sup>1</sup>	22 yr, 056 d	75	OVERSTREET, MICHAEL D.	33 yr, 263 d
22	HOLLIS, DAVID	22 yr, 090 d	76	STEPHENSON, JOHN W.	33 yr, 321 d
23	RITCHIE, BENJAMIN	22 yr, 138 d	77	MARTINEZ-CHAVEZ, ELADIO	34 yr, 284 d
24	WILLIAMS, LARRY C.	22 yr, 167 d	78	WARD, ROY LEE <sup>1</sup>	34 yr, 323 d
25	STEVENS, CHRISTOPHER M.	22 yr, 193 d	79	BURRIS, GARY <sup>1</sup>	34 yr, 340 d
26	DAVIS, GREAGREE C.	22 yr, 294 d	80	THOMPSON, JERRY K.	35 yr, 069 d
27	PETERSON, CHRISTOPHER D.	23 yr, 116 d	81	BIEGHLER, MARVIN	35 yr, 100 d
28	PETERSON, CHRISTOPHER D.	23 yr, 137 d	82	VANDIVER, WILLIAM C.	35 yr, 147 d
29	CONNER, KEVIN	23 yr, 221 d	83	WRINKLES, MATTHEW E.	35 yr, 162 d
30	BROWN, DEBRA DENISE	23 yr, 224 d	84	LOWERY, JAMES <sup>1</sup>	35 yr, 297 d
31	STROUD, PHILLIP A.	23 yr, 248 d	85	RONDON, REYNALDO GORIA	36 yr, 124 d
32	JUDY, STEVEN T.	23 yr, 277 d	86	WEISHEIT, JEFFREY ALAN	37 yr, 105 d
33	BURRIS, GARY	24 yr, 065 d	87	KUBSCH, WAYNE D. <sup>1</sup>	37 yr, 181 d
34	CORCORAN, JOSEPH E.	24 yr, 130 d	88	BARKER, CHARLES E.	38 yr, 346 d
35	LOWERY, TERRY LEE	24 yr, 158 d	89	BELLMORE, LARRY	39 yr, 132 d
36	HOLMES, ERIC D.	24 yr, 215 d	90	WILKES, DANIEL RAY	39 yr, 179 d
37	HUFFMAN, RICHARD D., JR.	24 yr, 235 d	91	MATHENEY, ALAN LEHMAN	39 yr, 186 d
38	UNDERWOOD, HERBERT A.	25 yr, 043 d	92	ALLEN HOWARD A.	39 yr, 202 d
39	WALLACE, DONALD RAY, JR.	25 yr, 048 d	93	THOMPSON, JERRY K. <sup>1</sup>	39 yr, 205 d
40	WILLIAMS, EDWARD EARL	25 yr, 083 d	94	BAIRD, ARTHUR PAUL, II	41 yr, 035 d
41	BOYD, RUSSELL ERNEST	25 yr, 233 d	95	AVERHART, RUFUS LEE <sup>1</sup>	41 yr, 097 d
42	BENIRSCHKE, WILLIAM J.	25 yr, 334 d	96	PRUITT, TOMMY R.	41 yr, 262 d
43	SAYLOR, BENNY LEE	26 yr, 095 d	97	HARRISON, JAMES P.	42 yr, 035 d
44	ROARK, DENNIS RAY	26 yr, 188 d	98	MILLER, PERRY S.	43 yr, 218 d
45	KENNEDY, STUART S.	27 yr, 092 d	99	SMITH, ROBERT A.	46 yr, 131 d
46	ROCHE, CHARLES EDWARD, JR.	27 yr, 102 d	100	ISOM, KEVIN CHARLES	47 yr, 063 d
47	THACKER, LOIS ANN	27 yr, 151 d	101	CASTOR, MARVIN D.	47 yr, 171 d
48	EVANS, CHARLES G.	27 yr, 158 d	102	TIMBERLAKE, NORMAN H.	47 yr, 362 d
49	AVERHART, RUFUS LEE	27 yr, 164 d	103	INGLE, JOHN E.	49 yr, 021 d
50	SMITH, TOMMIE J.	27 yr, 167 d	104	MOORE, RICHARD D.	49 yr, 141 d
51	HOUGH, KEVIN LEE	27 yr, 298 d	105	POTTS, LARRY DALE	50 yr, 063 d
52	CANAAN, KEITH B.	28 yr, 024 d	106	GIBSON, WILLIAM CLYDE, III	56 yr, 047 d
53	LOCKHART, MICHAEL LEE	28 yr, 292 d	107	GIBSON, WILLIAM CLYDE, III	56 yr, 187 d
54	HARRIS, JAMES ALLEN	29 yr, 106 d	108	MOORE, RICHARD D. <sup>1</sup>	69 yr, 220 d

<sup>1</sup> Resentenced to Death Again After Sentence Vacated

\* Average Age at Sentencing = 30 years, 144 days

## BY AGE AT DEATH SENTENCE

**ONCE ON INDIANA DEATH ROW:  
NOW SERVING TIME IN IDOC, OR DISCHARGED BY IDOC TO THE STREET,  
OR DIED ON DEATH ROW (1977-2021)**

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Allen, Howard A.	Marion	08/30/88	X	X	Died at 71 yrs old on Death Row 6/5/20; Served ± 33 Years
Averhart, Rufus	Allen	05/25/82	X	Discharged at 62 yrs old from IDOC on 2-6-17; Served ± 35 Years	X
Baer, Frederick Michael	Madison	06/09/05	LWOP X2	X	X
Baird, Arthur Paul, II	Montgomery	03/13/87	LWOP X2	X	X
Barker, Charles E.	Marion	11/26/96	LWOP X2 + 111 yr	X	
Bellmore, Larry	Morgan	04/04/86	X	Discharged at 65 yrs old from IDOC on 07/12/12; Served ± 27 Years	X
Benefiel, Bill	Vigo	02/07/87	X	X	EXECUTED 04/21/05
Benirschke, William J.	Lake	02/02/87	140 Years	X	X
Bieghler, Marvin	Howard	03/25/83	X	X	EXECUTED 01/27/06
Bivins, Gerald W.	Boone	06/05/92	X	X	EXECUTED 03/14/01
Boyd, Russell Ernest	Clark	10/04/83	X	Discharged at 61 yrs old from IDOC on 02/03/19; Served ± 36 Years	X

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Brewer, James	Lake	03/01/78	X	Discharged at 50 yrs old from IDOC on 06/24/06; Served ± 28 Years	X
Brown, Debra Denise	Lake	06/23/86	140 Years	X	X
Burris, Gary	Marion	02/20/81	X	X	EXECUTED 11/20/97
Canaan, Keith B.	Vanderburgh	11/26/86	140 Years	X	X
Castor, Marvin D.	Wayne	07/29/88	X	X	Died at 74 in Prison on 01/30/15; Served ± 29 Years
Coleman, Alton	Lake	05/07/86	X	X	EXECUTED 04/26/02
Conner, Kevin	Marion	11/03/88	X	X	EXECUTED 07/27/05
Cooper, Paula	Lake	07/11/86	X	Discharged at 43 yrs old from IDOC on 06/17/13; Served ± 28 Years; Suicide 05/26/15	X
Corcoran, Joseph E.	Allen	08/26/99	ON DEATH ROW	X	X
Daniels, Michael W.	Marion	09/14/79	LWOP	X	X
Davis, Frank R.	Marshall	01/25/84	220 Years	X	X
Davis, Greagree C.	Marion	10/26/84	150 Years	X	X
Dillon, Richard	Knox	08/21/81	X	Discharged at 45 yrs old from IDOC on 08/30/08; Served ± 27 Years; Recommitted and discharged on 09/23/10	X
Dye, Walter L.	Marion	01/20/98	LWOP	X	X

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Evans, Charles G.	Marion	09/19/86	180 Years	X	X
Fleenor, D. H.	Johnson	01/04/84	X	X	EXECUTED 12/09/99
Games, James	Marion	04/04/84	110 Years	X	X
Gibson, William Clyde, III	Floyd	11/26/13	ON DEATH ROW	X	x
Harris, James Allen	Marion	02/10/84	160 Years	X	X
Harrison, James P.	Posey	12/14/91	150 Years	X	X
Hicks, Larry	Lake	09/01/78	X	Found Not Guilty on Retrial 11/21/80	X
Hollis, David	Lake	11/12/82	X	X	Suicide at 24 yrs old in ISP on 02/19/84
Holmes, Eric D.	Marion	03/26/93	ON DEATH ROW	X	X
Hough, Kevin Lee	Allen	06/11/87	X	X	EXECUTED 05/02/03
Huffman, Richard D., Jr.	Marion	08/23/85	X	Discharged at 54 yrs old from IDOC on 02/06/14; Served ± 29 Years	X
Ingle, John E.	Floyd	11/23/98	X	X	Died at 59 yrs old in Prison on 11/24/09; Served ± 29 Years
Isom, Kevin Charles	Lake	03/08/13	ON DEATH ROW	X	X
Jackson, Donald Lee, Jr.	Franklin	06/07/88	160 Years	X	X
James, Vincent	Porter	02/28/91	90 Years	X	X
Johnson, Gregory Scott	Madison	06/19/86	X	X	EXECUTED 05/25/05

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Judy, Steven T.	Morgan	02/25/80	X	X	EXECUTED 03/09/81
Kennedy, Stuart S.	Decatur	03/21/88	118 Years	X	X
Kubsch, Wayne D.	St. Joseph	08/28/00	LWOP X2	X	X
Lambert, Michael Allen	Delaware	01/17/92	X	X	EXECUTED 06/15/07
Landress, Cindy Lou	Lake	06/26/89	X	Discharged at 58 yrs old from IDOC on 05/01/16; Served ± 28 Years	X
Lockhart, Michael Lee	Lake	07/19/89	X	X	EXECUTED 12/09/97
Lowery, James	Boone	07/11/80	X	X	EXECUTED 06/27/01
Lowery, Terry Lee	Allen	12/19/85	X	Discharged at 50 yrs old from IDOC on 05/25/12; Served ± 27 Years	X
Martinez-Chavez, Eladio	Lake	05/15/85	X	Discharged at 58 yrs old from IDOC on 04/30/10; Served ± 25 Years	
Matheney, Alan Lehman	Lake	05/11/90	X	X	EXECUTED 09/27/05
McCollum, Phillip	Lake	03/08/85	120 Years	X	X
McManus, Paul Michael	Vanderburgh	06/05/02	LWOP X3	X	X
Miller, Perry S.	Porter	05/20/91	138 Years	X	X
Minnick, William A.	Clay	06/10/82	138 Years	X	X
Moore, Richard D.	Marion	10/24/80	X	X	Died at 75 yrs old in Prison on 12/24/06; Served ± 27 Years
Overstreet, Michael D.	Johnson	07/31/00	ON DEATH ROW	X	X

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Patton, Keith Lamont	Marion	07/20/84	222 Years	X	X
Peterson, Christopher D.	Lake Porter	06/05/92 05/15/92	120 + 70 Years	X	X
Potts, Larry Dale	Lake	10/06/88	210 Years	X	X
Powell, Vincent Juan	Vanderburgh	05/05/94	100 Years	X	X
Pruitt, Tommy R.	Dearborn	11/21/03	180 Years	X	X
Resnover, Gregory	Marion	07/23/81	X	X	EXECUTED 07/19/96
Ritchie, Benjamin	Marion	10/15/02	ON DEATH ROW	X	X
Roark, Dennis Ray	Lake	10/17/89	200 Years	X	X
Roche, Charles Edward Jr.	Lake	11/30/90	X	X	Suicide by Hanging on Death Row at 42 yrs old on 01/10/06; Served ± 16 Years
Rondon, Reynaldo Goria	Lake	05/10/85	55 Years	X	X
Rouster, Gregory	Lake	03/20/87	X	Discharged at 48 yrs old from IDOC on 04/21/16 Served ± 29 Years	X
Saylor, Benny Lee	Madison	02/17/94	100 Years	X	X
Schiro, Thomas N.	Vanderburgh	10/02/81	40 Years (Rape)	Scheduled for release on Murder, convicted of 1980 Rape 27 years later.	X
Smith, Charles	Allen	10/18/83	X	Found Not Guilty on Retrial 11/21/80	X
Smith, Robert A.	Sullivan	07/12/96	X	X	EXECUTED 01/29/98
Smith, Tommie J.	Marion	12/11/80	X	X	EXECUTED 07/18/96

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Spranger, William J.	Wayne	12/08/83	X	Discharged at 48 yrs old from IDOC on 07/29/13 Served ± 30 Years	
Stephenson, John W.	Warrick	06/17/97	110 Years	X	X
Stevens, Christopher M.	Tippecanoe	03/14/95	LWOP	X	X
Stroud, Phillip A.	St. Joseph	09/04/02	LWOP + 70 Years	X	X
Thacker, Lois Ann	Dubois	06/27/85	X	Discharged at 55 yrs old from IDOC on 04/05/13 Served ± 28 Years	X
Thompson, Jay R.	Harrison	03/18/82	120 Years	X	X
Thompson, Jerry K.	Marion	05/24/96	X	X	Killed on Death Row at 41 yrs old on 10/27/02 Served ± 16 Years
Timberlake, Norman H.	Marion	08/11/95	X	X	Died at 59 yrs old on Death Row on 11/10/07; Served ± 14 Years
Townsend, Johnny, Jr.	Lake	03/08/85	120 Years	X	X
Trueblood, Joseph L.	Tippecanoe	04/12/90	X	X	EXECUTED 06/13/03
Underwood, Herbert A.	Marion	08/23/85	X	Discharged at 50 yrs old from IDOC on 06/06/11 Served ± 27 Years	
Van Cleave, Gregory	Marion	05/27/83	X	Discharged at 48 yrs old from IDOC in 2010; Recommitted and discharged in 2017 Served ± 35 Years	X

Inmate	Committing County	Original Death Sentence	Currently Serving	Discharged by IDOC (Age)	Died in Prison (Age)
Vandiver, William C.	Lake	01/20/84	X	X	EXECUTED 10/16/85
Wallace, Donald Ray, Jr.	Vigo	10/21/82	X	X	EXECUTED 03/10/05
Ward, Roy Lee	Spencer	12/18/02	ON DEATH ROW	X	X
Weisheit, Jeffrey Alan	Clark	07/11/13	ON DEATH ROW	X	X
Wilkes, Daniel Ray	Clark	01/25/98	LWOP	X	X
Williams, Darnell	Lake	03/23/87	LWOP	X	X
Williams, Edward Earl	Lake	03/03/93	120 Years	X	X
Williams, Larry C.	LaPorte	08/25/80	X	X	Died at 53 yrs old in Prison on 08/27/11; Served ± 32 Years
Wisehart, Mark Allen	Madison	09/26/83	X	Discharged at 58 yrs old from IDOC on 07/19/20; Served ± 37 Years	X
Woods, David Leon	Boone	03/28/85	X	X	EXECUTED 05/05/07
Wrinkles, Matthew E.	Vanderburgh	06/14/95	X		EXECUTED 12/11/09
<b>TOTALS</b>		<b>On Death Row 9 LWOP 11 Term of Years 28</b>	<b>Discharged by IDOC: 17 (On the streets)</b>	<b>Executed 20 Died in Prison 6 Killed in Prison 1 Suicide in Prison 2</b>	

# INDIANA DEATH ROW (1977-2021)

## ALLEN, HOWARD ARTHUR, JR. # 56

OFF DEATH ROW SINCE 07-03-12  
DOB: 02-10-1949 DOC#: 881978 Black Male

Marion County Superior Court  
Judge John R. Barney, Jr.

Trial Cause #: CR87-194C

**Prosecutor:** Thomas W. Farlow, Robert P. Thomas,  
John V. Commons

**Defense:** Alex R. Voils, Jr., David B. Sexton

**Date of Murder:** July 14, 1987

**Victim(s):** Ernestine Griffin W / F / 73 (No relationship to Allen)

**Method of Murder:** stabbing with butcher knife

**Summary:** Ernestine Griffin was an elderly woman who lived alone near 57th and Keystone in Indianapolis. She lived next to the dental office of Dr. Seaman, who knew her quite well. One day Griffin called and advised that a man had stopped by her house inquiring about an old car Dr. Seaman had for sale. Griffin stated that she had the man write down his name and number and she passed it along to Dr. Seaman: "Howard Allen 545-4109." The next morning, Dr. Seaman walked over to her house and discovered Griffin's body lying on the floor with a butcher knife in her chest. Griffin also suffered a blunt force injury to her face. A note with the name and phone number of Allen was found in the kitchen. A handwriting expert would later testify that Allen had indeed written the note. Allen at first denied all knowledge of Griffin or Dr. Seaman. Over several hours of questioning, he finally admitted that he had been in the home asking about the car and had struck her with his fist. He stated that he did so only after Dr. Seaman had insulted him on the phone and Griffin had cussed him. Finally, he said, "I didn't stab the lady, but if I did, I need help." A co-worker at the car wash where Allen worked testified that Allen had given him a camera on the day of the murder to put in a locker. The camera was identified by serial number and the film still in the camera as belonging to Griffin.

**Trial:** Information/PC for Murder Filed (07-15-87); Death Sentence Request Filed (08-31-87); Jury Trial (06-08-88, 06-09-88, 06-10-88); Verdict (06-11-88); DP Trial (06-11-88, 06-12-88); DP Verdict (06-13-88); Court Sentencing (08-30-88).

**Conviction:** Murder, Felony-Murder, Robbery (A Felony)

**Sentencing:** August 30, 1988 (Death Sentence, 50 years - Murder/Felony Murder merged)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** dysfunctional family, education, and social environment  
parents separated and divorced  
mental retardation, low intelligence, mental instability



**Direct Appeal:** Allen v. State, 686 N.E.2d 760 (Ind. September 25, 1997) (49S00-9207-DP-566)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Brent L. Westerfeld, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Allen v. Indiana, 119 S.Ct. 807 (1999) (Cert. denied)

In the Matter of Hatfield, 607 N.E.2d 384 (Ind. January 25, 1993) (49S00-9301-MS-152)  
(Court Reporter found in contempt for failure to meet deadlines)

In the Matter of Sexson, 666 N.E.2d 402 (Ind. June 14, 1996) (49S00-9509-DI-1068)  
(Disciplinary proceeding; by agreement, attorney Sexton suspended from practice for 6 months with automatic reinstatement - Missed appellate deadlines, filed 20-page brief, was paid \$40,743.50 and billed an additional \$13,097.00 for appellate work) Per Curiam Opinion; Shepard, Debruler, Sullivan, Selby concur; Dickson dissents believing sanction inadequate.

**PCR:** PCR Petition filed 12-15-98. Amended PCR Petition filed 06-07-99, 07-13-99.  
State's answer filed 01-14-99. Answer to Amended PCR Petition filed 06-04-99, 07-19-99.  
PCR Hearing 07-19-99, 07-20-99, 07-21-99.  
Special Judge Raymond D. Kickbush.  
For Defendant: Joanna Green, Kathleen Cleary, Danielle Gregory,  
Deputy Public Defenders (Carpenter).  
For State: Michael A. Hurst, Priscilla J. Fossum, Deputy Attorneys General (Modisett).  
PCR Petition denied 10-06-99.

Allen v. State, 749 N.E.2d 1158 (Ind. June 29, 2001) (49S00-9804-PD-249)  
(Appeal of PCR denial by Special Judge Raymond D. Kickbush)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Joanna Green, Kathleen Cleary, Danielle Gregory, Deputy Public Defenders (Carpenter).  
For State: Priscilla J. Fossum Deputy Attorney General (Freeman-Wilson).  
Allen v. Indiana, 122 S.Ct. 1925 (2002) (Cert. denied).

Successive PCR Petition tendered, claiming retardation and citing Atkins v. Virginia.  
07-15-03 Indiana Supreme Court declines to authorize Successive PCR.

**Habeas:** 03-18-02 Petition for Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Howard A. Allen, Jr. v. Cecil Davis, Superintendent (IP 01-1658-C-T/K)  
Judge John D. Tinder.  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Ballwin, MO.  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
09-30-02 Petitioner's Memorandum in support of Writ of Habeas Corpus filed.  
04-18-03 Response and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-05-03 Petitioner's Reply Memorandum in support of Writ of Habeas Corpus filed.  
11-07-03 Response to Petitioner's Traverse filed.  
01-27-05 Supplement filed in opposition to Writ of Habeas Corpus.  
03-30-05 Supplement filed in support of Writ of Habeas Corpus.  
09-19-03 Writ of Habeas Corpus denied.

Allen v. Buss, 558 F.3d 657 (7th Cir. March 11, 2009) (07-2486)  
(Appeal of denial of Writ of Habeas Corpus)  
Reversed and remanded 3-0; Opinion by Judge Anne Claire Williams  
Judge Ilana Diamond Rovner and Judge Joel M. Flaum concur.  
("for an evidentiary hearing to address whether Allen is mentally retarded under Indiana law")

For Defendant: Alan M. Freedman, Laurence E. Komp, Midwest Center for Justice, Chicago, IL  
For State: Stephen R. Creason, Deputy Attorney General (G. Zoeller)

Allen v. Wilson, 2012 WL 2577492 (S.D. Ind. July 3, 2012) (1:01-cv-1658-JDT-TAB)  
On remand, evidentiary hearing was held on July 19-21, 2010. Two years later, U.S. District Judge John Daniel Tinder holds that Allen is mentally retarded as defined under Indiana Law and entitled to relief under Atkins.

**On Remand:** On May 28, 2013 Allen was resentenced by the Marion County Superior Court to 60 years (21,900 days) on Count I: Murder, and to 50 years (18,250 days) on Count III: Robbery (Class A Felony), to run concurrently with each other and consecutively with sentence received in 49G05-8708-CF-020966. (9,450 days credit time)

- ▶ ALLEN (AT 71 YEARS OLD) DIED AT THE INDIANA STATE PRISON ON JUNE 5, 2020, AFTER SERVING ± 33 YEARS IN CUSTODY.

**AVERHART, RUFUS LEE # 15 & # 84  
(Zolo Agona Azania)**

OFF DEATH ROW SINCE 05-10-07  
DOB: 12-12-54 DOC# 4969 Black Male

Allen County Superior Court  
Judge Alfred W. Moellering  
Venued from Lake County

**Trial Cause #:** CR-81-401 (Allen County)  
**Prosecutor:** John M. McGrath, James W. McNew  
**Defense:** David R. Schneider

**Date of Murder:** August 11, 1981



**Victim(s):** George Yaros W / M / 57 (Gary Police Officer - No relationship to Averhart)

**Method of Murder:** shooting with .44 handgun

**Summary:** Averhart, Hutson and North robbed the Gary National Bank and shot Gary Police Officer George Yaros, who was arriving on the scene. As they fled to their car, Averhart stopped and again shot Officer Yaros at close range. A high-speed chase/shootout resulted in the getaway car crashing into a tree. Averhart was followed from the scene, and with the aid of bystanders was discovered walking nearby. The gun used to shoot and kill Officer Yaros, a gun taken from the bank security guard, and a wig worn by Averhart during the robbery were also recovered.

**Trial:** Voir Dire (04-19-82, 04-20-02); Jury Trial (04-21-82, 04-22-82, 04-23-82, 04-26-82); Defendant presented no witnesses, submitted no jury instructions; Deliberations 1 hour, 15 minutes; Verdict (04-26-82); DP Trial (04-27-82); Defendant presented no witnesses, submitted no jury instructions; Deliberations 3 hours, 20 minutes; Verdict (04-27-82); Court Sentencing (05-25-82).

**Conviction:** Murder, Felony Murder (Tried jointly with Hutson and North; all three convicted as charged; DP sought against all three but jury recommended death for Averhart only)

**Sentencing:** May 25, 1982  
(Death Sentence - Murder/Felony Murder merged; Hudson and North sentenced to 60 years)

**Aggravating Circumstances:** b(1) Robbery  
b(6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Averhart v. State, 470 N.E.2d 666 (Ind. October 29, 1984) (1182-S-414)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Givan, Debruler, Hunter, Prentice concur.  
For Defendant: Stephen C. Bower, Kentland, Special State Public Defender  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Averhart v. Indiana, 105 S.Ct. 2051 (1985) (Cert. denied)

**PCR:** PCR Petition filed 09-23-85. Amended PCR Petition filed 03-31-86, 12-07-86, 05-18-87.  
State's answer filed 10-23-85.  
Answer to Amended PCR Petition filed 04-28-86, 05-19-86, 01-30-87, 02-24-87, 08-03-87.  
Hearing 05-19-86 to 05-23-86, 08-21-86 to 08-22-86, 05-18-87 to 05-20-87. (10 days)  
Special Judge Vern E. Sheldon  
For Defendant: Michael Freese, Rhonda Long-Sharp, Linda Rodriguez, Deputy Public Defenders  
For State: James McNew, Michael Thill  
PCR Petition denied 02-23-88.

Averhart v. State, 614 N.E.2d 924 (Ind. May 27, 1993) (02S00-8808-PC-751)  
(Appeal of PCR denial by Special Judge Vern E. Sheldon)  
Conviction Affirmed 5-0 DP Vacated 4-1  
Per Curiam Opinion; Shepard, Debruler, Dickson, Krahulik concur; Givan dissents.  
(Reversed on grounds of ineffective counsel - failure to present mitigating evidence, and based upon the State's failure to provide gunshot residue tests; remanded for new jury and judge sentencing hearing or imposition of sentence for a term of years)  
For Defendant: Rhonda Long-Sharp, Valerie K. Boots, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** Trial was venued again to Allen County. Following a new jury and judge sentencing hearing, the jury recommended death and Judge Kenneth R. Scheibenberger sentenced Averhart to death on 03-18-96. On appeal, trial court directed to provide an amended sentencing order.  
For State: Susan Collins, Peter Shakula  
For Defendant: Kevin L. Likes, Auburn, Michelle Fennessy, Indianapolis, Isaiah Skip Gant

**Direct Appeal:** Azania v. State, 730 N.E.2d 646 (Ind. June 6, 2000) (02S00-8808-PC-751)  
DP Affirmed 4-1  
Dickson Opinion; Shepard, Sullivan, Rucker concur. Boehm dissents on grounds that Averhart did not present certain mitigating evidence of family life only because the trial court upheld the state's threat to present evidence of a prior homicide as rebuttal.  
For Defendant: Kevin L. Likes, Auburn, Michelle Fennessy, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**§ 1983:** Azania v. Squadrito, 114 F.2d 1191 (7th Cir. 1997) (§1983 action against Allen County Jail and Sheriff, alleging conspiracy to hinder his death penalty resentencing hearing; After dismissal by District Court, he sought a new hearing, alleging newly discovered evidence. This Rule 60(b) motion was also dismissed. - Affirmed 3-0; Judge Joel M. Flaum, Judge Daniel A. Manion, Judge Terrance T. Evans)  
Azania v. Bechert, 172 F.3d 52 (7th Cir. 1999) (§ 1983 suit against former public defenders for conspiring with judge and prosecutors; discovery request denied)

**PCR:** Azania v. State, 738 N.E.2d 248 (Ind. November 2, 2000) (Indiana Supreme Court Order authorizing successive PCR on issue of tainted jury pool, but denying authorization on all other claims).

PCR denied 04-12-01.

Azania v. State, 778 N.E.2d 1253 (Ind. November 22, 2002) (02S00-0009-SD-538)  
(Appeal of PCR denial by Allen Superior Court Judge Kenneth R. Scheibenberger)  
Conviction Affirmed 5-0 DP Vacated 3-2  
Boehm Opinion; Sullivan, Rucker concur. Shepard, Dickson dissent.  
(Allen County computerized jury selection system did not substantially comply with statutes.)  
For Defendant: Jesse A. Cook, Terre Haute, Michael E. Deutsch, Chicago  
William Goodman, New York, Monica Foster, Indianapolis, Brief of Amici Curiae.  
For State: Christopher L. Lafuse, Deputy Attorney General (S. Carter)

**On Remand:** Trial was venued again to Allen County.

Defendant's Motion to Return case to Lake County for trial denied.  
Boone County Circuit Court Judge Steven H. David appointed Special Judge.  
For Defendant: Jesse A. Cook, Terre Haute, Michael E. Deutsch, Chicago  
On May 1, 2005, Judge Steven H. David granted Azania's Motion to Dismiss the Death Penalty Request, holding that the 24 year delay since the murder was mostly the fault of the State and has deprived him of fundamental due process.

State v. Azania, 865 N.E.2d 994 (Ind. May 10, 2007) (02S03-0508-PD-364)  
(State's Interlocutory Appeal of Special Judge Steven David's dismissal of pending death penalty request on retrial due to passage of time)  
Reversed 3-2; (Sullivan Opinion; Shepard and Dickson concur;  
Boehm and Rucker dissent on grounds that 25 years on death row is cruel and unusual and that the passage of time has caused his mitigation evidence to disappear)  
For Defendant: Jesse A. Cook, Terre Haute, Michael E. Deutsch, Chicago, Deputy Public Defenders, John L. Stainthorp, Erica Thompson, Chicago, IL  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Amici Curiae: Indiana Black Caucus, Center for Constitutional Rights, Center for Justice in Capital Cases, Charles Hamilton Houston Institute for Race and Justice, Criminal Justice Institute, Illinois Association of Criminal Defense Lawyers, National Conference of Black Lawyers, National Lawyers Guild, National Legal Aid & Defender Association, Andrea D. Lyon, Chicago, IL, Monica Foster, Indianapolis.

State v. Azania, 875 N.E.2d 701 (Ind. November 7, 2007) (On Rehearing) (02S03-0508-PD-364)  
(Commanding use of current Death Penalty statute at retrial, where Judge must sentence in accordance with jury verdict, except that LWOP is not an option)  
Opinion by Sullivan; Shepard, Dickson, J., Concur.  
Boehm dissents in part, claiming that Judge always retains discretion to reject jury death finding. Rucker dissents in part, claiming that LWOP should be an option.  
For Defendant: Michael E. Deutsch, Chicago, IL, Jessie A. Cook, Terre Haute, IN  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

**On Remand:** On eve of a third trial in Allen County, on October 17, 2008 Averhart was resentenced pursuant to a Stipulated Sentencing Agreement to 74 years imprisonment (consecutive terms of 60 years imprisonment for Murder, and 14 years imprisonment for Armed Robbery) by Allen County Superior Court Special Judge Robert Altice. (02D04-8109-CF-000401)

Credit for pretrial detention for 9,930 days from August 11, 1981 thru and including October 17, 2008. Discharged from the Indiana Department of Corrections on February 6, 2017.

Azania v. Superintendent, Ind. State Prison, (N.D. Ind. Feb. 18, 2015)  
United States District Court for the Northern District of Indiana, South Bend Division  
(No. 3:09 CV 499)  
Judge James T. Moody, United States District Judge  
Petition for Writ of Habeas denied. Certificate of Appealability denied.

- ▶ AZANIA (AT 62 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON FEBRUARY 6, 2017, AFTER SERVING ± 35 YEARS IN CUSTODY.

**BAER, FREDRICK MICHAEL #102**

OFF DEATH ROW SINCE JANUARY 11, 2018  
DOB: 10-19-1971 DOC#: 910135 White Male

Madison County Superior Court #1  
Judge Fredrick R. Spencer



**Trial Cause #:** 48D01-0403-MR-062

**Prosecutor:** Rodney J. Cummings, David L. Puckett



**Defense:** Jeffrey A. Lockwood, Bryan R. Williams

**Date of Murder:** February 25, 2004

**Method of Murder:** slashing throat with knife

**Victim(s):** Cory Clark W / F /26, Jenna Clark W / F / 4 (No relationship to Baer)

**Summary:** On the morning of February 25, 2004, in a rural residential neighborhood near Lapel High School, Cory Clark, age 24, stepped onto the porch of her home as the defendant drove by. He turned his vehicle around and drove back, stopped near her driveway, and got out. Cory and her 4 year old daughter Jenna were alone in their home near Lapel. Her 7 year old daughter was at school and her husband was outside the state. Later that day, they were found murdered in their home, Cory in a bedroom nude from the waist down, lying in a pool of blood with her throat lacerated, and Jenna in another bedroom with spinal injuries and a severely lacerated throat that nearly decapitated her. Cory's purse containing three to four hundred dollars was missing from the house. Baer admitted committing the murders, telling police that had entered the residence and used a knife to slit the throat of Cory Clark, then chased down 4-year-old Jenna and slit her throat as well. He also had attempted to rape Cory before her death. Baer had been working at a nearby construction site that day, left work, committed the murders, then returned to the job. The apparent motive was to feed a drug habit and a deviate sexual appetite. There is no evidence that Cory and Jenna Clark were anything other than total strangers to the defendant.

**Trial:** Information/PC for Murder Filed (03-03-04); Amended Information and Death Sentence Request Filed (04-07-04); Recusal of Presiding Judge (12-16-04); Change of Venue Granted (01-31-05); Motion to Plead Guilty But Mentally Ill (02-28-05); Plea Rejected (03-01-05); Motion to Sever Unrelated Offenses Granted (04-04-05); Voir Dire in Huntington County (04-26-05, 04-27-05, 04-28-05); Amended Information Filed (05-02-05, 05-12-05); Jury Trial in Madison County (05-03-05, 05-04-05, 05-05-05, 05-10-05, 05-11-05, 05-12-05); Verdict (05-12-05); Amended Information Filed (05-17-05); DP Trial (05-19-05, 05-20-05); Verdict (05-20-05); Court Sentencing (06-09-05).

**Conviction:** Murder, Murder, Robbery (A Felony), Attempted Rape (A Felony), Theft (D Felony)

**Sentencing:** June 9, 2005 (Death Sentence - No sentence entered for Robbery, Attempted Rape, and Theft)

**Aggravating Circumstances:**

- b (1) Robbery
- b (1) Attempted Rape
- b (8) Two Murders
- b (9) On Parole
- b (12) Victim Less Than 12 Years

**Mitigating Circumstances:** mental illness, paranoid personality disorder, anxiety disorder  
severe drug dependency  
difficult childhood, family strife, drug use  
toxic parenting  
bad report cards, inattentive, impulsive  
mother had chemotherapy  
sister got killed

**Direct Appeal:** Baer v. State, 866 N.E.2d 752 (Ind. March 26, 2007) (48S00-0404-DP-181)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Affirmed 5-0; Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur)  
For Defendant: Mark D. Maynard, Anderson  
For State: Andrew A. Kobe, Deputy Attorney General (S. Carter)  
Baer v. Indiana, 128 S.Ct. 1869 (2008) (Cert. denied)

**PCR:** PCR denied February 27, 2009 by Madison County Superior Court Judge Fredrick R. Spencer.

Baer v. State, 942 N.E.2d 80 (Ind. January 26, 2011) (48S00-0709-PD-362)  
(Appeal of PCR denial by Madison County Special Judge Thomas H. Newman Jr.)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Rucker, David concur.  
For Defendant: Joanna Green, Thomas C. Hinesley, Deputy Public Defenders (Owens)  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

**Habeas:** Baer v. Neal (1:11-cv-01168-SEB-TAB)  
U.S. District Court for the Southern District of Indiana (Indianapolis)  
Judge Sarah Evans Barker, Magistrate Tim A. Baker

08/29/2011 Motion for a Stay of Execution  
08/29/2011 Notice of Intent To File First Federal Habeas Petition  
11/29/2011 First Petition for Writ of Habeas Corpus filed  
02/16/2012 Entry - Granting Requests for First Interim Payment of Fees: Mr. Freedman is entitled to out of court compensation totaling \$10,697.80; Ms. Donnelly is entitled to out of court compensation totaling \$25,400.60.  
05/25/2012 Return to Order to Show Cause,  
10/29/2012 Traverse and Memorandum in Support of Petition for Writ of Habeas  
03/18/2013 Entry - Granting Requests for Second Interim Payment of Fees: Mr. Freedman is entitled to out of court compensation totaling \$7,654.00; Ms. Donnelly is entitled to out of court compensation totaling \$22,072.00.  
05/15/2014 Entry - Fredrick Michael Baer has filed a motion to waive all final appeals and a motion to withdraw the motion to waive all appeals.  
12/18/2014 ORDER - Petition for a Writ of Habeas Corpus DENIED.

Baer v. Wilson, 2014 U.S. Dist. LEXIS 174713 (S.D. Ind. December 18, 2014)  
United States District Court for the Southern District of Indiana, Indianapolis  
(1:11-cv-1168-SEB-TAB)  
Judge Sarah Evans Barker  
Baer's petition for a writ of habeas corpus must be DENIED.  
Opinion later vacated by Baer v. Neal, 879 F.3d 769 (7th Cir. January 11, 2018)  
For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.  
For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Wilson, 2015 U.S. Dist. LEXIS 197428 (S.D. Ind. December 22, 2015)  
United States District Court for the Southern District of Indiana, Indianapolis  
(1:11-cv-01168-SEB-TAB)

Judge Sarah Evans Barker  
Certificate of Appealability denied.

(The AEDPA forbids habeas relief on issues "adjudicated on the merits" in state court unless the state decision "was contrary to, or an unreasonable application of, clearly established Federal law" or "was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.")

For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.  
For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Neal, 879 F.3d 769 (7th Cir. January 11, 2018) (No. 15-1933)  
Appeal from the United States District Court for the Southern District of Indiana

(No. 1:11-cv-1168) Judge Sarah Evans Barker

(At the penalty phase, defendant's counsel failed to challenge crucial misleading jury instructions that modified Indiana's statutory mitigating factor and included a "voluntary intoxication" instruction and a pattern of prosecutorial misconduct that conflated the standards of a legal insanity defense and guilty but mentally ill, and the state court unreasonably applied Strickland in denying defendant relief. Counsel's deficiency resulted in a denial of due process, and the errors were sufficient to undermine confidence in the outcome of a defendant's penalty trial and so defendant was prejudiced. While defendant's offenses were despicable and his guilt was clear, he was entitled to a penalty trial untainted by constitutional error. Judgment reversed. Case remanded.)

Conviction Affirmed 3-0      DP Reversed 3-0  
Opinion by: Williams; Bauer, Flaum concur.

For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.  
For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Neal (7th Cir. Ind., Apr. 4, 2018) (Rehearing denied)  
Neal v. Baer, 139 S. Ct. 595 (2018) (Cert. denied)

**On Remand:** On August 1, 2019, pursuant to a Sentencing Agreement, the State of Indiana withdrew its request for a death sentence on Counts I and II for murder; the Defendant admitted 5 aggravators charged, and Madison Circuit Judge Mark Dudley resentenced Baer to two consecutive terms of Life Without Parole. No sentences were entered for the other convictions on Count III: Robbery (Class A Felony), Count IV: Theft (Class D Felony), and Count V: Attempted Rape (Class A Felony).

For Defendant: Mark E. Kamish, Stacy R. Uliana.

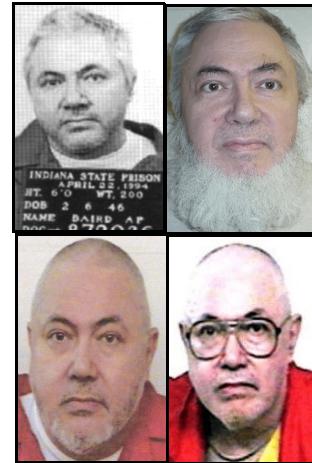
For State: Madison County Prosecuting Attorney Rodney Cummings.

- BAER IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## BAIRD, ARTHUR PAUL, II # 49

OFF DEATH ROW SINCE 08-29-05  
DOB: 02-06-1946 DOC#: 872036 White Male

Montgomery County Circuit Court  
Judge Thomas K. Milligan



**Trial Cause #:** CR85-66  
**Prosecutor:** Wayne E. Steele, Peggy O. Lohorn  
**Defense:** Harry A. Siamas

**Date of Murder:** September 6-7, 1985

**Victim(s):** Nadine Baird W / F / 32 (wife); Kathryn Baird W / F / 78 (mother);  
Arthur Paul Baird, I W / M / 68 (father)

**Method of Murder:** manual strangulation (Nadine); stabbing with knife (Katherine);  
stabbing with knife (Arthur)

**Summary:** Baird strangled his wife on their bed in their trailer home in Darlington for no apparent reason. His wife was 6 months pregnant. He spent several hours watching TV and holding his wife's body. Early the following morning, he went to his parents' home nearby, and after feeding the chickens and getting a haircut from his Mom, he stabbed them both to death with a butcher knife. He left after loading up his belongings, and was arrested in Huntingburg, 2½ hours away, the next day. (insanity defense)

**Trial:** Information/PC for Murder filed (09-08-85); Amended Information for DP filed (09-10-85); Plea Agreement filed (10-07-86); Defendant demands Jury Trial (12-22-86); Voir Dire (02-04-87, 02-05-87, 02-06-87, 02-09-87, 02-10-87); Jury Trial (02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-17-87); Verdict (02-17-87); DP Trial (02-18-87); Verdict (02-19-87); Court Sentencing (03-13-87).

**Conviction:** Murder, Murder, Murder, Feticide (C Felony)

**Sentencing:** March 13, 1987 (Jury recommended death for the murder of his Mother and his Father, but against death for the murder of his wife. The Court sentenced Baird to 60 years for the Murder of Nadine Baird and 8 years for Feticide, to be served concurrently; Death for the Murder of Kathryn Baird and Death for the Murder of Arthur Paul Baird, I.)

**Aggravating Circumstances:** b(8) 3 murders

**Mitigating Circumstances:** extreme mental and emotional disturbance  
no criminal history  
active in church; person of good character  
employed; provided for family  
honorable discharge from military

**Direct Appeal:** Baird v. State, 604 N.E.2d 1170 (Ind. December 1, 1992) (54S00-8804-CR-428)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Debruler Opinion; Shepard, Givan, Dickson, Krahulik concur.  
For Defendant: David P. Freund, M.E. Tuke, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Baird v. Indiana, 114 S.Ct. 255 (1993) (Cert. denied)

**PCR:** PCR Petition filed 04-29-94.  
State's Answer filed 01-23-95.  
PCR Hearing 09-12-95.  
Special Judge Vincent F. Grogg.  
For Defendant: Jessie A. Cook, Mark Ernest  
For State: Joseph R. Buser  
PCR Petition denied 12-07-95.

Baird v. State, 688 N.E.2d 911 (Ind. 1997) (54S00-9304-PD-434)  
(Appeal of PCR denial by Special Judge Vincent F. Grogg)  
Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby, concur.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Baird v. Indiana, 119 S.Ct. 122 (1998) (Cert. denied)

Baird v. State, 831 N.E.2d 109 (Ind. July 19, 2005) (54S00-0505-SD-240)  
Motion for leave to file successive Petition for PCR. Motion denied.  
("Mentally ill" short of insanity when murders committed not a defense)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

Baird v. State, 833 N.E.2d 28 (Ind. August 25, 2005) (54S00-0505-SD-240)  
Motion for leave to file second successive Petition for PCR. Motion denied.  
(Showing of present incompetency insufficient)  
Shepard, Sullivan, Dickson concur; Boehm, Rucker dissent.  
Baird v. Indiana, 126 S.Ct. 312 (2005) (Cert. denied).

**Habeas:** 03-27-98 Petitioner files Notice of Intent to File Habeas.  
03-02-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Arthur Paul Baird, II v. Rondle Anderson, Superintendent (TH 98-70-C-M/F)  
Judge Larry J. McKinney  
For Defendant: Jessie A. Cook, Terre Haute  
For State: James D. Dimitri, Andrew L. Hedges, Geoffrey Slaughter, James B. Martin,  
Deputy Attorneys General (S. Carter)  
06-04-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-25-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-17-03 Writ of Habeas Corpus denied.

Baird v. Davis, 388 F.3d 1110 (7th Cir. November 12, 2004) (03-3170)  
(Appeal of denial of Writ of Habeas Corpus)  
Affirmed 2-1; Opinion by Circuit Judge Richard A. Posner.  
Judge Diane P. Wood concurs. Judge Kenneth F. Ripple Dissents.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: Steve Carter, Attorney General  
Baird v. Davis, 125 S.Ct. 953 (April 18, 2005) (Cert. denied)

**Clemency:** On August 29, 2005, Indiana Governor Mitch Daniels commuted the death sentence of Arthur Paul Baird II to Life Imprisonment Without Parole. Baird had served on death row since March 13, 1987. Despite a recommendation against clemency by the Indiana Parole Board, Governor Daniels noted that Life Without Parole was not available at the time of Baird's trial, that Baird had initially accepted a plea agreement to a term of years before trial, and that the victim's family had no objections then or now. This marked only the third time since the reinstatement of the Death Penalty in Indiana in 1977 that an Indiana Governor had commuted a death sentence. On July 2, 2004 Governor Joseph Kernan commuted the death sentence of Darnell Williams to Life Imprisonment Without Parole. On January 7, 2005, outgoing Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels to Life Without Parole.  
[https://www.in.gov/governorhistory/mitchdaniels/files/EO\\_05-23\\_Clemency\\_Arthur\\_Baird\\_II.pdf](https://www.in.gov/governorhistory/mitchdaniels/files/EO_05-23_Clemency_Arthur_Baird_II.pdf)

- ▶ BAIRD IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE, AND 60 YEARS IMPRISONMENT FOR MURDER.

## BARKER, CHARLES E. # 87

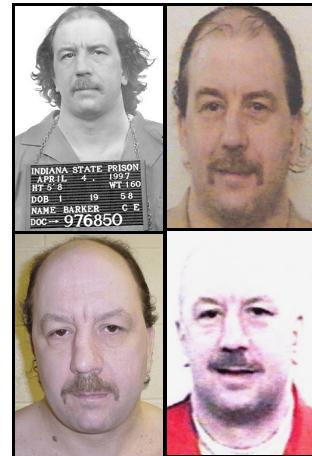
OFF DEATH ROW SINCE 12-21-05  
DOB: 01-19-1958 DOC#: 976850 White Male

Marion County Superior Court  
Judge John R. Barney, Jr.

Trial Cause #: 49G05-9308-CF-095544

**Prosecutor:** Lawrence O. Sells, Brian G. Poindexter  
**Defense:** Alex R. Voils, Jr., Carolyn W. Rader

**Date of Murder:** August 3, 1993



**Method of Murder:** shooting with handgun

**Victim(s):** Francis Benefiel W / M / 66; Helen Benefiel W / F / 65 (Grandparents of former girlfriend)

**Summary:** Barker's former girlfriend, Candice Benefiel, was staying with her grandparents, Francis and Helen Benefiel, in their home. Barker watched the home one night for several hours, then broke in and struggled with Candice. Francis came to her aid and jumped on Barker, who shrugged him aside and shot him through the heart. Barker then broke down a bathroom door and found Helen and the one year old child of Barker and Candice. Barker shot Helen in the head and took the child. He then forced Candice to leave with him, first to the home of his former wife, Deanna Barker, then to Tennessee, where he was later arrested. At trial, Barker claimed he just wanted to see his daughter, he shot Francis in self-defense and shot Helen accidentally.

**Trial:** Information/PC for Murder filed (08-04-93); Amended Information for DP filed (02-18-94); Voir Dire (06-17-96, 06-18-96, 06-19-96); Jury Trial (06-20-96, 06-21-96, 06-23-96, 06-24-96); Verdict (06-24-96); DP Trial (06-25-96, 06-26-96, 06-27-96); Verdict (06-27-96); Court Sentencing (11-26-96, 12-30-96).

**Conviction:** Murder, Murder, Kidnapping (A Felony), Confinement (B Felony), Burglary (B Felony), Burglary (B Felony), Carrying a Handgun (A Misdemeanor)

**Sentencing:** November 26, 1996 and December 30, 1996 (Death Sentence)  
50 years, 20 years, 20 years, 20 years, 1 year, all consecutive, 1210 days credit

**Aggravating Circumstances:** b (1) Burglary  
b (1) Kidnapping  
b (8) 2 murders

**Mitigating Circumstances:** brain damage; low IQ, 3rd grade reading level  
progressive neurological disease

**Direct Appeal:** Barker v. State, 695 N.E.2d 925 (Ind. June 12, 1998) (49S00-9411-DP-1107)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Boehm Opinion; Shepard, Dickson, Selby, Sullivan concur.  
(Failure to instruct on Life Without Parole / Improper admission of prior assaults on Candice)  
For Defendant: Susan D. Burke, Carolyn W. Rader, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**On Remand:** Marion Superior Court Judge Grant W. Hawkins granted Motion to Dismiss Death Penalty, declaring that the Indiana death penalty statute was unconstitutional in light of Apprendi v. New Jersey, since a jury was not required to make death finding.

State v. Barker, 768 N.E.2d 425 (Ind. April 26, 2002) (49S00-0110-DP-461)

Interlocutory appeal by State. Reversed and remanded for new sentencing phase trial.

Per Curiam Opinion; Shepard, Dickson, Sullivan, Boehm, Rucker.

For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Marion Superior Court Judge Grant W. Hawkins again granted Motion to Dismiss Death Penalty, declaring that the Indiana death penalty statute was unconstitutional in light of Ring v. Arizona, which requires that aggravators outweigh mitigators "beyond a reasonable doubt," which our statute does not require.

Barker v. State, 809 N.E.2d 312 (Ind. May 25, 2004) (49S00-0308-DP-392)

Interlocutory appeal by State. Reversed and remanded for new sentencing phase trial.

Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.

(Rucker notes that Ring/Apprendi requires that weighing be "beyond a reasonable doubt", but would not declare statute unconstitutional. He would simply construe the statute to implicitly require such a standard.)

For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

State v. Barker, 826 N.E.2d 648 (Ind. May 4, 2005) (On Rehearing)

(Death penalty statute requiring court to impose sentence if jury is unable to agree on a sentence recommendation after reasonable deliberations does not violate STATE constitutional right to jury trial.)

For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Opinion by Dickson; Shepard, Sullivan, Boehm concur. Rucker dissents.

Barker v. Indiana, 126 S.Ct. 666 (2005) (Cert. denied)

On December 21, 2005 Barker entered a guilty plea to all charges in the Marion Superior Court and was sentenced to Life Without Parole on two counts of Murder. Consecutive sentences were given for Kidnapping (50 years), Confinement (20 years), Burglary (20 years), Burglary (20 years), and Carrying a Handgun Without a License (1 year).

- ▶ BARKER IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE, AND CONSECUTIVE TERMS TOTALING 110 YEARS IMPRISONMENT.

## BELLMORE, LARRY # 42

OFF DEATH ROW SINCE 10-29-92  
DOB: 12-03-1946 DOC# 861877 White Male



Morgan County Circuit Court Judge James E. Harris

Trial Cause #: C85-S-50

**Prosecutor:** Jane Spencer Craney

**Defense:** Ronald Tedrow, Kevin P. McGoff

**Date of Murder:** June 30, 1985

**Victim(s):** Donna Denney W / F / 46 (No relationship to Bellmore)

**Method of Murder:** stabbing with knife/ manual strangulation

**Summary:** Bellmore (age 38) and Wesley Young (age 19) were hired or requested by Wesley's Father, David Young, to "rough up" David Young's girlfriend (Donna Denney) after they broke up. Bellmore and Wesley went to Denney's home near Martinsville. After talking on the back porch, Bellmore suddenly attacked her, choked her, and threw her off the porch. Obeying instructions from Bellmore, Wesley stabbed her twice in the abdomen. Bellmore announced that he would "take something and make it look like a burglary." While they ransacked the home, Denney struggled inside and tried to telephone for help. Bellmore knocked the phone from her hand and said "The bitch won't die." Bellmore then threw her to the floor and stabbed her repeatedly for 30 seconds "like a sewing machine." Bellmore then dragged her outside and told Wesley to take her purse. \$190 found in her purse was split between Bellmore and Wesley. David Young committed suicide before trial. Wesley Young testified against Bellmore at trial.

**Trial:** Information/PC for Murder filed (07-17-85); Amended Information filed (09-11-85); Jury Trial (01-06-86, 01-07-86, 01-08-86, 01-09-86, 01-10-86, 01-11-86, 01-13-86, 01-14-86, 01-15-86, 01-16-86, 01-17-86, 01-18-86, 01-19-86, 01-20-96); Verdict (01-20-86); Court Sentencing (04-02-86, 04-03-86, 04-04-86).

**Conviction:** Murder

**Sentencing:** April 4, 1986 (Death Sentence)

**Aggravating Circumstances:** b(1) Burglary

**Mitigating Circumstances:** no violent criminal conduct for 20 years  
lesser sentences received by accomplices

**Direct Appeal:** *Bellmore v. State*, 602 N.E.2d 111 (Ind. October 29, 1992) (55S00-8703-CR-328)

Conviction Affirmed 5-0 DP Vacated 4-1

Dickson Opinion; Debruler, Krahulik, Shepard concur; Givan dissents.

(Remanded for "new sentencing determination" - Tattoo of knife dripping with blood placed on Bellmore's arm while in jail after trial improperly considered as an aggravating circumstance)

For Defendant: Brent L. Westerfeld, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** On December 29, 1992, in compliance with Indiana Supreme Court Opinion, Bellmore was sentenced by Morgan County Circuit Court Judge James E. Harris to 60 years imprisonment for Murder.

- BELLMORE (AT AGE 65) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JULY 12, 2012, AFTER SERVING ± 27 YEARS IN CUSTODY.

## BENEFIEL, BILL J. # 59

EXECUTED BY LETHAL INJECTION 04-21-05 12:31 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 06-03-1956 DOC#: 886175 White Male

Vigo County Superior Court Judge Michael H. Eldred

**Trial Cause #:** 84DO1-8705-CF-34

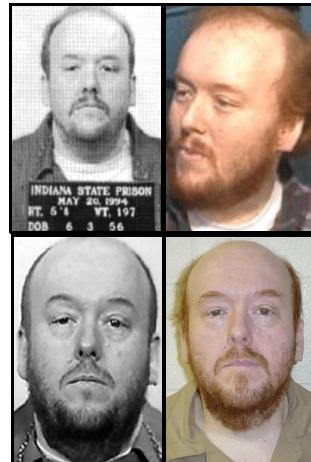
**Prosecutor:** Phillip I. Adler

**Defense:** Daniel L. Weber, Christopher B. Gambill

**Date of Murder:** February 7, 1987

**Victim(s):** Delores Wells W / F / 19 (No relationship to Benefiel)

**Method of Murder:** asphyxia with superglue



**Summary:** The State's case was established by a surviving victim, 17 year old Alicia, who was kidnapped on the way to a store two blocks from her home in Terre Haute by Benefiel, armed with a gun and wearing a mask. Alicia was tied-up and gagged, driven to Benefiel's home and taken inside. During 4 months of captivity inside Benefiel's home, Alicia was raped and sodomized over 60 times at gunpoint. Most of this time she was chained and handcuffed to a bed. He glued her eyelids shut, put tape over her eyes, and toilet paper in her mouth. She was cut with a knife and beaten. After 3½ months, Alicia saw a second girl, Delores Wells, in the home. She was naked and handcuffed on the bed, with tape over her eyes and mouth. She later saw Benefiel beat Delores and put superglue in her nose, then pinch it together. Benefiel left the home for 2 hours and upon his return, confessed to Alicia that he had killed and buried Delores. When police knocked on the door, Benefiel stuffed Alicia into a ceiling crawl space. The police entered with a search warrant and rescued her. The body of Delores was found soon after in a wooded area. An autopsy revealed injuries to her vagina and anus, and established asphyxia as the cause of death. (Insanity Defense)

**Trial:** Information/PC for Murder, Death Penalty filed (05-06-87); Voir Dire in Vanderburgh County (09-12-88, 09-13-88, 09-14-88, 09-15-88); Jury Trial in Vigo County (09-17-88, 09-19-88, 09-20-88, 09-21-88, 09-22-88, 09-23-88, 09-26-88, 09-27-88, 09-28-88, 09-29-88, 09-30-88, 10-01-88, 10-03-88); Verdict (10-04-88); DP Trial (10-04-88); Verdict (10-04-88); Court Sentencing (11-03-88).

**Conviction:** Murder, Confinement (B Felony), Rape (B Felony), Criminal Deviate Conduct (B Felony)  
**Sentencing:** November 3, 1988 (Death Sentence)

**Aggravating Circumstances:** b(1) Rape  
b(1) Criminal Deviate Conduct

**Mitigating Circumstances:** mental disease  
irresistible impulse

**Direct Appeal:** Benefiel v. State, 578 N.E.2d 338 (Ind. September 18, 1991) (84S00-8906-CR-483)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Givan Opinion; Shepard, Debruler, Dickson, Krahulik concur.  
For Defendant: Christopher B. Gambill, Daniel L. Weber, Vigo County Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Benefiel v. State, 112 S.Ct. 2971 (1992) (Cert. denied)

**PCR:** Notice of Intent to File PCR filed 07-01-92.  
PCR Petition filed 02-28-94. Amended PCR Petition filed 01-26-96.  
State's Answer to Amended PCR Petition filed 01-31-96.  
PCR Hearing 05-20-96, 05-21-96.  
Special Judge Frank M. Nardi.  
For Defendant: Kenneth L. Bird, Marie F. Donnelly, J. Jeffreys Merryman, Deputy State Public Defenders.  
For State: Phillip I. Adler  
PCR Petition denied 09-03-96.

Benefiel v. State, 716 N.E. 2d 906 (Ind. September 29, 1999) (84S00-9207-PD-590)  
(Appeal of PCR denial by Special Judge Frank M. Nardi)  
Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Joanna Green, Marie F. Donnelly, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Benefiel v. Indiana, 121 S.Ct. 83 (2000) (Cert. denied)

**Habeas:** 02-01-00 Notice of Intent to File Petition for Habeas Corpus filed.  
05-05-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Bill J. Benefiel v. Rondle Anderson, Superintendent (TH 00-C-0057-Y/H)  
Judge Richard L. Young  
09-13-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
03-09-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
01-17-02 Petitioner's Motion to Withdraw Appeals and Set Execution Date.  
01-07-03 Petition for Writ of Habeas Corpus denied.  
For Defendant: Marie F. Donnelly, Charlottesville, VA, Alan M. Freedman, Evanston IL  
For State: Michael A. Hurst, Thomas D. Perkins, Stephen R. Creason,  
Deputy Attorneys General (S. Carter)

Benefiel v. Davis, 357 F.3d 655 (7th Cir. January 30, 2004) (03-1968)  
(Appeal of denial of Writ of Habeas Corpus)  
Affirmed 3-0  
Opinion by Circuit Judge Terrance T. Evans. Judges Frank H. Easterbrook, William J. Bauer concur.  
For Defendant: Alan M. Freedman, Gary Prichard, Evanston, IL  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)  
Benefiel v. Davis, 125 S.Ct. 481 (November 08, 2004) (Cert. denied).  
Benefiel v. Davis, 125 S.Ct. 953 (January 10, 2005) (Reh. denied).

Benefiel v. Davis, 403 F.3d 825 (7th Cir. March 31, 2005).  
Appeal of denial of Motion to Reopen habeas proceedings by U.S. District Court, Southern District of Indiana. Affirmed 3-0.  
For Defendant: Alan M. Freedman, Gary Prichard, Evanston, IL  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Frank H. Easterbrook Opinion; William J. Bauer, Terence T. Evans concur.  
Benefiel v. Davis, 125 S.Ct. 1884 (April 20, 2005) (Stay Denied).

BENEFIEL WAS EXECUTED BY LETHAL INJECTION ON 04-21-05 AT 12:35 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 83RD CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 13TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## BENIRSCHKE, WILLIAM J. # 57

OFF DEATH ROW SINCE 01-06-95  
DOB: 10-02-1962 DOC#: 881976 White Male



Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45GO4-8802-CF-00049

**Prosecutor:** Thomas W. Vanes

**Defense:** William Davis

INDIANA STATE PRISON  
MARCH 18, 1994  
WT. 200 LBS. 5'10"  
DOB 10-02-62  
NAME BENIRSCHKE WJ  
DOC# 881976

**Date of Murder:** February 12, 1988

**Victim(s):** James Cromwell W / M / 34; Walter Muvich W / M / 35 (Employers of Benirschke)

**Method of Murder:** shooting with .22 rifle

**Summary:** Benirschke felt he was being shortchanged by his employers at J&W Janitorial. He walked into the office, shot Muvich 4 times, then shot Cromwell twice, then shot each in the head. He took Muvich's checkbook from his pocket. He later said he went there to shoot Muvich, but had to shoot Cromwell because he was a witness. (Insanity Defense)

**Trial:** Information/PC for Murder filed (02-18-88); Amended Information for Death Penalty filed (02-29-88); Voir Dire (08-01-88); Jury Trial (08-02-88, 08-03-88, 08-04-88); Deliberations 3 hours, 45 minutes; Verdict (08-04-88); DP Trial (08-05-88); Deliberations 3 hours, 40 minutes; Verdict (08-05-88); Court Sentencing (08-31-88).

**Conviction:** Murder, Murder, Robbery (B Felony)

**Sentencing:** August 31, 1988 (Death Sentence, 10 years)

**Aggravating Circumstances:**  
b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no significant prior criminal history  
a history of depression and antisocial personality  
drug abuse  
high school graduate  
3 year U.S. Marine Corps service in Germany

**Direct Appeal:** Benirschke v. State, 577 N.E.2d 576 (Ind. September 4, 1991) (45S00-8902-CR-00108)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Krahulik Opinion; Shepard, Givan, Dickson, Debruler concur.  
For Defendant: Marce Gonzalez, Jr., Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Benirschke v. State, 582 N.E.2d 355 (Ind. 1991) (Reh. denied)  
Benirschke v. Indiana, 112 S.Ct. 3042 (1992) (Cert. denied)

**PCR:** PCR Petition filed 02-11-93.  
State's Answer to PCR Petition filed 03-17-93.  
Hearing set for 01-09-95.  
Special Judge Richard J. Conroy.  
For Defendant: Ann M. Pfarr, Kathleen A. Sullivan, Deputy Public Defenders

On January 6, 1995, pursuant to a Joint Motion to Dismiss PCR and Modify Sentence, Special Judge Richard J. Conroy sentenced Benirschke to consecutive terms of 60 years (Murder), 60 years (Murder), and 20 years (Robbery), for a total sentence of 140 years imprisonment.

- BENIRSCHKE IS CURRENTLY SERVING TERMS OF IMPRISONMENT TOTALING 140 YEARS.

## BIEGHLER, MARVIN # 19

EXECUTED BY LETHAL INJECTION ON 01-27-06 AT 1:17 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 12-15-1947 DOC#: 13153 White Male

Howard County Superior Court Judge Dennis H. Parry  
Originally venued to Wabash County.  
By agreement, returned to Howard County.

**Trial Cause #:** C2436 (Howard County)  
**Prosecutor:** Richard L. Russell, Charles J. Myers  
**Defense:** Charles Scruggs, John C. Wood



**Date of Murder:** December 10, 1981

**Victim(s):** Tommy Miller W / M / 21 (Drug Customer of Bieghler)  
Kimberly Miller W / F / 19 (Drug Customer's Wife)

**Method of Murder:** shooting with .38 handgun

**Summary:** Bieghler was in the business of buying and selling marijuana. Tommy Miller sold drugs for Bieghler. After one of Bieghler's chief operatives was arrested and a large shipment seized, he suspected Miller of "snitching" on him. Bieghler and his bodyguard, Brook, drove to Miller's trailer near Kokomo, and while his bodyguard waited outside, Bieghler went in and shot both Tommy Miller and his pregnant wife Kimberly with a .38 pistol. A dime was found near each body. He was later arrested in Florida. Brook cut a deal and was the star witness for the State at trial. While the gun was never recovered, nine .38 casings found at the scene matched those found at Bieghler's regular target shooting range.

**Trial:** Information/PC for Murder filed (03-30-82); Amended Information for Death Penalty filed (04-12-82); Motion for Speedy Trial (11-29-82); Voir Dire (02-02-83, 02-03-83, 02-04-83, 02-07-83, 02-08-83, 02-09-83, 02-10-83, 02-11-83, 02-12-83); Jury Trial (02-14-83, 02-15-83, 02-16-83, 02-17-83, 02-21-83, 02-22-83, 02-23-83, 02-24-83, 02-25-83, 02-28-83); Deliberations 13 hours, 10 minutes; Verdict (03-01-83); DP Trial (03-03-83); Deliberations 11 hours, 55 minutes; Verdict (03-03-83); Court Sentencing (03-25-83).

**Conviction:** Murder, Murder, Burglary

**Sentencing:** March 25, 1983 (Death Sentence; no sentence entered for Burglary)

**Aggravating Circumstances:** b (1) Burglary  
b (8) 2 murders

**Mitigating Circumstances:** None

**Direct Appeal:** Bieghler v. State, 481 N.E.2d 78 (Ind. July 31, 1985) (1183S409)  
Conviction Affirmed 4-0 DP Affirmed 4-0  
Pivarnik Opinion; Givan, Debruler, Prentice concur; Hunter not participating.  
For Defendant: Bruce M. Frey, Marion  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Bieghler v. Indiana, 106 S.Ct. 1241 (1986) (Cert. denied)

**PCR:** PCR Petition filed 06-16-86, 09-08-88.  
State's Answer to PCR Petition filed 07-31-86, 03-15-93.  
PCR Hearing 03-22-93 to 04-14-93 (12 days)  
Special Judge Bruce C. Embrey  
For Defendant: Novella Nedeff, M.E. Tuke, Kenneth L. Bird, Lorinda Meier Youngcourt,  
Deputy Public Defenders (Carpenter)  
For State: Robert Bly, James Andrews, Mark A. McCann  
03-27-95 PCR Petition denied.

Bieghler v. State, 690 N.E.2d 188 (Ind. December 19, 1997) (34S00-9207-PD-583)  
(Appeal of PCR denial by Special Judge Bruce C. Embrey)  
Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Kenneth L. Bird, Lorinda Meier Youngcourt, Deputy Public Defenders (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Bieghler v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

Bieghler v. State, 839 N.E.2d 691 (Ind. December 28, 2005) (34S00-0511-SD-679)  
Motion for leave to file Successive Petition for PCR. Motion denied.  
(Lethal Injection not cruel and unusual, 24 years on death row not cruel and unusual and whether it  
is deterrent is up to legislature, Whether state should be required to prove burden higher than  
reasonable doubt should have been raised earlier)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

**Habeas:** 04-10-98 Notice of Intent to File Petition for Habeas Corpus filed.  
01-20-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Marvin Bieghler v. Rondle Anderson, Superintendent (IP 98-C-490-M/S)  
Judge Larry J. McKinney  
09-03-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-19-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-07-03 Petition for Writ of Habeas Corpus denied.  
11-05-03 Certificate of Appealability granted.  
For Defendant: Brent L. Westerfield, Indianapolis, Lorinda Meier Youngcourt, Huron  
For State: Robert L. Collins, Arthur Thaddeus Perry, Deputy Attorneys General (S. Carter)

Bieghler v. McBride, 389 F.3d 701 (7th Cir. November 18, 2004) (03-3749).  
(Appeal of denial of Habeas Writ)  
Affirmed 3-0; Terence T. Evans Opinion; Michael S. Kanne, Ilana Diamond Rovner concur.  
For Defendant: Brent L. Westerfield, Linda Meier Youngcourt, Huron  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Bieghler v. McBride, 126 S.Ct. 430 (2005) (Cert. denied)

Donahue v. Bieghler, 126 S.Ct. 1190 (2006) (Stay vacated)  
Bieghler v. Indiana, 126 S.Ct. 1190 (2006) (Stay denied; Cert. denied)

BIEGHLER WAS EXECUTED BY LETHAL INJECTION ON 01-27-06 AT 1:17 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 87TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 17TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## BIVINS, GERALD W. # 75

EXECUTED BY LETHAL INJECTION 03-14-01 1:26 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 12-07-1959 DOC#: 922004 White Male

Boone County Superior Court Special Judge Thomas K. Milligan



**Trial Cause #:** 06D01-9104-CF-24

**Prosecutor:** Rebecca S. McClure, Bruce E. Petit

**Defense:** Allen F. Wharry, Michael D. Gross

**Date of Murder:** January 16, 1991

**Victim(s):** William Harvey Radcliffe W / M / 39 (No relationship to Bivins)

**Method of Murder:** shooting with handgun

**Summary:** Bivins, Chambers, and Weyls engaged in a 2-day central Indiana crime spree. They shoplifted blue jeans at gunpoint from a Lafayette Lazarus. They then drove to a Holiday Inn in Lebanon, forced their way into a guest's room, robbed him, stole his vehicle, and left him tied to the bathtub. Heading back toward Lafayette, they stopped at a rest stop north of Lebanon, and robbed Reverend Radcliffe at gunpoint in the restroom. After taking his wallet, Bivins turned Radcliffe around into a stall and shot him in the head. Later, Bivins said he did so "because he wanted to know what it felt like to kill." Full confessions followed.

**Trial:** Information/PC for Murder filed (04-11-91); Amended Information for Death Penalty filed (04-26-91); Voir Dire (02-25-92, 02-26-92, 02-27-92, 02-28-92, 02-29-92); Jury Trial (02-29-92, 03-02-92, 03-03-92, 03-04-92, 03-05-92, 03-06-92); Verdict (03-07-92); DP Trial (03-07-92); Verdict (03-07-92); Court Sentencing (06-05-92).

**Conviction:** Murder, Robbery (B Felony), Confinement (B Felony), Auto Theft (D Felony), Theft (D Felony) (2 counts)

**Sentencing:** June 5, 1992 (Death Sentence; 20 years, 20 years, 3 years, 3 years, 3 years consecutive)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** intoxication; drinking heavily on night of murder  
used alcohol and drugs as teenager  
death of grandfather  
he was an alcoholic  
his accomplice was the instigator

**Direct Appeal:** Bivins v. State, 642 N.E.2d 928 (Ind. November 4, 1994) (06S00-9105-DP-00401)  
Convictions Affirmed 5-0 (Except Theft must be merged into Robbery)

DP Affirmed 5-0

Dickson Opinion; Debruler, Givan, Shepard, Sullivan concur.

For Defendant: David P. Freund, Deputy Public Defender (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Bivins v. State, 650 N.E.2d 684 (Ind. 1995)

(State's Petition for Rehearing denied 4-1; Shepard dissents re: victim impact evidence)

Bivins v. Indiana, 114 S.Ct. 892 (1994) (Cert. denied)

Bivins v. Indiana, 116 S.Ct. 783 (1996) (Cert. denied)

**PCR:** PCR Petition filed 12-18-95.

State's Answer to PCR Petition filed 01-10-96.

Hearing 12-02-96 to 12-04-96 (3 days)  
Special Judge James R. Detamore  
For Defendant: Lorinda Meier Youngcourt, Huron, Janet S. Dowling, Albuquerque, NM  
For State: Geoff P. Davis, Deputy Attorney General, Bruce E. Petit  
03-21-97 PCR Petition denied.

Bivins v. State of Indiana, 735 N.E.2d 1116 (Ind. September 26, 2000) (06S00-9602-PD-173)  
(Appeal of PCR denial by Special Judge James R. Detamore)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Lorinda Meier Youngcourt, Huron, Janet S. Dowling Albuquerque, NM,  
Deputy Public Defenders (Carpenter)  
For State: Andrew L. Hedges, Deputy Attorney General (Modisett)

Bivins v. State of Indiana, 741 N.E.2d 1196 (Ind. Jan. 19, 2001)  
Order of Indiana Supreme Court (5-0) denying rehearing of decision which affirmed the trial court's  
denial of post-conviction relief, and setting execution date.

BIVINS WAIVED THE REMAINDER OF HIS APPEALS TO FEDERAL COURT AND WAS EXECUTED BY LETHAL INJECTION ON 03-14-01 AT 1:26 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 78TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 8TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## BOYD, RUSSELL ERNEST # 22

OFF DEATH ROW SINCE 09-10-93  
DOB: 02-13-1958 DOC#: 9649 White Male

Clark County Circuit Court Judge Clifford H. Maschmeyer

**Trial Cause #:** 82-CR-27  
**Prosecutor:** Jerome F. Jacobi, Steven D. Stewart  
**Defense:** Michael T. Forsee, Charles Gregory Read

**Date of Murder:** August 27, 1982  
**Victim(s):** Judith Falkenstein W / F / 30 (No relationship to Boyd)



**Method of Murder:** ligature strangulation with belt

**Summary:** When the victim's 10 year old daughter returned one afternoon from next door, she found the living room window open, the couch pulled away from the window, and \$117 missing from the mantel. She went upstairs and found her mother nude and suspended from the bedroom dresser. A belt was pulled tightly around her neck, with the other end knotted and wedged inside the dresser. She was bruised and cut. Burglars had entered the Falkenstein home 4 days earlier through the same window and stole coins and jewelry. Boyd was identified by several neighbors in the area at the time of the murder, and friends testified he had suddenly come into a lot of money. Property from the first burglary was found in a dumpster where Boyd was staying with a friend. After first denying any involvement, Boyd later confessed to committing the first burglary, and to entering the house on the afternoon of the murder, but claimed to have entered the bedroom only to find Falkenstein already dead.

**Trial:** Information/PC for Murder and DP filed (08-30-82); Voir Dire (08-23-83); Jury Trial (08-24-83, 08-25-83, 08-26-83, 08-29-83, 08-30-83, 08-31-83, 09-01-83, 09-02-83, 09-06-83, 09-07-24-83, 09-08-83, 09-09-83, 09-12-83); Verdict (09-12-83); DP Trial (09-14-83); Verdict (09-14-83); Court Sentencing (10-04-83).

**Conviction:** Murder, Felony-Murder, Burglary

**Sentencing:** October 4, 1983 (Death Sentence; Murder and Burglary merged into Felony-Murder)

**Aggravating Circumstances:** b(1) Burglary

**Mitigating Circumstances:** None

**Direct Appeal:** Boyd v. State, 494 N.E.2d 284 (Ind. June 24, 1986) (384-S-113)

Conviction Affirmed 5-0 DP Affirmed 5-0

Pivarnik Opinion; Givan, Debruler, Shepard, Dickson concur.

For Defendant: Michael T. Forsee, Charles G. Read, Jeffersonville, Public Defenders

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Boyd v. Indiana, 107 S.Ct. 910 (1987) (Cert. denied)

**PCR:** PCR Petition filed 01-04-88. Amended PCR Petition filed 09-17-90.

State's Answer to PCR Petition filed 01-25-88, 10-02-90.

Special Judge Robert L. Bennett.

For Defendant: Novella L. Nedeff, J. Michael Sauer, Steven H. Schutte, Deputy Public Defenders

For State: Steven D. Stewart

12-17-92 Defendant files Motion for Summary Judgment as to Death Sentence.

12-17-92 Motion for Summary Judgment as to Death sentence denied.

03-30-93 Hearing on Motion to Reconsider denial of summary Judgment as to Death sentence.

09-10-93 Motion for Summary Judgment as to Death sentence granted.

09-10-93 Death Sentence vacated. New Jury Sentencing Hearing scheduled for 11-08-93.

11-02-93 Parties file Agreement for Resentencing Upon Waiver of Rights and Dismissal of PCR.

11-05-93 Court accepts Agreement. Boyd resentenced to consecutive terms of 60 years (Murder) and 20 years (Burglary), for a total sentence of 80 years imprisonment.

- ▶ BOYD (AT AGE 61) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON FEBRUARY 3, 2019, AFTER SERVING ± 36 YEARS IN CUSTODY.

## BREWER, JAMES # 1

OFF DEATH ROW SINCE 06-28-90

DOB: 06-10-1956 DOC#: 13107 Black Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 4CR-16-178-74

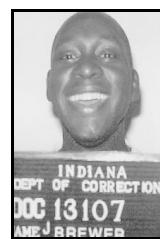
**Prosecutor:** Thomas W. Vanes, Peter Katic

**Defense:** James T. Frank

**Date of Murder:** December 4, 1977

**Victim(s):** Stephen Skirpan W / M / 29 (No relationship to Brewer)

**Method of Murder:** shooting with handgun



**Summary:** Brewer and Kenneth Ray Brooks went to the Skirpan residence, flashed a badge and claimed to be Officers investigating a traffic accident. They announced they had a search warrant, and when Skirpan asked to see it, Brewer shouted "This is a hold up!" Both men drew handguns and Skirpan was pushed aside. A shot was fired and Skirpan was killed. The men took money and fled. Brewer was arrested later the same night with commemorative coins on his person matching those taken in the robbery. Evidence of four other robberies committed in the same area on the same day, with the victims identifying Brewer, was admitted into evidence. Brooks pled guilty to Murder and was sentenced to 60 years imprisonment on December 20, 1978.

**Trial:** Indictment for Murder and DP filed (01-20-78); Motion for Speedy Trial (01-20-78); Voir Dire (02-13-78); Jury Trial (02-14-78, 02-15-78, 02-16-78, 02-17-78); Verdict (02-17-78); DP Trial (02-18-78); Verdict (02-18-78); Court Sentencing (03-01-78).

**Conviction:** Murder

**Sentencing:** March 1, 1978 (Death Sentence) First person sentenced to death under IC 35-50-2-9.

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** intoxication

low IQ

21 years old at time of murder

mother died when he was 11 years old

member of minority race

**Direct Appeal:** Brewer v. State, 417 N.E.2d 889 (Ind. March 6, 1981) (678-S-119)

Conviction Affirmed 5-0 DP Affirmed 4-1

Prentice Opinion; Givan, Hunter, Pivarnik concur; Debruler dissents.

For Defendant: Dennis R. Kramer, Crown Point

For State: Thomas D. Quigley, Palmer K. Ward, Deputy Attorneys General (Pearson)

Brewer v. Indiana, 102 S.Ct. 3510 (1982) (Cert. denied)

Brewer v. Indiana, 103 S.Ct. 18 (1982) (Reh. denied)

**PCR:** PCR Petition filed 10-08-82. Amended PCR Petition filed 04-19-83.

State's Answer to PCR Petition filed 11-10-82, 05-17-83.

PCR Hearing 02-10-83.

For Defendant: Paul Levy, Deputy Public Defender (Carpenter)

For State: Thomas W. Vanes

PCR Petition denied 09-20-84 by Judge Richard W. Maroc.

Brewer v. State, 496 N.E.2d 371 (Ind. August 6, 1986) (485-S-167) (Appeal of PCR denial)

Conviction Affirmed 4-1 DP Affirmed 3-2

Pivarnik Opinion; Givan, Dickson concur; Debruler, Shepard dissent.

For Defendant: Paul Levy, Deputy Public Defender (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Brewer v. Indiana, 107 S.Ct. 1591 (1987) (Cert. denied)

**Habeas:** Brewer v. Shettle, 917 F.2d 1306 (7th Cir. November 1, 1990) (90-2530) (Unpublished)

("We affirm the order of the district court directing that a writ of habeas corpus shall issue unless the State of Indiana conducts a new sentencing hearing for James Brewer within 90 days of the issuance of the mandate. An opinion will follow in due course.")

Brewer v. Aiken, 935 F.2d 850 (7th Cir. June 14, 1991) (90-2530)

(Appeal of granting Writ of Habeas Corpus by Judge S. Hugh Dillon, U.S. District Court, Southern District of Indiana, conditional upon the State providing a new Sentencing Hearing to Brewer within 90 days due to ineffective assistance of counsel during penalty phase: Failure to investigate mental and family history, and to present mitigators relating to limited intellect and passive personality.)  
Opinion by Circuit Judge John L. Coffey Judge Easterbrook, Judge Kanne.

For Defendant: Jessie A. Cook, Terre Haute

For State: David A. Arthur, Deputy Attorney General (Pearson)

**On Remand:** 10-31-91 Sentencing Agreement filed, Brewer resentenced to 54 years imprisonment.

- BREWER (AT AGE 50) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JUNE 24, 2006, AFTER SERVING ± 28 YEARS IN CUSTODY.

## BROWN, DEBRA DENISE # 45

OFF DEATH ROW SINCE 11-29-18  
DOB: 11-11-1962 DOC#: 864793 Black Female

Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-203-1184-842

**Prosecutor:** Thomas W. Vanes, Kathleen M. O'Halloran

**Defense:** Daniel L. Toomey, Albert E. Marshall, Jr.

**Date of Murder:** June 18, 1984

**Victim(s):** Tamika Turks B / F / 7 (No relationship to Brown)

**Method of Murder:** ligature strangulation with bedsheets



**Summary:** 7 year old Tamika and her 9 year old niece, Annie,

were walking back from the candy store to their home when they were confronted by Brown and Alton Coleman. Brown and Coleman convinced them to walk into the woods to play a game. Once there, they removed Tamika's shirt and tore it into small strips which they used to bind and gag the children. When Tamika began to cry, Brown held her nose and mouth while Coleman stomped on her chest. After carrying Tamika a short distance away, Annie was forced to perform oral sex on both Brown and Coleman, then Coleman raped her. Brown and Coleman then choked her until she was unconscious. When she awoke, they were gone. Tamika was found dead in the bushes nearby, strangled with an elastic strip of bedsheets. The same fabric was later found in the apartment shared by Coleman and Brown. Annie received cuts so deep that her intestines were protruding into her vagina. Evidence of a remarkably similar murder in Ohio was admitted at trial. These acts proved to be part of a midwestern crime spree by Coleman and Brown that included up to 8 murders, 7 rapes, 3 kidnappings , and 14 armed robberies.

**Trial:** Information/PC for Murder and DP filed (11-26-84); Motion for Detainer filed (05-17-85); Initial Hearing (12-10-85); Coleman Trial (03-31-86 to 04-12-86); Voir Dire (05-07-86, 05-08-86, 05-09-86, 05-10-86, 05-12-86); Jury Trial (05-12-86, 05-13-86, 05-14-86, 05-15-86, 05-16-86, 05-17-86); Deliberations 3 hours, 37 minutes; Verdict (05-17-86); DP Trial (05-17-86; 05-19-86, 05-20-86, 05-21-86); Deliberations 10 hours, 30 minutes; Verdict (05-22-86); Court Sentencing (06-20-86, 06-23-86).

**Conviction:** Murder, Attempted Murder (A Felony), Child Molesting (A Felony)

**Sentencing:** June 23, 1986 (Death Sentence, 40 years, 40 years consecutive)

**Mitigating Circumstances:** borderline mental retardation  
substantial domination by Coleman; dependent personality  
general lack of aggressiveness  
head trauma as a child  
21 years old at time of murder

**Aggravating Circumstances:** b (1) Child Molesting

b (7) 2 prior murder convictions in Hamilton County, Ohio  
b (7) 2 prior murder convictions in Hamilton County, Ohio

**Direct Appeal:** Brown v. State, 577 N.E.2d 221 (Ind. August 29, 1991) (45S00-8703-CR-271)

Conviction Affirmed 4-1 DP Affirmed 4-1

Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.

For Defendant: Daniel L. Toomey, Merrillville

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Brown v. State, 583 N.E.2d 125 (Ind. 1991) (Rehearing Denied 4-1)

Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.

Brown v. Indiana, 113 S.Ct. 101 (1992) (Cert. denied)  
Brown v. Indiana, 113 S.Ct. 639 (1992) (Reh. denied)

**PCR:** PCR Petition filed 04-08-93.

State's Answer to PCR Petition filed 10-28-93.

PCR Hearing 06-05-95 to 06-07-95 (3 days)

For Defendant: Ken Murray, Columbus, OH, James N. Thiros, Merrillville

For State: Kathleen M. O'Halloran, Kathleen A. Sullivan, Natalie Bokota

PCR Petition denied 02-28-96.

Brown v. State, 698 N.E.2d 1132 (Ind. July 17, 1998) (45S00-9212-PD-939)  
(Appeal of PCR denial by Special Judge Richard P. Conroy)

Conviction Affirmed 5-0 DP Affirmed 5-0

Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.

For Defendant: Ken Murray, Columbus, OH, Janet S. Dowling, Indianapolis

For State: Christopher L. LaFuse, Deputy Attorney General (Modisett)

Brown v. Indiana, 119 S.Ct. 1367 (1999) (Cert. denied)

**Habeas:** 12-11-98 Notice of Intent to File Petition for Habeas Corpus filed.

03-16-99 Order denying State's Motion to Transfer Venue to Southern District of Indiana.

07-16-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Ohio.

07-02-02 Order granting Brown's Motion to Hold Proceedings in Abeyance

Debra Denise Brown v. Shirley A. Rogers (1:99-CV-00549-ALM-MRA)

Judge Algenon L. Marbley, Magistrate Elizabeth Preston Deavers

For Defendant: Kenneth Foye Murray, Phoenix, AZ, Arizona Public Defender.

For State: Andrew A. Kobe, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Petition filed and pending in the United States District Court, Southern District of Ohio. The State of Indiana's Petition to Transfer to Indiana was denied. Order entered 07-02-2002 granting Motion to Hold Proceedings in Abeyance.

Brown has been incarcerated in Ohio since her conviction for Aggravated Murder. In 1991, Ohio Governor Richard Celeste commuted Brown's Ohio death sentence to life in prison. On April 26, 2002, Alton Coleman was executed by lethal injection in the state of Ohio.

**Ohio:** State v. Brown, 1987 WL 9743 (Ohio App. 1 April 15, 1987) (Not Reported in N.E.2d)  
(Direct Appeal of murder conviction and death sentence from Cincinnati, Hamilton County, Ohio, for the killing of Tonnie Storey on July 11, 1984. Judgment and sentence unanimously affirmed.)

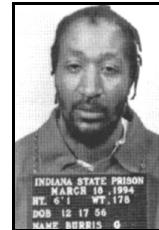
**Successive PCR:** Deborah Denise Brown v. State of Indiana (45G01-1806-PC-000007 / 1CR-203-1184-842)  
Lake Superior Court Criminal Division Judge Salvadore Vasquez  
06/12/2018 Successive Petition for Post-Conviction Relief Filed  
06/12/2018 State's Response and Answer Filed  
08/07/2018 Amended Petition Filed  
11/15/2018 Agreement of Parties Filed  
11/29/2018 Order modifying sentence per Sentencing Agreement

Pursuant to a Sentencing Agreement, the State agreed to withdraw its request for a death sentence and on November 29, 2018 Brown was instead sentenced to 60 years imprisonment on Count I: Murder, to run consecutively with previously imposed sentences on Count II: Attempted Murder (Class A Felony) - 40 years, and Count III: Child Molesting (Class A Felony) - 40 years, for a total aggregate sentence of 140 years imprisonment. This sentence is also consecutive to the two life sentences Brown is currently serving in the State of Ohio (B84-3538 and B84-2559). This pending Successive PCR and the pending Habeas action in the State of Ohio (99-cv-00549) shall be withdrawn with prejudice. (Signed by Lake County Prosecuting Attorney, Indiana Attorney General, Debra Denise Brown, and Counsel Ken Murray).

- ▶ BROWN IS CURRENTLY SERVING CONSECUTIVE TERMS OF IMPRISONMENT TOTALING 140 YEARS IN INDIANA, CONSECUTIVE TO LIFE WITHOUT PAROLE SENTENCES IN OHIO.

## BURRIS, GARY # 8 & # 69

EXECUTED BY LETHAL INJECTION 11-20-97 1:00 AM EST  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.



DOB: 12-17-56 DOC#: 11746 Black Male

Marion County Superior Court Judge John W. Tranberg

Trial Cause #: 49GO4-8801-CF-000166

**Prosecutor:** J. Gregory Garrison, John D. Tinder

**Defense:** Thomas E. Alsip, L. Craig Turner

**Date of Murder:** January 29, 1980

**Victim(s):** Kenneth W. Chambers B / M / 31 (No relationship to Burris)

**Method of Murder:** shooting with .38 handgun

**Summary:** Kenneth Chambers was a cab driver in Indianapolis. His nude body was found in an alley near Fall Creek Parkway, face down and stuck to the ground by a pool of his frozen blood. His hands were tied behind his back, and there was a small caliber gunshot wound to the right temple. The cab company log revealed that Burris had called for a cab and was Chambers' last fare. A witness testified that Burris returned to his apartment with Emmett Merriweather and James Thompson with wads of money and a cab driver's run sheet and clipboard. Burris was arrested later that day at the apartment of his girlfriend where a .38 caliber handgun was found hidden in a stereo speaker. The ISP Lab confirmed it to be the murder weapon. Chambers' cab was found parked nearby. Burris later confessed to a cellmate that he had forced Chambers to lie face down on the freezing ground, and shot him in the head as he begged for his life. Accomplice Thompson was later convicted and sentenced to 50 years imprisonment. Accomplice Merriweather testified at both trials and was sentenced to 15 years imprisonment.

**Trial:** Information/PC for Murder Filed (01-30-80); Death Sentence Request Filed (03-14-80); Jury Trial (12-01-80, 12-02-80, 12-03-80, 12-04-80); Verdict (12-04-80); DP Trial (12-05-80); DP Verdict (12-05-80); Court Sentencing (02-20-81).

**Conviction:** Felony-Murder

**Sentencing:** February 20, 1981 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** sociopathic personality

    accomplices could have committed murder

    acts were insufficient to warrant death

    abandoned by his parents (presented at 2nd trial)

    raised in house of prostitution

    at age 12 he was declared a ward of county due to neglect

    obtained GED

**Direct Appeal:** Burriss v. State, 465 N.E.2d 171 (Ind. June 29, 1984) (981-S-250)

    Conviction Affirmed 5-0      DP Affirmed 5-0

    Pivarnik Opinion; Givan, Debruler, Hunter, Prentice concur.

    For Defendant: James G. Holland, Indianapolis

    For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Burriss v. Indiana, 105 S.Ct. 816 (1985) (Cert. denied)

**PCR:** Burris v. State, 558 N.E.2d 1067 (Ind. August 24, 1990) (49S00-8610-PC-917)  
(Appeal of PCR denial by Special Judge Roy Jones)  
Conviction Affirmed 5-0 DP Vacated 3-2  
(DP vacated and remanded due to ineffective assistance of counsel - referring to Burris as "street person" and failure to investigate and present mitigators)  
Shepard Opinion; Debruler, Dickson concur; Givan, Pivarnik dissent.  
For Defendant: Linda Wagoner, Fort Wayne  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Burris v. State, 687 N.E.2d 190 (Ind. November 17, 1997)  
(Order declining 5-0 to authorize successive PCR on conviction)  
Shepard, Dickson, Sullivan, Selby, Boehm concur.

**On Remand:** Voir Dire (09-23-91, 09-24-91); DP Trial (09-25-91, 09-26-91, 09-27-91); Deliberations 8 hours, 22 minutes; Hung Jury/Mistrial (09-30-91); Court Sentencing (11-22-91).

Special Judge Patricia J. Gifford  
For Defendant: Michael Fisher, R. Mark Inman, Indianapolis  
For State: Barbara J. Trathen, Carole J. Johnson  
11-22-91 Burris again sentenced to death by Special Judge Patricia J. Gifford.

**Direct Appeal:** Burris v. State, 642 N.E.2d 961 (Ind. November 4, 1994) (49S00-9203-DP-187)  
DP Affirmed 5-0  
Givan Opinion; Shepard, Dickson, Debruler, Sullivan concur.  
For Defendant: Mark Inman, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Burris v. Indiana, 116 S.Ct. 319 (1995) (Cert. denied)

**Habeas:** 12-09-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Gary Burris v. Robert A. Farley, Superintendent (3:92-CV-00755-AS)  
Judge Allen Sharp  
For Defendant: David E. Vandercoy, Valparaiso University Law Clinic  
For State: Wayne E. Uhl, Deputy Attorney General (S. Carter)

03-19-93 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-30-93 Amendment to Petition for Writ of Habeas Corpus filed.  
09-03-93 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
09-07-93 Oral Arguments  
01-27-94 Petition for Writ of Habeas Corpus denied.  
02-10-94 Certificate of Probable Cause granted.

Burris v. Farley, 845 F. Supp. 636 (N.D. Ind. January 27, 1994) (3:92-CV-0755-AS)  
(Petition for Habeas Writ on conviction only; Petition denied 01-27-94)

Burris v. Farley, 51 F.3d 655 (7th Cir. November 22, 1995) (Affirmed) (94-1328)  
(Appeal of denial of Habeas Writ; Affirmed 3-0)  
Opinion by Judge Frank H. Easterbrook; Judge Daniel A. Manion, Judge Richard D. Cudahay concur  
For Defendant: David E. Vandercoy, Valparaiso University Law Clinic  
For State: Wayne Uhl, Deputy Attorney General (P. Carter)  
Burris v. Indiana, 116 S.Ct. 747 (1996) (Cert. denied)

Petition for Writ of Habeas Corpus filed 11-13-95 in U.S. District Court, Northern District of Indiana.  
Gary Burris v. Alan Parks, Superintendent (3:95-CV-00917-AS)  
Judge Allen Sharp

For Defendant: Alan M. Freedman, Evanston, IL, Bruce Bornstein, Chicago, IL  
For State: Geoffrey P. Davis, Geoffrey Slaughter, Deputy Attorneys General (P. Carter)  
11-20-95 Petition for Writ of Habeas Corpus and Stay of Execution denied.

Burris v. Parke, 948 F. Supp. 1310 (N.D. Ind. December 26, 1996) (3:95-CV-0917 AS)  
(Petition for Habeas denied by Judge Allen Sharp, U.S. District Court, Southern District of Indiana)

Burris v. Parke, 72 F.3d 47 (7th Cir. November 23, 1995) (95-3725)  
(Dismissal of Habeas Writ on grounds of "abuse of writ"; Stay of Execution Denied)  
Per Curiam Opinion, Judge Frank H. Easterbrook, Judge Daniel A. Manion concur;  
Judge Richard D. Cudahay dissents.  
For Defendant: Alan M. Freedman, Bruce H. Bornstein, Chicago, IL  
For State: Geoffrey P. Davis, Geoffrey Slaughter, Deputy Attorneys General (P. Carter)  
Burris v. Parke, 95 F.3d 465 (7th Cir. September 12, 1996) (95-3725)  
(Vacating dismissal of Habeas Writ, with directions for District Court to consider on the merits)  
Judge Richard A. Posner, Judge Daniel A. Manion, Judge Michael S. Kanne.  
For Defendant: Alan M. Freedman, Bruce H. Bornstein, Chicago, IL, Carol R. Heise, Patricia  
Mysza, Chicago, IL, John Blume, Habeas Assistance Project, Columbia, SC  
For State: Geoffrey P. Davis, Geoffrey Slaughter, Deputy Attorneys General (P. Carter)

Burris v. Parke, 116 F.3d 256 (7th Cir. June 19, 1997) (97-1218)  
(Appeal of denial of Habeas Writ; Affirmed 2-1)  
Judge Frank H. Easterbrook, Judge Daniel A. Manion concur; Judge Richard D. Cudahay dissents.  
For Defendant: Alan M. Freedman, Chicago, IL  
For State: Geoffrey Slaughter, Deputy Attorney General (Modisett)

Burris v. State, 684 N.E.2d 193 (Ind. August 26, 1997) (Order setting execution date)  
Burris v. Parke, 130 F.3d 782 (7th Cir. November 15, 1997)  
(Request to Recall Mandate dismissed 2-1; Judge Easterbrook Opinion, Manion concurs, Cudahay dissents.)  
Burris v. Parke, 118 S.Ct. 462 (November 19, 1997) (Application for stay denied)

BURRIS WAS EXECUTED BY LETHAL INJECTION 11-20-97 1:00 A.M. EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 75TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 5TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## CANAAN, KEITH BRIAN # 48

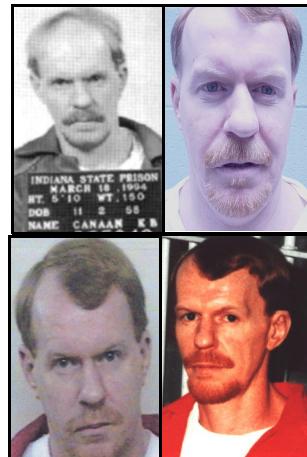
OFF DEATH ROW SINCE 01-10-03  
DOB: 11-02-1958 DOC#: 865840 White Male

Vanderburgh County Circuit Court  
Judge William H. Miller

**Trial Cause #:** 5215  
**Prosecutor:** Robert J. Pigman, Chris Lenn  
**Defense:** Barry L. Standley, Beverly Harris

**Date of Murder:** December 28, 1985  
**Victim(s):** Lori Bullock W / F / 22 (No relationship to Canaan)

**Method of Murder:** stabbing with butcher knife



**Summary:** Police responded to a dispatch to an Evansville apartment building. Inside, they discovered the body of Lori Bullock laying on a bed with a butcher knife in her neck and cuts to her vaginal area. The apartment was ransacked and money and jewelry were missing. Police recovered a Kool cigarette butt outside the apartment with saliva consistent with Canaan. His fingerprints were found on a package of spaghetti in the kitchen. Canaan was identified by those in an upstairs apartment as having knocked on their door near the time of the murder. Canaan had previously been at the apartment and was invited into the living room by the victim's roommates after he knocked on their door claiming to be looking for girls who lived upstairs. When arrested, Canaan had a package of Kool cigarettes on him.

**Trial:** Information/PC for Murder and DP filed (12-30-85); Voir Dire from Knox County (08-14-86; 08-15-86); Jury Trial (08-18-86; 08-19-86); Mistrial granted when officer refers to defendant's "prison shorts" (08-19-86); Voir Dire in Gibson County (11-06-86, 11-07-86); Jury Trial in Vanderburgh County (11-11-86, 11-12-86); ; 08-16-86, 08-14-86; 08-15-86; 08-16-86,); Verdict (11-12-86); Habitual Trial (11-12-86); Verdict (11-12-86); DP Trial (11-13-86); Verdict (11-13-86); Court Sentencing (11-26-86).

**Conviction:** Murder, Burglary (B Felony), Attempted Criminal Deviate Conduct (A Felony)  
Habitual Offender (Trifurcated Trial)

**Sentencing:** November 26, 1986 (Death Sentence; no sentence entered on other convictions)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Attempted CDC

**Mitigating Circumstances:** None

**Direct Appeal:** Canaan v. State, 541 N.E.2d 894 (Ind. July 28, 1989) (82S00-8705-CR-521)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Shepard, Givan concur; Debruler, Dickson dissent.  
For Defendant: Barry L. Standley and Beverly K. Harris, Evansville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Canaan v. Indiana, 111 S.Ct. 230 (1990) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition filed 11-07-90.  
PCR Petition filed. Amended PCR Petition filed 06-12-91, 10-01-91, 04-22-93, 05-16-94.  
State's Answer to Amended PCR Petition filed 06-17-91, 10-08-91, 06-03-94.  
PCR Hearing 11-08-91.  
Judge Richard L. Young  
For Defendant: Michael C. Keating, Glenn A. Grampp, Special Deputy Public Defenders (Carpenter)  
For State: Robert J. Pigman, Ron Bell  
PCR Petition denied 07-13-92.  
Motion to Reopen Hearing granted without objection 12-08-92.  
PCR Hearing 04-22-93, 04-23-93.  
PCR Petition denied 01-06-94.

Canaan v. State, 683 N.E.2d 227 (Ind. June 23, 1997) (82S00-9012-PD-816)  
(Appeal of PCR denial by Judge Richard L. Young)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Steven H. Schutte, Lisa Malmer, Deputy Public Defenders, Michael C. Keating,  
Glenn A. Grampp, Special Assistants, Indianapolis (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Canaan v. Indiana, 118 S.Ct. 2064 (1998) (Cert denied)

**Habeas:** 11-17-97 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
06-22-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Keith B. Canaan v. Ronald Anderson, Superintendent (IP 97-C-1847 H/K)  
Judge David Hamilton  
For Defendant: F. Thomas Schornhorst, AL, John Pinnow, Greenwood  
For State: Michael A. Hurst, Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General

12-14-98 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-04-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
04-07-00 Motion to Amend Petition denied.  
01-10-03 Petition for Writ of Habeas Corpus granted.  
02-06-03 State's Notice of Appeal filed.

Canaan v. Davis, 2003 WL 118003 (S.D. Ind. January 10, 2003)

(Habeas Corpus Petition granted by Judge David Hamilton of the U.S. District Court for the Southern District of Indiana, on the grounds that trial counsel was ineffective for failure to object to inadequate instructions for the crime of Attempted Criminal Deviate Conduct, upon which the death sentence was partially based. Conviction for Criminal Deviate Conduct and Death Sentence vacated. Conviction for murder, burglary, and habitual offender affirmed. Remanded for new sentencing hearing.)

For Defendant: John Pinnow, Greenwood, F. Thomas Schornhorst, Orange Beach, AL  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Canaan v. McBride, 395 F.3d 376 (7th Cir. January 11, 2005) (03-1384).

(Appeal of granting of Habeas Writ)  
Affirmed 3-0 as to Death Penalty, Reversed as to Attempted Criminal Deviate Conduct.  
Diane P. Wood Opinion; William J. Bauer, Ilana Diamond Rovner concur.  
For Defendant: Stephen R. Creason, Scott A. Kreider, Deputy Attorney General (S. Carter)  
For State: F. Thomas Schornhorst, Gulfshores, AL, John Pinnow, Greenwood

**On Remand:** On June 7, 2005 Canaan was resentenced by Vanderburgh Circuit Court Judge Carl A. Heldt, pursuant to a Sentencing Agreement, to the maximum term of years on the remaining charges: 90 years (Murder/Habitual Offender), 50 years (Attempted Criminal Deviate Conduct), 20 years (Burglary), consecutive, for a total sentence of 160 years imprisonment.

- CANAAN IS CURRENTLY SERVING TERMS OF YEARS TOTALING 160 YEARS IMPRISONMENT.

## CASTOR, MARVIN D. # 55

OFF DEATH ROW SINCE 03-02-92  
DOB: 02-09-1941 DOC#: 881975 White Male



Wayne County Superior Court Judge Robert L. Reinke  
Venued from Hancock County

**Trial Cause #:** S2-86-1933-CR (Wayne County)

**Prosecutor:** J. Gregory Garrison, Terry K. Snow  
**Defense:** Patrick Murphy, Mark D. Maynard

**Date of Murder:** May 8, 1986  
**Victim(s):** Malcolm Grass W / M / 42 (Hancock County Deputy Sheriff)

**Method of Murder:** shooting with .357 handgun

**Summary:** Castor and his brother worked for Sugar Creek Resort near Greenfield. After reviewing company documents, they concluded that the corporate owners of the resort had been defrauding lending institutions, and decided to blackmail them for \$250,000. When they contacted their superior at the company to do so, the company called in the FBI and local sheriff and recorded the conversations. Castor claimed that the company had hired hit men who had looked for him and ransacked his home. A meeting was eventually arranged for the payoff to take place at an Amoco station on State Road 9 just north of I-70. Castor and his brother arrived driving separately. While Castor was waiting inside his truck, several unmarked FBI and Sheriff vehicles closed in. One vehicle pulled directly in front of Castor, blocking his escape. The passenger, Deputy Malcolm Grass, jumped out with his gun drawn. While no one was in uniform, officers announced themselves as Castor got out of his truck firing a .357. A ricochet bullet killed Deputy Grass. Castor surrendered and claimed that he thought they were the company's hit men.

**Trial:** Information/PC for Murder and Death Penalty Filed (05-08-86); DP Request Filed (05-08-86); Venued to Wayne County (07-19-86); Amended DP Request Filed (03-14-88); Voir Dire (03-14-88, 03-15-88, 03-16-88); Jury Trial (03-16-86, 03-17-88, 03-18-88, 03-21-88, 03-22-88, 03-23-88, 03-24-88, 03-25-88); Verdict (03-25-88); DP Trial (03-26-88); DP Verdict (03-27-88); Pro-Se Request Granted (06-07-88); Court Sentencing (07-29-88).

**Conviction:** Murder, Carrying a Handgun Without a License

**Sentencing:** July 29, 1988 (Death Sentence, 6 months concurrent)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Castor v. State, 587 N.E.2d 1281 (Ind. March 2, 1992) (89S00-9006-DP-409)

Conviction Affirmed 5-0 DP Vacated 4-1

Krahulik Opinion; Debruler, Dickson, Givan concur; Shepard dissents.

(Defendant must "know," not merely "should know," that murder victim was officer; appointment of psychiatrist was required for DP hearing)

For Defendant: Keith A. Dilworth, Charles R. Hyde, Richmond

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Castor v. Clark, 111 S.Ct. 2276 (1991) (Cert. denied)

Castor v. Clark, 112 S.Ct. 16 (1991) (Reh. denied)

**On Remand:** March 1995 Castor committed to Logansport Mental Hospital; proceedings stayed.

05-07-96 DP Request withdrawn, resentenced by Wayne Superior Court Judge Barbara A. Harcourt to a fixed term of 60 years imprisonment for Murder.

Castor v. State, 754 N.E.2d 506 (Ind. September 13, 2001)

(Direct appeal after remand and sentence of 60 years imposed; Affirmed)

Castor v. State, 876 N.E.2d 388 (Ind. App. November 7, 2007)

(Appeal of PCR denial by trial court on 60 year sentence; Affirmed)

- ▶ CASTOR (AT 74 YEARS OLD) DIED IN THE INDIANA DEPARTMENT OF CORRECTIONS ON JANUARY 30, 2015, AFTER SERVING ± 29 YEARS IN CUSTODY.

## COLEMAN, ALTON # 43

EXECUTED 04-26-02 10:13 AM BY STATE OF OHIO  
DOB: 11-06-1955 DOC#: 865839 Black Male

Lake County Superior Court Judge Richard W. Maroc



**Trial Cause #:** 1CR-203-1184-842

**Prosecutor:** Thomas W. Vanes, Richard Cook

**Defense:** Cornell Collins, Lonnie Randolph

**Date of Murder:** June 18, 1984

**Victim(s):** Tamika Turks B / F / 7 (No relationship to Coleman)

**Method of Murder:** ligature strangulation with bedsheet

**Summary:** Seven year old Tamika and her nine year old niece, Annie, were walking back from the candy store to their home when they were confronted by Debra Denise Brown and Coleman. Brown and Coleman convinced them to walk into the woods to play a game. Once there, they removed Tamika's shirt and tore it into small strips which they used to bind and gag the children. When Tamika began to cry, Brown held her nose and mouth while Coleman stomped on her chest. After carrying Tamika a short distance away, Annie was forced to perform oral sex on both Brown and Coleman, then Coleman raped her. Brown and Coleman then choked her until she was unconscious. When she awoke, they were gone. Tamika was found dead in the bushes nearby, strangled with an elastic strip of bedsheet. The same fabric was later found in the apartment shared by Coleman and Brown. Annie received cuts so deep that her intestines were protruding into her vagina. Evidence of a remarkably similar murder in Ohio was admitted at trial. These acts proved to be part of a midwestern crime spree by Coleman and Brown that included up to 8 murders, 7 rapes, 3 kidnappings , and 14 armed robberies. Brown has accumulated death sentences in Indiana, Illinois, and Ohio.

**Trial:** Information/PC for Murder and DP filed (11-26-84); Motion for Detainer filed (05-17-85); Initial Hearing (10-01-85); Voir Dire (03-31-86, 04-01-86, 04-02-86); Jury Trial (04-02-86, 04-03-86, 04-04-86, 04-07-86, 04-08-86, 04-09-86, 04-10-86); Deliberations 02 hours; Verdict (04-11-86); DP Trial (04-12-86); Deliberations 1 hour, 40 minutes; Verdict (04-12-86); Court Sentencing (05-02-86); Brown Trial (05-07-86 to 05-22-86).

**Conviction:** Murder, Attempted Murder (A Felony), Child Molesting (A Felony)

**Sentencing:** May 7, 1986 (Death Sentence, 50 years, 50 years consecutive)

**Aggravating Circumstances:** b (1) Child Molesting  
b (7) 2 prior murder convictions in Ohio

**Mitigating Circumstances:** None

**Direct Appeal:** Coleman v. State, 558 N.E.2d 1059 (Ind. August 24, 1990) (45S00-8610-CR-937)

Conviction Affirmed 5-0 DP Affirmed 4-1

(Infamous note left for Coleman in elevator by lead prosecutor Thomas Vanes: "Pissy you got the balls (ball) to testify???" constituted misconduct but was not reversible error)

Shepard Opinion; Givan, Pivarnik, Dickson concur; Debruler dissents.

For Defendant: James F. Stanton, Crown Point, Public Defender

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Coleman v. Indiana, 111 S.Ct. 2912 (1991) (Cert. denied)

**PCR:** PCR Petition filed 05-15-92.

State's Answer to PCR Petition filed 07-30-92

PCR Hearing 11-15-94, 11-16-94, 11-17-94.

Special Judge Richard J. Conroy

For Defendant: Kathleen J. Littell, Valerie K. Boots, Robert E. Lancaster, Deputy Public Defenders

For State: Kathleen A. Sullivan, Natalie Bokota

PCR Petition denied 03-23-95.

Coleman v. State, 703 N.E.2d 1022 (Ind. 1998) (45S00-9203-PD-158)

(Appeal of PCR denial by Special Judge Richard J. Conroy)

Conviction Affirmed 5-0 DP Affirmed 5-0

Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Kathleen Cleary, Robert E. Lancaster, Deputy Public Defenders (Carpenter)

For Amicus Curiae: Charles A. Asher, South Bend, Indiana Association of Criminal Defense Lawyers.

For State: Christopher L. Lafuse, Deputy Attorney General (Modisett)

Coleman v. Indiana, 120 S.Ct. 1717, 146 L.Ed.2d 389 (2000)

(Petition for Writ of Certiorari granted. Judgment vacated and remanded back to Indiana Supreme Court for further consideration in light of Williams v. Taylor, 529 U.S. 362, 120 S.Ct. 1495, 146 L.Ed.2d 389 (2000), where Virginia death sentence reversed on grounds of ineffective assistance of counsel, relying upon two-pronged test of Strickland)

Coleman v. State, 741 N.E.2d 697 (Ind. December 29, 2000) (45S00-9203-PD-158)

(On Remand from U.S. Supreme Court to Indiana Supreme Court)

Conviction Affirmed 4-0 DP Affirmed 4-0

Shepard Opinion; Dickson, Sullivan, Boehm concur. Rucker did not participate.

For Defendant: Kathleen Cleary, Robert E. Lancaster, Deputy Public Defenders (Carpenter)

For State: Christopher L. Lafuse, Deputy Attorney General (Freeman-Wilson)

Coleman v. Indiana, 122 S.Ct. 649 (2001) (Cert. denied)

Coleman v. Indiana, 122 S.Ct. 1137 (2002) (Reh. denied)

COLEMAN WAS INCARCERATED IN OHIO ON DEATH ROW SINCE HIS 1988 CONVICTIONS AND DEATH SENTENCE FOR AGGRAVATED MURDER IN HAMILTON COUNTY. COLEMAN WAS EXECUTED BY LETHAL INJECTION BY THE STATE OF OHIO ON APRIL 26, 2002, AT 1:26 AM EST. AT THE TIME OF HIS EXECUTION THERE WAS OVER 3,500 PRISONERS ON DEATH ROWS ACROSS THE U.S. COLEMAN WAS THE ONLY ONE WITH DEATH SENTENCES IN 3 STATES: INDIANA, OHIO, AND ILLINOIS.

**Ohio:**

State v. Coleman, 37 Ohio St.3d 286, 525 N.E.2d 792 (Ohio July 6, 1988)

(Direct appeal of murder conviction and death sentence in Hamilton County for the killing of Marlene Walters on July 13, 1984 - Affirmed)

Coleman v. Ohio, 488 U.S. 900, 109 S.Ct. 250, 102 L.Ed.2d 238 (October 11, 1988) (Cert. denied)

State v. Coleman, 45 Ohio St.3d 298, 544 N.E.2d 622 (Ohio September 20, 1989)

(Direct appeal of murder conviction and death sentence in Hamilton County for the killing of 15-year-old Tonnie Storey on July 19, 1984 - Affirmed)

Coleman v. Ohio, 493 U.S. 1051, 110 S.Ct. 855, 107 L.Ed.2d 849 (January 16, 1990) (Cert. denied)

**Illinois:**

People v. Coleman, 544 N.E.2d 330 (Ill. June 19, 1989)

(Direct appeal of murder conviction and death sentence in Lake County for the kidnapping and killing of 9-year-old Vernita Wheat on June 19, 1984 - Affirmed)

Coleman v. Illinois, 497 U.S. 1032, 110 S.Ct. 3294, 111 L.Ed.2d 802 (June 28, 1990) (Cert. denied)

## **CONNER, KEVIN AARON # 60**

EXECUTED BY LETHAL INJECTION 07-27-05 12:31 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 03-27-1965 DOC#: 881980 White Male

Marion County Superior Court Judge John W. Tranberg



**Trial Cause #:** 49GO1-8802-CF-08449

**Prosecutor:** John V. Commons, David E. Cook

**Defense:** Steven B. Lazinsky, Rick Mendes

**Date of Murder:** January 26, 1988

**Victim(s):** Steve Wentland W / M / 19; Tony Moore W / M / 24; Bruce Voge W / M / 19 (Acquaintances)

**Method of Murder:** stabbing with knife (Wentland); shooting with shotgun (Moore/Voge)

**Summary:** Conner was drinking with friends Steve Wentland, Tony Moore, and Bruce Voge at Moore's home. Wentland left for a drive with Moore in the front seat and Conner in the back. Wentland and Moore argued and Moore struck Wentland with Conner's knife. Wentland fled from the car but was chased down and run over by Moore. Conner then stabbed him to death. They drove to the warehouse of Conner's employer, where Conner and Moore began arguing about the night's events. Conner shot Moore to death with a shotgun. Conner then returned to Moore's home and shot Voge on the couch. Conner then fled to Texas.

**Trial:** Information/PC for Murder and Death Penalty Filed (01-28-88); Death Sentence Request Filed (02-03-88); Jury Trial (10-03-88, 10-04-88, 10-05-88, 10-06-88, 10-07-88); Verdict (10-07-88); DP Trial (10-09-88); DP Verdict (10-09-88); Court Sentencing (11-03-88).

**Conviction:** Murder, Murder, Murder

**Sentencing:** November 3, 1988

(Death Sentences for murder of Moore and Voge, 60 years for murder of Wentland)

**Aggravating Circumstances:** b (8) 3 murders

**Mitigating Circumstances:** intoxication

22 years old at time of murder  
no significant history of criminal conduct  
genuine remorse  
loss of his father  
interest in drawing and writing  
generosity in helping pay rent for girlfriend

**Direct Appeal:** Conner v. State, 580 N.E.2d 214 (Ind. October 24, 1991) (49S00-8904-CR-00314)

Conviction Affirmed 5-0 DP Affirmed 5-0

Krahulik Opinion; Shepard, Debruler, Givan, Dickson concur.

For Defendant: L. Craig Turner, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Conner v. Indiana, 112 S.Ct. 1501 (1992) (Cert. denied)

Conner v. Indiana, 112 S.Ct. 2006 (1992) (Reh. denied)

**PCR:** PCR Petition filed 01-12-93. Amended PCR Petition filed 01-30-95.  
State's Answer to PCR Petition filed 01-28-93, .  
PCR Hearing 02-07-95, 02-08-95, 02-09-95, 02-14-95, 02-21-95.  
Special Judge James K. Coachys  
For Defendant: Kathleen J. Littell, Thomas C. Hinesley.  
For State: John V. Commons, Frank A. Gleaves.  
PCR Petition denied 03-29-95.

Conner v. State, 711 N.E.2d 1238 (Ind. May 25, 1999) (49S00-9207-PD-00591)  
(Appeal of PCR denial by Special Judge James K. Coachys)  
Affirmed 5-0. Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: Thomas C. Hinesley, Kathleen Littell-Cleary, Deputy Public Defenders (Carpenter)  
For State: Preston W. Black, Deputy Attorney General (P. Carter)  
Conner v. Indiana, 121 S.Ct. 81 (2000) (Cert. denied)

Conner v. State, 829 N.E.2d 21 (Ind. June 16, 2005) (49S00-0504-SD-164).  
(Conner sought permission to file Successive Petition for Postconviction Relief. Held: Denied.)  
Shepard, Dickson, Sullivan, Boehm, Rucker concur.

**Habeas:** 12-21-99 Notice of Intent to file Petition for Writ of Habeas Corpus filed.  
09-26-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Kevin A. Conner v. Ron Anderson, Superintendent (IP 99-C-1923-B/S)  
Judge Sarah Evans Barker  
For Defendant: Kathy Lea Stinton-Glen, Linda M. Wagoner, Indianapolis  
For State: Michael A. Hurst, James B. Martin, Deputy Attorneys General

02-05-01 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
11-08-02 Petitioner files Findings of Fact, Conclusions of Law for Writ of Habeas Corpus.  
01-15-03 Petition for Writ of Habeas Corpus denied.  
06-05-03 Certificate of Appealability granted in part.

Conner v. Anderson, 259 F.Supp.2d 741 (S.D. Ind. January 15, 2003) (IP 99-C-1923-B/S)  
(Habeas denied by Judge Sarah Evans Barker, U.S. District Court, Southern District of Indiana.)  
For Defendant: Kathy Lea Stinton-Glen, Linda M. Wagoner, Indianapolis  
For State: Timothy W. Beam, Deputy Attorney General (S. Carter)

Conner v. McBride, 375 F.3d 643 (7th Cir. July 20, 2004) (03-1951).  
(Appeal of denial of Writ of Habeas Corpus Writ in (IP 99-C-1923-B/S)  
Affirmed 3-0. Michael S. Kanne Opinion; Frank H. Easterbrook, Ilana Diamond Rovner concur.  
For Defendant: Linda M. Wagoner, Indianapolis, Kathy Lea Stinton-Glen, Zionsville  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Conner v. McBride, 125 S.Ct. 1399 (February 28, 2005) (Cert. denied).  
Conner v. McBride, 125 S.Ct. 1930 (April 25, 2005) (Reh. denied).

CONNER WAS EXECUTED BY LETHAL INJECTION ON 07-27-05 12:31 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 85TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 15TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## COOPER, PAULA R. # 46

OFF DEATH ROW SINCE 07-13-89  
DOB: 08-25-1969 DOC#: 864800 Black Female

Lake County Superior Court Judge James C. Kimbrough

Trial Cause #: 3CR-109-685-433

Prosecutor: James W. McNew

Defense: Kevin B. Relphorde

Date of Murder: May 14, 1985

Victim(s): Ruth Pelke B / F / 78 (No relationship to Cooper)

Method of Murder: stabbing with knife 33 times



**Summary:** Cooper, age 15, devised a scheme with two of her friends to get money. They went to the home of a 78 year old Bible teacher, Ruth Pelke, gaining entry by telling her they wanted Bible lessons and asking her to write down information about the classes. Armed with a butcher knife, Cooper then knocked her to the floor from behind, struck her with a vase, cut her arms and legs, then climbed on top of her stabbing her in the chest and stomach 33 times. While doing so, she repeatedly asked, "Where's the money, bitch?" The only response was the Bible teacher reciting the Lord's Prayer. The home was searched by the girls for money. Cooper took \$10 and Pelke's car.

**Trial:** Information/PC for Murder and Juvenile Waiver Order filed (06-28-85); Initial Hearing (07-01-85); Amended Information for DP filed (07-08-85); Guilty Plea Without Agreement (04-21-86); Sentencing (07-11-86); Resentenced to 60 years imprisonment (08-18-89).

**Conviction:** Pled Guilty to Murder and Felony-Murder without Plea Agreement

**Sentencing:** July 11, 1986 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** 15 years old at time of murder  
youngest ever on Indiana Death Row

**Direct Appeal:** Cooper v. State, 540 N.E.2d 1216 (Ind. July 13, 1989) (45S00-8701-CR-61)

Conviction Affirmed 5-0 DP Vacated 5-0

Shepard Opinion; Debruler, Givan, Dickson, Pivarnik concur.

(Violates 8th Amendment and Indiana Constitution; murderers less than 16 years old at the time of the murder cannot receive the death sentence - Remanded to impose 60 year term of imprisonment)

For Defendant: William L. Touchette, Lake County Public Defender,  
Victor L. Streib, Marshall College of Law, Cleveland, OH

For State: Michael Gene Worden, Deputy Attorney General (Pearson)

Amicus Curiae: John R. Van Winkle, John G. Shubat, Indiana Juvenile Justice Task Force; Richard A. Waples, Indiana Civil Liberties Union; Lawrence A. Vanore, ICLU; Nigel Rodley, Joan W. Howarth, Michael Sutherlin, Joan Fitzpatrick, Alice M. Miller, Jane G. Rocamora, Amnesty International; Joseph A. Morris, Dennis J. Stanton, Mid-America Legal Foundation, Leadership Councils of America, and the Lincoln Institute for Research and Education.

**On Remand:** Pursuant to Indiana Supreme Court Opinion, Cooper was resentenced in the Lake Superior Court to a 60 year term of imprisonment on August 18, 1989 by Special Judge Richard J. Conroy.

- COOPER (AT 43 YEARS OLD) WAS DISCHARGED BY THE INDIANA DEPARTMENT OF CORRECTIONS ON JUNE 17, 2013 AFTER SERVING ± 28 YEARS IN CUSTODY. COOPER COMMITTED SUICIDE IN INDIANAPOLIS ON MAY 26, 2015 BY A SELF-INFILCTED GUNSHOT TO HER HEAD.

## CORCORAN, JOSEPH EDWARD # 91

ON DEATH ROW SINCE 08-26-99  
DOB: 04-18-1975 DOC#: 992454 White Male

Allen County Superior Court Judge Frances C. Gull



**Trial Cause #:** 02D04-9707-CF-000465

**Prosecutor:** Robert W. Gevers, II

**Defense:** John S. Nimmo and Mark A. Thoma

**Date of Murder:** July 26, 1997

**Victim(s):** James Corcoran W / M / 30 (brother);  
Robert Turner W / M / 32 (sister's fiancé);  
Timothy Bricker W / M / 30 (friend of brother);  
Doug Stillwell W / M / 30 (friend of brother).



CORCORAN      JOSEPH

**Method of Murder:** Shooting with Ruger Mini-14 Semi-Automatic Rifle

**Summary:** The defendant was living in a home along with his brother James Corcoran, his sister Kelly Nieto, and her fiancé' Robert Turner. On July 26, 1997 the defendant was upstairs while his brother and Turner sat in the living room with friends Timothy Bricker and Doug Stillwell. According to the defendant, he heard them talking about him, so he went downstairs and confronted them. He first placed his 7 year old niece in an upstairs bedroom to protect her from the gunfire, then loaded his semi-automatic rifle. Before they had a chance to move, the defendant shot and killed his brother, Turner, and Bricker. Stillwell fled to the kitchen, but was cornered, shot and killed. The defendant then laid down the rifle, went to a neighbor's house, and asked them to call the police. A search of the defendant's room and secure attic, to which only he had access, revealed over 30 firearms, several munitions, explosives, guerilla tactic military issue books, and a copy of The Turner Diaries. Corcoran asserted an insanity defense based upon his diagnosis as having either a paranoid or schizotypal personality disorder.

**Trial:** Information/PC for Murder filed (07-31-97); Amended Information for DP filed (05-13-98); 2nd Amended Information for DP filed (05-10-99); Voir Dire in Porter County (05-17-99, 05-18-99, 05-19-99); Jury Trial in Allen County (05-20-99, 05-21-99, 05-22-99); Verdict (05-22-99); DP Trial (05-24-99); Verdict (05-25-99); Court Sentencing (08-26-99); New Sentencing Order entered (09-30-01).

**Conviction:** Murder (4 counts)

**Sentencing:** August 26, 1999 (Death Sentence); Revised Sentencing Order filed September 30, 2001.

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:** Extreme mental / emotional disturbance  
Capacity to appreciate criminality impaired  
Unable to assist defense because of mental illness  
Fully cooperated with police, admitted guilt  
Good behavior in jail  
Protected 7 year old niece before murders  
No significant prior criminal conduct  
Remorseful  
Young age (22)

**Direct Appeal:** Corcoran v. State, 739 N.E.2d 649 (Ind. December 6, 2000) (02S00-9805-DP-293)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
(DP Vacated and remanded for more specific sentencing order, since trial court may have impermissibly relied upon non-statutory aggravating factors.)  
For Defendant: P. Stephen Miller, John C. Bohdan, Fort Wayne  
For State: Priscilla J. Fossum, Deputy Attorney General (Freeman-Wilson)

**On Remand:** Corcoran again sentenced to death by Allen County Superior Court Judge Frances Gull, filing a new sentencing order on 09-30-01.

**Direct Appeal:** Corcoran v. State, 774 N.E.2d 495 (Ind. September 5, 2002) (02S00-9805-DP-293)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Dickson, Boehm, Sullivan concur. (Rucker dissents, stating that a person suffering a "severe mental illness" should only be sentenced to LWOP.)  
For Defendant: P. Stephen Miller, John C. Bohdan, Fort Wayne  
For State: James B. Martin, Deputy Attorney General (S. Carter)

**PCR:** Notice of Intent to file PCR Petition filed 04-02-03.  
Motion by Defendant to Determine Competency filed 09-09-03.  
10-21-03 "Cause is submitted and evidence heard on the issue of Defendant's competency to waive Post-Conviction Relief. All matters taken under advisement."  
12-19-03 Court notifies Indiana Supreme Court "of the Court's finding of competency and the lack of any Petition for Post-Conviction Relief being filed."  
01-07-04 Notice of Appeal filed by Defendant.

Allen County Superior Court Judge Frances C. Gull  
For Defendant: Laura L. Volk, Joanna McFadden, Deputy Public Defenders (Carpenter)  
For State: J. Michael Loomis

Corcoran v. State, 820 N.E.2d 655 (Ind. January 11, 2005) (02S00-0304-PD-00143)  
Finding of competency affirmed 4-1.  
Sullivan Opinion; Shepard, Dickson, Boehm concur. Rucker dissents.  
(Corcoran waived PCR, but Public Defender filed anyway claiming that Corcoran was incompetent to waive. Trial Court found Corcoran competent to waive PCR. Corcoran recanted his waiver during the appeal of that decision, requesting dismissal of appeal and remand back to trial court to litigate PCR.)  
For Defendant: Joanna McFadden, Deputy Public Defender (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Corcoran v. State, 827 N.E.2d 542 (Ind. May 12, 2005) (On Rehearing) (02S00-0304-PD-00143)  
(Affirming ruling that Corcoran was competent to waive, and denying request for dismissal of appeal)  
For Defendant: Joanna McFadden, Deputy Public Defender (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Sullivan Opinion; Shepard, Dickson, Boehm concur. Rucker dissents.

Corcoran v. State, 845 N.E.2d 1019 (Ind. April 18, 2006) (02S00-0508-PD-350)  
Affirmed 4-1; Sullivan Opinion; Shepard, Dickson, Boehm concur. Rucker dissents.  
(Affirming dismissal of PCR Petition as too late, after Corcoran changed his mind and signed Petition)  
For Defendant: Joanna McFadden, Laura L. Volk Deputy Public Defenders (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

**Habeas:** 11-08-05 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Joseph Edward Corcoran v. Cecil Davis, Superintendent (3:05-CV-00389-AS-CAN)  
Judge Allen Sharp  
For Defendant: Alan M. Freedman, Laurence E. Komp, Midwest Center for Justice, Chicago, IL  
For State: Stephen R. Creason, James B. Martin, Deputy Attorneys General (S. Carter)

12-02-05 Petition by Corcoran pro-se to halt all appeals  
03-31-06 Hearing on Petitioner's Motion to halt all appeals  
Respondent to file brief by 08-01-06, Petitioner to Reply by 10-02-06.  
Respondent to file Return to Order to Show Cause by 06-29-06

Corcoran v. Buss, 483 F.Supp. 709 (N.D. Ind. April 9, 2007) (#3:05-CV-00389-AS-CAN)  
(Judge Allen Sharp granting Writ of Habeas Corpus as to death sentence, holding that Prosecutor had unreasonably offered to forego death penalty if Corcoran would waive jury trial. 120 days to resentence to penalty less than death)  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: Stephen R. Creason, James B. Martin, Deputy Attorneys General (S. Carter)

Corcoran v. Buss, 551 F.3d 703 (7th Cir. December 31, 2008) (07-2093, 07-2182)  
(Cross Appeals after granting Writ of Habeas Corpus)  
Reversed 3-0 on issue of Prosecutor offer to forego death sentence.  
Affirmed 2-1 on issue of waiver of PCR proceedings.  
Opinion by William J. Bauer.  
Judge Diane S. Sykes concurs; Judge Ann Claire Williams dissents on waiver issue.  
For Defendant: Alan M. Freedman, Laurence E. Komp, Midwest Center for Justice, Chicago, IL  
For State: James B. Martin, Deputy Attorney General (S. Carter)

Corcoran v. Levenhagen, 130 S.Ct. 8 (October 20, 2009) (08-10495)  
In a Per Curiam Opinion, the U.S. Supreme Court held that the 7th Circuit erred by rejecting the remaining sentencing issues without discussion and remanded the case back to the 7th Circuit.

Corcoran v. Levenhagen, 593 F.3d. 547 (7th Cir. January 27, 2010) (07-2093, 07-2182)  
DP Vacated 3-0; Remanded for new DP Judge Sentencing Hearing.  
Opinion by Judge William J. Bauer; Judge Diane S. Sykes and Judge Ann Claire Williams concur.  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
(Trial Court improperly considered non-statutory aggravators in death sentence: Corcoran's "future dangerousness," his victims' innocence, and the heinousness of the murders.)

Wilson v. Corcoran, 131 S.Ct. 13 (November 08, 2010) (10-91)  
(Appeal of granting of Habeas Writ of Habeas Corpus by U.S. District Court Judge Allen Sharp)  
Vacating Court of Appeals Opinion at 593 F.3d 547 (7th Cir. April 14, 2010).  
7th Circuit could not find a federal violation when the Indiana Supreme Court made a factual determination that a state trial Judge had not considered non-statutory aggravators. No opinion on merits of Writ.

Corcoran v. Wilson, 651 F.3d 611 (June 23, 2011) (07-2093, 07-2182)  
(On remand, the 7th Circuit held that remand to District Court required to decide unaddressed issues)  
Per Curiam Opinion. (Judge William J. Bauer, Judge Diane S. Sykes, Judge Ann Claire Williams)

**Habeas:** Corcoran v. Buss, 2013 U.S. Dist. LEXIS 4499 (N.D. Ind. January 10, 2013)  
United States District Court for the Northern District of Indiana  
South Bend Division, No. 3:05-CV-389 JD  
United States District Judge Jon E. Deguilio  
Habeas denied. Denying Habeas on remaining grounds. (Consideration of non-aggravators and failure of Indiana DP statute to distinguish circumstances where death or LWOP are warranted)  
For Joseph Edward Corcoran: Pro-se.  
For Defendant: Alan Freedman, Evanston, IL; Laurence Komp, Manchester, MO.  
For State: Stephen R. Creason, James B Martin, Deputy Attorneys General (Zoeller)

Corcoran v. Buss, 2013 U.S. Dist. LEXIS 204551 (N.D. Ind. March 27, 2013)  
United States District Court for the Northern District of Indiana  
South Bend Division, No. 3:05-CV-389 JD  
United States District Judge Jon E. Deguilio  
(Certificate of appealability with respect to the treatment of aggravating and mitigating factors in the sentencing process.  
For Joseph Edward Corcoran: Pro-se.  
For Defendant: Alan Freedman, Evanston, IL; Laurence Komp, Manchester, MO.  
For State: James Blaine Martin, Deputy Attorney General (Zoeller)

Corcoran v. Neal, 783 F.3d 676 (7th Cir. April 14, 2015) (No. 13-1318)  
Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.  
No. 3:05-CV-389 JD  
(In a thorough opinion, the district court rejected these claims and denied the writ. We affirm.)  
Opinion by Sykes; Bauer, Williams concur.  
For Defendant: Alan Freedman, Evanston, IL; Laurence Komp, Manchester, MO.  
For State: Stephen R. Creason, James B Martin, Deputy Attorneys General (Zoeller)  
Corcoran v. Neal, 136 S. Ct. 1493 (Mar. 28, 2016) (Cert. denied)

AWAITING EXECUTION.

### DANIELS, MICHAEL WILLIAM # 3

OFF DEATH ROW SINCE 01-07-05  
DOB: 03-08-1958 DOC#: 13135 Black Male

Marion County Superior Court  
Judge Patricia J. Gifford



Trial Cause #: CR78-47D

**Prosecutor:** Thomas J. Young, Marcus C. Emery (Stephen Goldsmith)  
**Defense:** Merle B. Rose, William F. Wurster

**Date of Murder:** January 16, 1978  
**Victim(s):** Allan H. Streett W / M / 43 (No relationship to Daniels)  
**Victim Website:** <http://www.arlingtoncemetary.net/astreett.htm>

**Method of Murder:** shooting with handgun

**Summary:** Defendant and two other men drove around residential neighborhoods in Indianapolis stopping and robbing persons shoveling snow in front of their homes. At the residence of U.S. Army Chaplain Allan Streett, Daniels and another man confronted Streett and his 15 year old son who were shoveling snow at approximately 9:30 p.m. Two men came up from behind and said, "Don't move and no one will get hurt." The 15 year old turned and saw Daniels waving a gun at him. Daniels ordered Allen Streett and his son to hand over their wallets. When Allen Streett responded that he did not have his wallet with him, Daniels shot and killed him. The 15 year old handed over his wallet to the other intruder, who then fled with Daniels. Three other residents at other locations were victimized that same night in a similar fashion. In all, six eyewitnesses identified Daniels at trial. In addition, accomplice Kevin Edmonds testified for the State, also implicating Daniels.

**Trial:** Information/PC for Murder and Death Penalty Filed (01-27-78); Death Sentence Request Filed (05-17-78); Jury Trial (08-20-79, 08-21-79, 08-22-79, 08-23-79, 08-24-79); Verdict (08-24-79); DP Trial (08-24-79); DP Verdict (08-24-79); Court Sentencing (09-14-79).

**Conviction:** Felony-Murder, Robbery (A Felony) (4 counts), Attempted Robbery (A Felony)  
**Sentencing:** September 14, 1979 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** lack of education  
below normal IQ, slow learner

**Direct Appeal:** Daniels v. State, 453 N.E.2d 160 (Ind. September 9, 1983) (380-S-66)

Conviction Affirmed 5-0 DP Affirmed 3-2

Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.

For Defendant: Richard Kammen, Indianapolis

For State: Palmer K. Ward, Deputy Attorney General (Pearson)

Daniels v. Indiana, 109 S.Ct. 3182 (1989)

(Judgment Vacated and remanded for consideration of Gathers victim impact)

Daniels v. State, 561 N.E.2d 487 (Ind. October 19, 1990) (49S00-8601-PC-33)

(Appeal after Remand, DP Affirmed 4-1)

Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.

For Defendant: Richard A. Waples, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** Daniels v. State, 528 N.E.2d 775 (Ind. September 23, 1988) (49S00-8601-PC-33)

(Appeal of PCR denial by Special Judge Thomas A. Alsip)

Conviction Affirmed 5-0 DP Affirmed 5-0

Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.

For Defendant: Richard A. Waples, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

11-16-92 Defendant files pro-se PCR Petition.

11-23-92 Judge Patricia J. Gifford denies as not in proper form.

03-15-93 Defendant files PCR Petition.

04-02-93 Judge Thomas Alsip denies motion.

11-22-93 Defendant files Form for Successive PCR Rule 1.

12-06-94 Defendant files Motion for Summary Judgment on death penalty claim.

03-29-95 Special Judge James R. Detamore denies Motion for Summary Judgment.

03-30-95 Defendant files Motion for Summary Judgment.

04-03-95 Defendant files Motion for Summary Judgment.

For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis

For State: Marc E. Lundy

06-26-95 Hearing held; Special Judge James R. Detamore granted Defendant's Motion for Summary Judgment, enforcing plea agreement for a term of years, and resentenced Daniels to concurrent terms of 60 years (Murder), 50 years (Robbery), 20 years (Robbery), 20 years (Robbery), 20 years (Robbery), for a total sentence of 60 years imprisonment.

State v. Daniels, 680 N.E.2d 829 (Ind. May 16, 1997) (49S00-9411-SD-1079)

(State's appeal of granting of partial summary judgment by Special Judge James R. Detamore on 2nd PCR - PCR Court directed to enter judgment for State on Plea Agreement issue; remanded on remaining issues)

Reversed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.

For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis

For State: Meredith J. Mann, Deputy Attorney General (P. Carter)

09-24-96 Sentence imposed on 06-26-95 set aside and original convictions and sentence reinstated.  
02-10-97 Amended PCR Petition filed.

Hearing held on remaining issues 02-11-97, 03-04-97, 03-05-97.  
For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis  
For State: Marc E. Lundy  
07-09-97 PCR Petition denied by Special Judge James R. Detamore.

Daniels v. State, 741 N.E.2d 1177 (Ind. January 12, 2001) (49S00-9411-SD-1079)  
(Appeal of 2nd PCR denial by Special Judge James R. Detamore)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Shepard Opinion; Sullivan, Dickson, concur. Boehm, Rucker dissent as to DP.  
For Defendant: Mark A. Earnest, Eric K. Koselke, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

**Habeas:** 09-26-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Michael W. Daniels v. Robert A. Farley, Superintendent (IP 93-C-0586- M/F)  
Judge Larry J. McKinney  
For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis  
For State: Wayne E. Uhl, Deputy Attorney General (Freeman-Wilson)  
03-18-94 Entry directing dismissal until state remedies exhausted.  
05-01-01 Notice of Intent to Amend pro-se Petition for Writ of Habeas Corpus filed.  
02-01-02 Amended Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District  
Michael W. Daniels v. Daniel McBride, Superintendent (IP 01-C-0550-Y/K)  
Judge Richard L. Young  
For Defendant: Mark A. Earnest, Eric Koselke, Brent L. Westerfield, Indianapolis  
For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General

07-02-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
12-04-02 Petitioner's Motion to Appoint Guardian Ad Litem  
04-25-03 Petitioner's Motion for psychological examination.  
10-07-03 Mr. Hailey appointed Guardian Ad Litem at \$125 per hour.  
05-04-04 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
02-24-05 Amended Petition for Writ of Habeas Corpus filed.  
04-07-05 Amended Petition for Writ of Habeas Corpus denied.

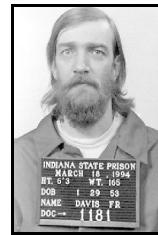
Daniels v. Knight, 476 F.3d 426 (7th Cir. 2007) (05-2620) (Habeas denial affirmed after Clemency)

**Clemency:** On January 7, 2005, outgoing Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels, the longest serving prisoner on Indiana Death Row. Daniels was sentenced to death on September 14, 1979. Governor Kernan showed less than courage in granting the clemency, without notice to the Indiana Attorney General, in his last days in office after being defeated in his bid for reelection. As reasons for the clemency, Governor Kernan basically stated that Daniels was "almost" retarded, "almost" entered into a plea agreement for a lesser sentence, and the case was "almost" reversed on appeal. Also the case was very old. This marked only the second time since the reinstatement of the Death Penalty in Indiana in 1977 that an Indiana Governor had commuted a death sentence. On July 2, 2004 Governor Kernan issued an Executive Order commuting the death sentence of Darnell Williams to Life Imprisonment Without Parole. <https://secure.in.gov/ipdc/files/Michael-Daniels-Kernan.pdf>

- ▶ CURRENTLY SERVING A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE.

## DAVIS, FRANK R. # 27

OFF DEATH ROW SINCE 12-08-93  
DOB: 01-29-1953 DOC#: 1181 White Male



Marshall County Circuit Court Judge Michael D. Cook  
Venued from LaPorte County

**Trial Cause #:** 50C01-8307-CF-23 (Marshall County)  
5066-C (LaPorte County)

**Prosecutor:** Craig V. Braje

**Defense:** Gregory H. Hofer

**Date of Murder:** June 16 & 18, 1983

**Victim(s):** D.R. W / M / 14; J.L. W / M / 15 (No relationship to Davis)

**Method of Murder:** manual strangulation (D.R.); strangulation with wire (J.L.)

**Summary:** Charges arose from 3 separate incidents. On January 10, 15 year old J.S. was confronted by Davis at gunpoint in a cornfield in LaPorte on the way back to his home. Davis put a wire around his neck and performed oral sex on him. Davis later pistol-whipped him until he thought he was unconscious. J.S. recovered from the attack and later identified Davis. On June 16, 14 year old D.R. was confronted by Davis with a knife after he and Davis drank a beer provided by Davis. Davis tied a wire around his neck, performed oral sex on him, then strangled him to death with his hands. On June 18, two 15 year old boys, J.L. and E.F. were camping out when they came across Davis in the woods. Davis was smoking pot and shared it with the teenagers. Davis left while the boys returned to the campsite. Davis watched and waited until the boys went to sleep, then went into the tent, woke up J.L., and escorted him into the woods at knifepoint. Davis tied J.L. up with wire, then performed oral sex on him, then strangled him with the wire. Davis returned and got E.F., tied him up with wire, and performed oral sex on him. Davis then struck him in the head with the axe and left. Davis had used his own name and was identified by the survivors. He gave a complete confession.

**Trial:** Information for Murder filed, PC Hearing held (06-21-83); Amended Information for DP filed (07-13-83); Venued to Marshall County (07-13-83); Notice of Insanity Defense (08-29-83); Competency Hearing 11-01-83); Insanity Defense Withdrawn (01-09-94); Voir Dire (01-09-04, 01-10-84, 01-11-84); Jury Trial (01-12-84, 01-13-84); Plea Agreement Filed/Guilty Plea Entered (01-13-84); DP Sentencing Hearing (01-18-84, 01-19-04); Court Sentencing (01-25-84).

**Conviction:** Pled guilty to Murder (2 counts) and Attempted Murder (A Felony) pursuant to a Plea Agreement, which called for dismissal of CDC (A Felony) (4 counts) and Felony-Murder (2 counts), but allowed the State to seek a Death Sentence.

**Sentencing:** January 25, 1984 (Death Sentence, Death Sentence, 50 years, 50 years)

**Aggravating Circumstances:** b (1) Child Molesting  
b (3) Lying in Wait

**Mitigating Circumstances:** emotional pressure  
antisocial character disorder  
sexually abused as a prisoner in Boy's School

**Direct Appeal:** Davis v. State, 477 N.E.2d 889 (Ind. May 22, 1985) (484-S-142)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Hunter Opinion; Prentice, Givan, Pivarnik concur; DeBruler dissents.  
For Defendant: Gregory H. Hofer, LaPorte, Jere L. Humphrey, Plymouth

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Davis v. Indiana, 106 S.Ct. 546 (1985) (Cert. denied)

**PCR:** PCR Petition filed 02-11-86. Amended PCR filed 05-03-93, 08-18-93.

State's Answer to PCR Petition filed 06-05-86.

PCR Hearing 11-10-93, 11-12-93, 11-15-93, 11-17-93.

Marshall Circuit Court Special Judge Marvin D. McLaughlin

For Defendant: Eric Kosek, Ann M. Pfarr and Kenneth L. Bird, Deputy Public Defenders (Carpenter).

For State: Thomas F. Wagner, DPA.

11-17-93 Parties file Joint Motion for Equitable Relief, accepted by Court, which vacates the death sentence, leaving intact the guilty pleas to Murder (2 Counts) and Attempted Murder (2 Counts), and the 50 year sentences for each count of Attempted Murder.

12-08-93 Following a new Sentencing Hearing, Davis was resentenced by Special Judge Marvin D. McLaughlin to consecutive terms of 60 years (Murder), 60 years (Murder), 50 years (Attempted Murder), and 50 years (Attempted Murder), for a total sentence of 220 years imprisonment.

Davis v. State, 675 N.E.2d 1097 (Ind. 1996) (50S00-9008-PD-539)

(Appeal of PCR denial on conviction only)

Affirmed 5-0; Shepard Opinion, Dickson, Sullivan, Selby, Boehm concur.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS OF IMPRISONMENT TOTALING 220 YEARS.

## DAVIS, GREAGREE C. # 31 (Chijioke Bomani Ben-Yisrayl)

OFF DEATH ROW SINCE 01-16-08

DOB: 01-06-1962 DOC#: 13158 Black Male

Marion County Superior Court Judge Roy F. Jones



**Trial Cause #:** CR84-076E

**Prosecutor:** David E. Cook, Brian F. Jennings

**Defense:** Timothy L. Bookwalter

**Date of Murder:** April 2, 1984

**Victim(s):** Debra A. Weaver W / F / 21 (Former roommate of acquaintance)

**Method of Murder:** stabbing with 2 knives 113 times (11 before death)

**Summary:** Davis was acquainted with victim's former roommate, and visited her residence many times. He had told the roommate of his sexual interest in her. He went to her unoccupied residence, broke and entered through a back window, removed the light bulbs, and waited. When the victim arrived, she called her brother and feared that an intruder may still be inside. When she hung up, Davis attacked her, tied her hands, and gagged her. Davis took her to a highway overpass, where he raped, sodomized, and stabbed her to death. The body was discovered and revealed chipped teeth, abrasions, multiple bruises on lips and gums, strangulation marks, seminal fluid in her vagina, and 113 stab wounds on the chest and abdomen. After initially claiming that he had only witnessed the crime, Davis confessed and took police to a creek where the knives were recovered. Serology from the semen showed Davis to be in the 1% of the general population with the same characteristics.

**Trial:** Information/PC for Murder and Death Penalty Filed (04-06-84); Death Sentence Request Filed (05-11-84); Jury Trial (09-24-84, 09-25-84, 09-26-84, 09-27-84, 09-28-84); Verdict (09-28-84); Court Sentencing (10-26-84).

**Conviction:** Murder, Burglary (B Felony), Confinement (B Felony), Rape (A Felony)  
Found Not Guilty of Criminal Deviate Conduct (A Felony)

**Sentencing:** October 26, 1984 (Death Sentence, 20 years, 20 years, 50 years)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Confinement  
b (1) Rape  
b (3) Lying in Wait

**Mitigating Circumstances:** no significant history of criminal conduct  
(although prior Burglary conviction and Delinquency finding)  
hung jury at DP Sentencing Hearing  
alcoholism  
confessed

Hung Jury on Death Sentence

**Direct Appeal:** Davis v. State, 598 N.E.2d 1041 (Ind. September 1, 1992) (50S00-9008-PD-539)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Debruler, Givan, Krahulik concur.  
For Defendant: Alex R. Voils, Jr., J. Murray Clark, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Davis v. Indiana, 114 S.Ct. 392 (1993) (Cert. denied)

**PCR:** 10-29-93 Defendant's Request to Refer to Him by Legal Name "Chijioke Bomani Ben-Yisrayl"  
PCR Petition filed 02-14-94. Amended PCR filed 08-17-95, 11-17-95.  
State's Answer to PCR Petition filed 03-09-94.  
PCR Hearing 01-16-96, 01-17-95, 01-18-95, 01-19-95, 01-22-95, 01-23-95, 01-24-95.  
Special Judge Cynthia S. Emkes  
For Defendant: Joanna Green, Steven Schutte.  
For State: Marc Lundy.  
05-31-96 PCR Petition granted as to death sentence, denied as to convictions.

Ben-Yisrayl v. State, 738 N.E.2d 253 (November 8, 2000) (49S00-9307-PD-826)  
(Appeal by State of the granting of PCR as to death penalty)  
(Appeal by Ben-Yisrayl of the denial of PCR as to convictions)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven H. Schutte, Joanna Green, Deputy Public Defender  
For State: James D. Dimitri, Deputy Attorney General (Modisett)  
Ben-Yisrayl v. Indiana, 122 S.Ct. 1178 (2002) (Cert. denied)

**On Remand:** On 06-27-03 Marion County Superior Court Judge Grant W. Hawkins granted a Motion to Dismiss Death Penalty, holding IC 35-50-2-9 unconstitutional on the grounds that Ring v. Arizona requires that aggravators outweigh mitigators "beyond a reasonable doubt," which our statute does not require.

State v. Ben-Yisrayl, 809 N.E.2d 309 (Ind. May 25, 2004) (49S00-0308-PD-391)  
(Interlocutory appeal by State, on transfer from the Indiana Court of Appeals, following dismissal of death penalty charges by Marion Superior Court Judge Grant W. Hawkins)  
Reversed 5-0; Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.  
(Rucker notes that Ring/Apprendi requires that weighing be "beyond a reasonable doubt," but would not declare statute unconstitutional. He would simply construe the statute to implicitly require such a standard.) Remanded for reinstatement of the death penalty request.  
Ben-Yisrayl v. Indiana, 126 S.Ct. 659 (2005) (Cert. denied)

On January 16, 2008 the State withdrew the Request for Death Penalty. On January 22, 2008, Marion Superior Court #3 Judge Sheila A. Carlisle resentenced Davis to consecutive terms of 60 years (Murder), 50 years (Rape), 20 years (Burglary), and 20 years (Confinement), for a total sentence of 150 years imprisonment.

Ben-Yisrayl v. State, 908 N.E.2d 1223 (Ind. App. July 10, 2009) (49A02-0806-CR-512)  
(Direct Appeal of 150 year sentence on remand, affirming the trial court's sentences of 50 years (Rape), 20 Years (Confinement), and 20 years (Burglary), but reversing the trial court's imposition of the "alternative" 60 year sentence for Murder at the original sentencing, and remanding for a new Blakely Sentencing Hearing for Murder)  
Reversed in part 3-0; Bradford Opinion; Friedlander, May Concur.  
For Defendant: Elizabeth A. Gabig, Marion County Public Defender.  
For State: Stephen R. Creason, Deputy Attorney General (Zoeller)

On remand, a new sentencing hearing in compliance with Blakely was held on February 16, 2010. The Court sentenced Davis to a 60 year sentence for Murder, consecutive to the 90 year sentences on the other charges, for a total executed sentence of 150 Years imprisonment.

Ben-Yisrayl v. State, 939 N.E.2d 130 (Ind. App. December 14, 2009) (49G03-8404-CF-5165)  
(Direct Appeal of 150 year sentence - Memorandum Decision, Not for Publication)  
Affirmed 3-0; Opinion by Brown; Darden and Bradford concur.  
For Defendant: Lisa M. Johnson, Brownsburg, IN.  
For State: Ellen H. Meilaender, Deputy Attorney General (Zoeller)  
Ben-Yisrayl v. State, 950 N.E.2d 1198 (Ind. 2011) (Transfer denied)

Ben-Yisrayl v. Wilson, 2015 U.S. Dist. LEXIS 124847 (S.D.Ind. September 18, 2015)  
United States District Court for the Southern District of Indiana, Indianapolis Division  
Judge Tanya Walton Pratt (Case No. 1:12-cv-661-TWP-MJD)  
Petition for Writ of Habeas Corpus and Certificate of Appealability denied.  
12-14-15 Motion to Alter Judgment, Motion for Reconsideration denied.  
For Defendant: Michael Ausbrook, Bloomington, IN.  
For State: Andrew A. Kobe, James Blaine Martin, Deputy Attorneys General (Zoeller).

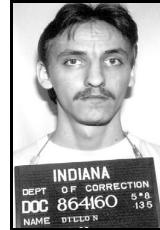
Ben-Yisrayl v. Neal, 857 F.3d 745 (7th Cr. May 22, 2017) (No. 16-1013)  
Appeal from the United States District Court for the Southern District of Indiana, Indianapolis  
Denial of Habeas Corpus Affirmed 3-0.  
Opinion by: Sykes; Wood, Coleman concur.  
For Defendant: Michael Ausbrook, Bloomington, IN.  
For State: Andrew A. Kobe, James Blaine Martin, Deputy Attorneys General (Zoeller)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS OF IMPRISONMENT TOTALING 150 YEARS.

## DILLON, RICHARD W. # 11

OFF DEATH ROW SINCE 12-28-84  
DOB: 12-12-1962 DOC#: 864160 White Male

Knox County Superior Court Judge Edward C. Theobald  
Venued from Pike County



**Trial Cause #:** 81-CR-10 (Pike), SCR-81-17 (Knox)  
**Prosecutor:** Jerry J. McGaughey, Mark K. Sullivan, Dale P. Webster  
**Defense:** Jimmy E. Fulcher

**Date of Murder:** March 8, 1981

**Victim(s):** William T. Hilborn W / M / 72; Mary H. Hilborn W / F / 65 (No relationship to Dillon)

**Method of Murder:** stabbing with knife

**Summary:** William and Mary Hilborn were found stabbed to death in their home in Petersburg. Dillon was identified by a Deputy Sheriff as near the property at the time of the murders. When questioned, Dillon said he was not in Petersburg, but was in Princeton at the home of a friend, Jay R. Thompson. The murder weapon, a knife, was later found at Thompson's car. Dillon later gave a complete confession admitting that he and Thompson had committed the Burglary and that he (Dillon) stabbed both victims. They gained entry by requesting to use the telephone. Dillon was armed with a buck knife and stabbed both Hilborns. Both men then forced Mrs. Hilborn, by holding a knife under her chin, to obtain money for them. Dillon then stabbed her again, and when she fell to the floor, cut her throat. Thompson then stabbed both victims with a folding knife to insure that both were dead. At Thompson's trial, a pathologist testified that the fatal wound to both Hilborns was made with a knife similar to the folding knife.

**Trial:** Information/PC for Murder filed (03-17-81); Amended Information for DP filed (03-23-81); Venued to Knox County (04-08-81); Appearance in Knox County (04-16-81); Voir Dire (07-13-81, 07-14-81, 07-15-81, 07-16-81); Jury Trial (07-20-81, 07-21-81, 07-22-81, 07-23-81, 07-24-81, 07-27-81, 07-28-81); Verdict (07-28-81); DP Trial (07-29-81); Verdict (07-29-81); Court Sentencing (08-21-81); Venued to Clark County after Remand (03-06-86).

**Conviction:** Felony-Murder (2 counts), Burglary (A Felony), Conspiracy to Commit Burglary (A Felony)

**Sentencing:** August 21, 1981 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (8) 2 murders

**Mitigating Circumstances:** no significant history of prior criminal conduct  
intoxication  
18 years old at time of murder

Companion Case to Thompson

**Direct Appeal:** Dillon v. State, 454 N.E.2d 845 (Ind. October 3, 1983) (282-S-67)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.  
For Defendant: Howard B. Lytton, Jr., Steven E. Ripstra, Jasper  
For State: Palmer K. Ward, Deputy Attorney General (Pearson)  
Dillon v. Indiana, 104 S.Ct. 1617 (1984) (Cert. denied)

**Habeas:** Dillon v. Duckworth, 751 F.2d 895 (7th Cir. December 28, 1984) (84-2208)  
(Appeal of Habeas denial by Judge Gene E. Brooks, U.S. District Court, Southern District of Indiana, Evansville Division)  
Writ Granted due to ineffective assistance of counsel - Counsel was appointed 4 months before trial; member of the bar only 2 1/2 years; wife filed for divorce, brother had motorcycle accident, and father had emergency heart surgery shortly before trial)  
Writ Granted 3-0; Judge Walter Cummings, Judge John L. Coffey, Judge Clement F. Haynsworth  
For Defendant: Steven E. Ripstra, Jasper  
For State: David A. Arthur, Deputy Attorney General (Pearson)  
Duckworth v. Dillon, 105 S.Ct. 2344 (1985) (Cert. denied)

**On Remand:** 03-06-86 Venued to Clark County (86-CR1-29)

08-29-86 Dillon pled guilty to two counts of murder and was sentenced to concurrent 60 year terms of imprisonment on each count.

For Defendant: J. Richard Kiefer, William G. Smock, Paul Levy

For State: Jeffrey Biesterveld

- DILLON (AT 45 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON AUGUST 30, 2008, AFTER SERVING ± 27 YEARS IN CUSTODY. RECOMMITTED AFTER CONVICTION AND SENTENCE FOR POSSESSION OF MARIJUANA IN THE GIBSON COUNTY CIRCUIT COURT. (26C01-0906-FD-00051) ON OCTOBER 26, 2009. DISCHARGED ON SEPTEMBER 23, 2010.

## DYE, WALTER L. # 89

OFF DEATH ROW SINCE 06-29-01  
DOB: 10-02-64 DOC#: 987990 Black Male

Marion County Superior Court  
Judge Patricia J. Gifford

Trial Cause #: 49G04-9608-CF-112831



**Prosecutor:** Scott C. Newman, Barbara J. Trathen, Stephanie J. Schankerman  
**Defense:** John F. Crawford Jr., Carolyn W. Rader, Kimberly Devane

**Date of Murder:** July 22, 1996

**Victim(s):** Hannah Clay, B / F / 14 (wife's daughter); Celeste Jones, B / F / 7 (wife's granddaughter); Lawrence Cowherd, B / M / 2 (wife's grandson)

**Method of Murder:** Jones & Cowherd (beaten and strangled);  
Clay (beaten with pry bar, strangled, and stabbed)

**Summary:** Dye was married to Myrna Dye, who was the mother of 14 year old Hannah Clay. Following marital arguments, Myrna and Hannah moved out of the marital home. One week later while Myrna was at work, Hannah was babysitting at their new residence for her 7 year old niece (Celeste Jones) and her 2 year old nephew (Lawrence Cowherd). Dye went to the residence and brutally assaulted the children in revenge for Myrna leaving him. He had a history of violence against Myrna and had threatened Hannah. Hannah was found beaten to death with a pry bar, strangled and stabbed. The bodies of the two young children were found beaten and strangled, stuffed into garbage bags in a nearby alley.

**Trial:** Information/PC for Murder filed (08-06-96); Amended Information for DP filed (08-22-96); Voir Dire (09-02-97, 09-03-97; 09-04-97); Jury Trial (09-05-97, 09-06-97; 09-07-97, 09-08-97, 09-09-97; 09-10-97, 09-11-97, 09-12-97; 09-13-97, 09-15-97, 09-16-97; 09-17-97); Verdict (09-17-97); DP Trial (09-18-97); Verdict (09-18-97); Court Sentencing (01-20-98).

**Conviction:** Murder (3 counts)

**Sentencing:** January 20, 1998 (Death Sentence on murder of Celeste Jones; other convictions "merged")

**Aggravating Circumstances:** 3 murders

**Mitigating Circumstances:** Innocence

**Direct Appeal:** Dye v. State, 717 N.E.2d 5 (Ind. September 30, 1999) (49S00-9801-DP-55)

Conviction Affirmed 5-0      Affirmed 5-0

Boehm Opinion; Shepard, Dickson, Selby, Sullivan concur

For Defendant: Teresa D. Harper, Bloomington

For State: Janet Brown Mallett, Deputy Attorney General (Modisett)

Dye v. Indiana, 121 S.Ct. 379 (2000) (Cert. denied)

**PCR:** PCR Petition filed 09-15-00. Amended PCR filed 01-16-01, 03-15-01.

State's Answer to PCR Petition filed 10-16-00, 02-15-01.

PCR Hearing 05-14-01, 05-15-01, 05-16-01, 05-17-01, 05-21-01, 05-22-01.

Marion Superior Court Judge Patricia J. Gifford (49G04-9608-PC-112831)

For Defendant: Laura L. Volk, Kathleen Cleary, Barbara S. Blackman, Deputy Public Defenders (Carpenter)

For State: Thomas D. Perkins, Timothy W. Beam, Deputy Attorneys General, Barbara J. Trathen.

06-29-01 PCR Petition granted, vacating convictions and death sentence.

State v. Dye, 784 N.E.2d 469 (Ind. March 6, 2003) (49S00-0002-PD-112)

(State's appeal of granting of PCR on conviction and death sentence by Marion Superior Court Judge Patricia J. Gifford on grounds that juror failed to disclose information critical to defense - Affirmed.)

Conviction Reversed 5-0      DP Vacated 5-0

Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.

For Defendant: Laura L. Volk, Kathleen Cleary, Barbara S. Blackman, Deputy Public Defenders (Carpenter)

For State: Timothy W. Beam, Deputy Attorney General (S. Carter)

**On Remand:** On November 8, 2004, pursuant to a Plea Agreement, Dye pled guilty to Murder (3 Counts) and was sentenced to Life Without Parole.

- ▶ CURRENTLY SERVING A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE.

## EVANS, CHARLES G. # 47

OFF DEATH ROW SINCE 09-08-92

DOB: 04-14-1959    DOC#: 865019    Black Male



Marion County Superior Court Judge John R. Barney, Jr.

**Trial Cause #:** 49G03-8510-CF-007318

**Prosecutor:** Timothy M. Morrison, Stephen Goldsmith

**Defense:** David L. Martenet, Alex R. Voils, Jr.

**Date of Murder:** October 3, 1985

**Victim(s):** Darlene Hendrick W / F / 20 (Date, met Evans on night of murder)

**Method of Murder:** stabbing with knife 45 times

**Summary:** Evans met Darlene Hendrick, decided to purchase whiskey, and proceeded to an abandoned building. Once there, Evans pulled a knife and raped her. They then went to a Lounge for a drink, returned to the abandoned building and consumed more alcohol. Evans forced her to perform oral sex, raped her, then stabbed her 45 times, cut her hair, applied makeup to her face, and dragged her almost nude body outside. Evans then walked to a nearby phone booth, called police, and waited for them to arrive. Evans gave a complete confession before and during trial. (insanity defense)

**Trial:** Information/PC for Murder and Death Penalty Filed (10-03-85); Death Sentence Request Filed (01-24-86); Jury Trial (08-21-86, 08-22-86, 08-23-86); Verdict (08-23-86); DP Trial (08-23-86, 08-24-86, 08-25-86); DP Verdict (08-25-86); Court Sentencing (09-19-86).

**Conviction:** Murder, Felony-Murder, Rape (A Felony) (2 counts), Confinement (B Felony)

**Sentencing:** September 19, 1986 (Death Sentence, 50 years, 50 years, 20 years)

**Aggravating Circumstances:** b (1) Rape  
b (1) Criminal Deviate Conduct

**Mitigating Circumstances:** turned himself in and confessed  
intoxication  
anti-social, lonely and rejected childhood, psychopathic  
severe personality disorder; extreme emotional disturbance  
mother was alcoholic; father died when he was a teenager  
worked as male prostitute to support himself  
above average intellect

**Direct Appeal:** Evans v. State, 563 N.E.2d 1251 (Ind. December 7, 1990) (49S00-8704-CR-453)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Pivarnik, Dickson concur; Debruler, Shepard dissent.  
For Defendant: Theodore M. Sosin, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Evans v. State, 598 N.E.2d 516 (Ind. September 8, 1992) (49S00-8704-CR-453)  
(On Rehearing, DP Vacated 3-2 with instructions to impose 60 year sentence - Personality  
disorder should have been considered as mitigating; aggravators do not preponderate)  
Debruler Opinion; Shepard, Krahulik concur; Givan, Dickson dissent.  
For Defendant: Theodore M. Sosin, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

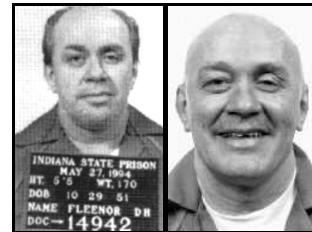
**On Remand:** 12-08-92 Pursuant to Indiana Supreme Court Opinion, Evans was resentenced by Marion  
County Superior Court Judge John R. Barney to consecutive terms of 60 years (Murder), 50  
years (Rape - A Felony), 50 years (Rape - A Felony), 20 years (Confinement - B Felony), for a  
total sentence of 180 years imprisonment.  
For Defendant: David L. Martenet, Indianapolis  
For State: Lawrence O. Sells

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 180 YEARS IMPRISONMENT.

## FLEENOR, D. H. # 25

EXECUTED BY LETHAL INJECTION 12-09-99 1:37 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 10-29-1951 DOC#: 14942 White Male



Johnson County Circuit Court Judge Larry J. McKinney  
Venued from Jefferson County  
**Trial Cause #:** 1367 (Jefferson County), 8954 (Johnson County)

**Prosecutor:** Merritt K. Alcorn, Wilmer E. Goering II, Robert C. Shook

**Defense:** Ted R. Todd, Larry D. Combs

**Date of Murder:** December 12, 1982

**Victim(s):** Nyla Jean Harlow W / F / 49 (Mother-In-Law); William J. Harlow W / M / 58 (Husband of Mother-In-Law)

**Method of Murder:** shooting with .22 handgun

**Summary:** Fleenor went to an evening church service attended by his estranged wife, Sandra Sedam, and her parents, Bill and Nyla Harlow. He stayed briefly, then left. When Sandra and her parents returned to their home, Fleenor appeared in the hallway and immediately shot Bill with a .22 he purchased earlier in the day. Fleenor ordered Sandra, her mother, and 3 grandchildren to sit on the couch. He allowed Nyla to go to her husband. As Nyla assisted Bill on the floor, Fleenor shot her in the head. He ordered Sandra and the kids to carry her body to the bedroom. He forced Sandra to drive to her brother's home to tell him they would be out of town for a few days, then returned to the Harlow home. Bill was still alive and asked about his wife. Fleenor said, "I can't let him suffer" and shot him dead. The next morning, Fleenor fled to Tennessee with Sandra and the children in tow.

**Trial:** Information for Murder filed/PC Hearing (12-20-82); Change of Venue Ordered (03-17-83); Voir Dire (11-07-83; 11-09-83, 11-10-83, 11-14-83; 11-15-83, 11-16-83,); Jury Trial (11-17-83; 11-21-83, 11-23-83, 11-28-83; 11-29-83, 11-30-83 12-01-83); Deliberations 3 hours, 55 minutes; Verdict (12-01-83); DP Trial (12-05-83, 12-06-83); Deliberations 8 hours, 5 minutes; Verdict (12-06-83); Court Sentencing (01-04-84).

**Conviction:** Murder, Murder, Burglary

**Sentencing:** January 4, 1984 (Death Sentence; no sentence entered for Burglary)

**Aggravating Circumstances:** b (1) Burglary  
b (3) Lying in Wait  
b (8) 2 murders

**Mitigating Circumstances:** history of alcohol abuse  
stepfather abused him in formative years  
low intelligence; IQ 80-90  
low tolerance for stress  
continuous depression  
turbulent childhood  
antisocial personality disorder  
reckless with poor judgment control

remorseful  
he could lead a useful and productive life in prison  
he was kind to children

**Direct Appeal:** Fleenor v. State, 514 N.E.2d 80 (Ind. October 13, 1987) (1184-S-458)

Conviction Affirmed 5-0 DP Affirmed 5-0  
DeBruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Louis E. Ransdell, Deputy Attorney General (Pearson)  
Fleenor v. Indiana, 109 S.Ct. 189 (1988) (Cert. denied)

**PCR:** 11-04-88 Defendant files Motion for Stay of Execution Pending PCR Petition.

PCR Petition filed 01-30-89. Amended PCR filed 09-29-89, 04-03-90.  
State's Answer to PCR Petition filed 02-23-89, 10-19-89.  
PCR Hearing 01-16-90, 03-09-90, 05-10-90, 05-11-90, 10-10-90.  
Special Judge Mark Lloyd  
For Defendant: F. Thomas Schornhorst, Bloomington, Brent L. Westerfeld, Indianapolis  
For State: Merritt K. Alcorn  
02-12-91 PCR Petition denied.

Fleenor v. State, 622 N.E.2d 140 (Ind. 1993) (41S00-9106-PD-433)

(Appeal of PCR denial by Special Judge Mark Lloyd)  
Conviction Affirmed 5-0 Affirmed 5-0  
DeBruler Opinion; Shepard, Givan, Dickson, Krahulik concur.  
For Defendant: F. Thomas Schornhorst, Bloomington, Brent L. Westerfeld, Indianapolis  
For State: Louis E. Ransdell, Deputy Attorney General (Pearson)  
Fleenor v. Indiana, 115 S.Ct. 507 (1994) (Cert. denied)

**Habeas:** Notice of Intent to file Petition for Writ of Habeas Corpus filed 04-28-94.

Petition for Writ of Habeas Corpus filed 08-22-94 in U.S. District Court, Southern District of Indiana.  
D.H. Fleenor v. Ron Anderson, Superintendent (IP 94-C-0717-H/G)  
Judge David Hamilton  
For Defendant: Alan M. Freedman, Chicago, IL, Carol R. Heise, Evanston, IL  
For State: Randall Koester, Geoff Davis, Deputy Attorneys General (P. Carter)

02-13-95 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

08-25-95 Petitioner files Findings of Fact, Conclusions of Law for Writ of Habeas Corpus.

02-02-98 Petition for Writ of Habeas Corpus denied.

06-05-03 Certificate of Probable Cause for Appeal granted.

Fleenor v. Farley, 47 F.Supp.2d 1021 (S.D. Ind. February 2, 1998) (IP 94-717-C-H/G)

(Petition for Habeas Writ denied by Judge David Hamilton)

Fleenor v. Anderson, 171 F.3d 1096 (7th. Cir. 1999) (98-1916)

(Appeal of denial of Habeas Writ)  
Affirmed 2-1; Judge Richard A. Posner, Judge John L. Coffey ; Judge Kenneth F. Ripple dissents.  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
Fleenor v. Anderson, 120 S.Ct. 215 (October 4, 1999) (Cert. denied)  
Fleenor v. Anderson, 120 S.Ct. 211 (October 10, 1999) (Cert. denied)

Fleenor v. State, 718 N.E.2d 752 (Ind. October 25, 1999)

(Order setting date for execution of death sentence)

Schornhorst v. Anderson, 77 F.Supp.2d 944 (S.D. Ind. December 7, 1999)

(Petition to stay execution on grounds of incompetence filed by former attorneys, denied by Judge David Hamilton)

Fleenor v. Anderson, 120 S.Ct. 611 (December 8, 1999)

(Stay of execution denied) (Cert. denied)

FLEENOR WAS EXECUTED BY LETHAL INJECTION ON 12-09-99 1:37 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 77TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 7TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## GAMES, JAMES # 29

OFF DEATH ROW SINCE 08-31-95

DOB: 07-22-1964 DOC#: 13156 White Male



Marion County Superior Court Judge John W. Tranberg

**Trial Cause #:** 49G01-8307-CF-004134

**Prosecutor:** David E. Cook

**Defense:** Grant Hawkins

**Date of Murder:** July 14, 1983

**Victim(s):** Thomas Ferree W / M / 42 (Acquaintance of Games)

**Method of Murder:** stabbing and bludgeoning with knife, meat cleaver and fireplace poker.

**Summary:** Games and his 14 year old accomplice, Earl Tillberry, agreed upon a scheme to lure Thomas Ferree into taking them to his home, where they would tie him up, knock him out, and steal his stereo and car. Ferree was a homosexual who anticipated sexual favors from Games and Tillberry. Once at Ferree's home, he invited Tillberry upstairs to take a shower with him. Games told Tillberry to consent and to stab him on the stairs. Tillberry did so, and when Ferree fell, Games then attacked him, stabbing him with the same knife. Then with an assortment of knives, a meat cleaver, and fireplace poker provided by Tillberry, Games continued to stab and bludgeon Ferree. They took the victim's car and fled, Ferree died as a result of the multiple stab wounds. Tillberry was the star witness for the State at trial, pled guilty, and received a 55 year sentence.

**Trial:** Information/PC for Murder filed (07-18-83); Information for DP filed (10-11-83); Sentencing (04-05-84).

**Conviction:** Murder, Robbery (A Felony), Conspiracy to Commit Robbery (C Felony), Conspiracy to Commit Battery (C Felony)

**Sentencing:** April 5, 1984 (Death Sentence), 30 years, 5 years, 5 years.

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** 18 years old at the time of the murder  
minimal prior criminal record  
paltry education  
unstable family life

consumed alcohol and marijuana on day of murder  
remorse over killings  
voluntarily surrendered to police  
alcohol and drug abuse as teenager  
father was abusive alcoholic prone to violence

**Direct Appeal:** Games v. State, 535 N.E.2d 530 (Ind. March 14, 1989) (185-S-7)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: George K. Shields, Indianapolis  
For State: Louis E. Ransdell, Deputy Attorney General (Pearson)  
Games v. Indiana, 110 S.Ct. 205 (1989) (Cert. denied)  
Games v. Indiana, 110 S.Ct. 523 (1989) (Reh. denied)

**PCR:** PCR Petition filed 10-11-90. Amended PCR filed 03-06-95, 03-29-95.  
State's Answer to PCR Petition filed 10-22-90.  
Hearing 03-27-95, 03-28-95, 03-29-95, 03-30-95, 04-03-95, 04-05-95.  
Special Judge James R. Detamore  
For Defendant: J. Michael Sauer, Marie Donnelly  
For State: John V. Commons, Frank A. Gleaves, Marc E. Lundy  
08-31-94 Defendant files Motion for Summary Judgment as to Death Sentence.  
09-05-95 PCR Petition granted as to death sentence, denied with respect to convictions.  
10-28-96 Court requires State to elect between new DP Phase or new Sentencing Hearing.

Games v. State, 684 N.E.2d 466 (Ind. July 22, 1997) (49S00-9002-PD-114)  
(Appeal of PCR denial by Special Judge James R. Detamore with respect to convictions; State did not appeal granting of PCR with respect to Death Sentence due to ineffective assistance of counsel)  
Affirmed 5-0, except that Conspiracy to Battery conviction vacated  
Remanded for new DP Sentencing Hearing.  
Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: Michael Sauer, Marie F. Donnelly, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Games v. State, 690 N.E.2d 211 (Ind. 1997) (49S00-9002-PD-114)  
(On Rehearing; Affirmed 5-0, Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur - granted solely to clarify proper appellate standard for review of ineffective assistance claims)  
For Defendant: Michael Sauer, Marie F. Donnelly, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Games v. Indiana, 119 S.Ct. 98 (1998) (Cert. denied)

**On Remand:** Marion County Superior Court Tonya Walton Pratt  
02-18-99 Plea Agreement filed. (Open plea, 60 to 118 years imprisonment)  
05-17-99, 05-18-99 Guilty Plea Hearing  
06-15-99 Defendant sentenced to 60 years for Murder, 50 years for Robbery (A Felony), and 8 years for Conspiracy to Commit Robbery (C Felony), with Murder and Robbery sentences to run consecutively for a total of 110 years imprisonment.  
For Defendant: Joseph M. Cleary, Robert Hill  
For State: Barbara J. Trathen, Marc E. Lundy

Games v. State, 743 N.E.2d 1132 (Ind. March 20, 2001) (49S00-9908-CR-447)  
(Direct appeal of sentencing - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 110 YEARS IMPRISONMENT.

## GIBSON, WILLIAM CLYDE, III #107

ON DEATH ROW SINCE 11-26-13  
DOB: 10-10-57 DOC#: 169605 White Male

Floyd County Superior Court #1 Judge Susan L. Orth  
Jurors Selected from Dearborn County

**Trial Cause #:** 22D01-1204-MR-000919

**Prosecutor:** Keith A. Henderson, Steven L. Owen

**Defense:** John Patrick Biggs, George A. Strieb, Andrew Adams

**Date of Murder:** April 18, 2012

**Victim(s):** Christine Whitis W / F / 75 (Friend of Mother)



**Method of Murder:** Manual Strangulation

**Summary:** Gibson confessed to the murder of three women. 75 year old Christine Whitis was a close friend of Gibson's mother, who died in 2012. According to Gibson, she had even babysat him as a child. On April 18, 2012, Gibson called her, saying that he was still grieving over his mother's death and wanted to talk. Whitis came to the home. When she resisted Gibson's sexual advances, he strangled her with his hands. He removed her clothing, beat her, fondled her genitals, and penetrated her forcefully with his fist. He bit and chewed at her vaginal area causing abrasions. He then drug her to his attached garage and severed her breast, putting it in the minivan that she had driven to his home. It is unknown exactly at what point during this ordeal that she died. The following day, Gibson's sisters came to the home, discovered the body, and called police. Hours later, Gibson was arrested in the Whitis minivan in the parking lot at Walmart. The breast of Christine Whitis was found in the console. Following a jury trial, Gibson was found guilty as charged in less than 20 minutes. The jury recommended death and he was sentenced accordingly.

Based upon Gibson's confession, Investigators dug in the backyard of his home and discovered the body of 35 year old Stephanie Kirk in a shallow grave, clad only in a torn bra and vest. According to Gibson, in 2012 he and Stephanie Kirk had spent the evening drinking at local bars, taking pills and returned to his home, where they had sex. After an argument over pills, Gibson strangled her to death with his hands. He then drug the body into the garage and two days later buried her in his backyard. An autopsy revealed a broken back. At trial, Gibson unexpectedly pled guilty during jury selection, waived a jury for the penalty phase, and was sentenced to death.

Based upon Gibson's confession, he was also charged with the murder of 44 year old Karen Hodella, a Clarksville hairdresser whose body was recovered from the Ohio River in Clarksville in 2003. Gibson claimed to have met Hodella in a New Albany bar, and stabbed her to death in October 2002. Gibson entered a guilty plea to her Murder and was sentenced to 65 years imprisonment.

Gibson had 10 prior felony convictions which included Assault, Sexual Abuse, and Robbery. He gained some notoriety for showing up during pretrial hearings with a new tattoo on the back of his shaved head "Death Row X3," apparently obtained in the Department of Corrections, where he had been held for safekeeping. Gibson wanted everyone to know that he was facing 3 death sentences. Judge Orth ordered him to have no haircuts before trial.

**Trial:** Information/Affidavit filed (04-12-12), Competency Hearing (10-12-12), Insanity Defense Filed (07-31-13), Motion to Dismiss Hearing (09-06-13), Voir Dire (09-23-13, 09-24-13, 09-25-13, 09-26-13), Jury Trial (10-21-13, 10-22-13, 10-23-13, 10-24-13, 10-25-13), Deliberations (17 minutes), Verdict (10-25-13), DP Trial (10-28-13, 10-29-13), Deliberations, DP Verdict (10-29-13), Habitual Trial and Verdict (10-30-13), (Sentencing (11-26-13).

**Conviction:** Murder  
Habitual Offender (Trifurcated Trial)

**Sentencing:** November 26, 2013 (Death Sentence)

**Aggravating Circumstances:**

- b (1) Criminal Deviate Conduct
- b (1) Criminal Deviate Conduct
- b (10) Dismemberment
- b (9)(C) On Probation

**Mitigating Circumstances Raised:**

- Extreme Emotional Disturbance / Mental Illness / Bipolar Disorder
- Intoxication / Alcoholism / Drug and Alcohol Abuse
- Remorse / Confession
- Death of Mother
- Dysfunctional Childhood
- Friendly with Neighbors
- Good behavior in prior incarceration

**Direct Appeal:** Gibson v. State, 43 N.E.3d 231 (Ind. September 24, 2015) (22S00-1206-DP-359)  
Direct Appeal (Victim Christine Whitis)  
Floyd County Superior Court #1 (22D01-1204-MR-919).  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Massa Opinion; Rush, Dickson, Rucker, David concur.  
For Defendant: Steven E. Ripstra, Jasper, Indiana; Laura Paul, Indianapolis, Indiana.  
For State: Andrew A. Kobe, Henry A. Flores, Jr., Deputy Attorneys Genera (Zoeller)  
Gibson v. Indiana, 137 S. Ct. 54 (Oct. 3, 2016) (Cert. denied)

**PCR:** William Clyde Gibson, III v. State of Indiana

Floyd County Superior Court #1, Judge Susan L. Orth  
PCR Evidentiary hearings consolidated by agreement:  
Case No. 22D01-1606-PC-4 (Victim Christine Whitis)  
Case No. 22D01-1701-PC-1 (Victim Stephanie Kirk)  
Case No. 22D01-1703-PC-4 Victim Karen Hodella)

Case No. 22D01-1606-PC-00004 (Victim Christine Whitis)  
01/20/17 Petition for Post-Conviction Relief Filed.  
01/27/17 Answer Filed.  
03/13/17 State's Motion to Answer Interrogatories, Request for Production filed.  
01/29/17 and 05/11/17 Amended Petitions for Post-Conviction Relief Filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 133 N.E.3d 673 (Ind. October 24, 2019)  
(22S00-1601-PD-00009, 22S00-1608-PD-00411)  
PCR Appeal from the Floyd County Superior Court  
(22D01-1606-PC-4 and 22D01-1701-PC-00001 consolidated PCR hearing and appeal).  
Judge Susan L. Orth. (Victims Christine Whitis and Stephanie Kirk)

(This matter comes before the Court upon Petitioner William Clyde Gibson, III's petitions for post-conviction relief as amended in Cause Numbers 22D01-1606-PC-4, 22D01-1701-PC-1, and 22D01-1703-PC-4. By agreement of the parties, the Court held a consolidated evidentiary hearing under all three causes commencing on July 17, 2017, and concluding on July 21, 2017.)

Denial of PCR; Conviction Affirmed 4-0      DP Affirmed 4-0.  
Massa Opinion; Rush, David, Goff concur. Slaughter not participating.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Steven Schutte, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Tyler G. Banks, Andrew A. Kobe, Kelly A. Loy, Denise A. Robinson, Deputy Attorneys General (Hill)

Gibson v. State, 2020 Ind. LEXIS 93 (Ind., Feb. 3, 2020) (Rehearing denied)  
Gibson v. State, 2020 Ind. LEXIS 94 (Ind., Feb. 3, 2020) (Rehearing denied)  
Gibson v. Indiana, 141 S. Ct. 553 (Oct. 13, 2020) (Cert. denied)  
Gibson v. Indiana, 141 S. Ct. 553 (Oct. 13, 2020) (Cert. denied)

**§ 1983:** Gibson v. Floyd County Jail, Floyd County Sheriff

U.S. District Court for the Southern District of Indiana (Case 4:03-cv-00108-DFH-WGH)  
(Civil Rights lawsuit for damages against Floyd County Jail/Sheriff for inhumane, unsanitary, and overcrowded conditions, and failure to provide appropriate medications for his mental condition.  
Complaint Filed 05/23/03 - Summary Judgment and Dismissal with prejudice granted 08/16/04  
by Judge David F. Hamilton for Defendants.)

**PCR:** Case No. 22D01-1703-PC-000004 (Victim Karen Hodella)

Floyd County Superior Court #1 Judge Susan L. Orth.  
01/20/17 Petition for Post-Conviction Relief Filed.  
01/27/17 Answer Filed.  
03/13/17 State's Motion to Answer Interrogatories, Request for Production filed.  
01/29/17 and 05/11/17 Amended Petitions for Post-Conviction Relief Filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 107 N.E.3d 1115 (Ind. App. Unpub. July 16, 2018) (22A01-1711-PC-2528)  
(In case #22D01-1205-MR-001144 Gibson pled guilty pursuant to a Plea Agreement to the murder of KAREN HODELLA, and on 04-17-14 was sentenced to 65 years imprisonment. He then filed a PCR and appeals the denial of that petition by Floyd County Superior Court #1 Judge Susan L. Orth.)  
Conviction Affirmed 3-0, 65 yr sentence Affirmed.

Opinion by Altice; Robb and Brown concur.

For Defendant: Joanna L. Green, Laura L. Volk, Deidre R. Eltzroth, Lindsay Van Gorkom, Deputy Public Defenders (Owens)

For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Hill)

Gibson v. State, 137 N.E.3d 924 (Ind., Oct. 24, 2019) (Transfer denied)

- ▶ PENDING PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA.

## GIBSON, WILLIAM CLYDE, III #108

ON DEATH ROW SINCE 11-26-13  
DOB: 10-10-57 DOC#: 169605 White Male

Floyd County Superior Court #1 Judge Susan L. Orth  
Jurors Selected from Vanderburgh County

**Trial Cause #:** 2201-1205-MR-001145  
**Prosecutor:** Keith A. Henderson, Steven L. Owen  
**Defense:** John Patrick Biggs, Andrew Adams

**Date of Murder:** March 25, 2012  
**Victim(s):** Stephanie Kirk W / F / 35 (Acquaintance)

**Method of Murder:** Manual Strangulation



**Summary:** Gibson confessed to the murder of three women. 75 year old Christine Whitis was a close friend of Gibson's mother, who died in 2012. According to Gibson, she had even babysat him as a child. On April 18, 2012, Gibson called her, saying that he was still grieving over his mother's death and wanted to talk. Whitis came to the home. When she resisted Gibson's sexual advances, he strangled her with his hands. He removed her clothing, beat her, fondled her genitals, and penetrated her forcefully with his fist. He bit and chewed at her vaginal area causing abrasions. He then drug her to his attached garage and severed her breast, putting it in the minivan that she had driven to his home. It is unknown exactly at what point during this ordeal that she died. The following day, Gibson's sisters came to the home, discovered the body, and called police. Hours later, Gibson was arrested in the Whitis minivan in the parking lot at Walmart. The breast of Christine Whitis was found in the console. Following a jury trial, Gibson was found guilty as charged in less than 20 minutes. The jury recommended death and he was sentenced accordingly.

Based upon Gibson's confession, Investigators dug in the backyard of his home and discovered the body of 35 year old Stephanie Kirk in a shallow grave, clad only in a torn bra and vest. According to Gibson, in 2012 he and Stephanie Kirk had spent the evening drinking at local bars, taking pills and returned to his home, where they had sex. After an argument over pills, Gibson strangled her to death with his hands. He then drug the body into the garage and two days later buried her in his backyard. An autopsy revealed a broken back. At trial, Gibson unexpectedly pled guilty during jury selection, waived a jury for the penalty phase, and was sentenced to death.

Based upon Gibson's confession, he was also charged with the murder of 44 year old Karen Hodella, a Clarksville hairdresser whose body was recovered from the Ohio River in Clarksville in 2003. Gibson claimed to have met Hodella in a New Albany bar, and stabbed her to death in October 2002. Gibson entered a guilty plea to her Murder and was sentenced to 65 years imprisonment.

Gibson had 10 prior felony convictions which included Assault, Sexual Abuse, and Robbery. He gained some notoriety for showing up during pretrial hearings with a new tattoo on the back of his shaved head "Death Row X3," apparently obtained in the Department of Corrections, where he had been held for safekeeping. Gibson wanted everyone to know that he was facing 3 death sentences. Judge Orth ordered him to have no haircuts before trial.

**Trial:** Information Filed (05-23-12), PC Affidavit Filed (05-24-12), Change of Venue Hearing (09-28-12), Amended Information Filed (04-07-14), Motions Hearing Held (05-21-14), Voir Dire in Vanderburgh County (06-02-14, 06-03-14), Plea Agreement Filed (06-03-14), Amended Information Filed (06-03-14), DP Trial (07-28-14, 07-29-14, 07-30-14, 07-31-14), Sentencing Briefs Filed (08-07-14), Amended Information Filed (08-13-14), Sentencing (08-15-14).

**Conviction:** Guilty Plea to Murder, during jury selection at trial; Waived jury / Open Sentencing to the Court.

**Sentencing:** August 15, 2014 (Death Sentence)

**Aggravating Circumstances:** b (1) Criminal Deviate Conduct  
b (1) Criminal Deviate Conduct  
b (7) Convicted of Another Murder (Whitis)  
b (9)(B) On Probation

**Mitigating Circumstances Raised:** Extreme Emotional Disturbance / Mental Illness / Bipolar Disorder  
Traumatic Brain Injury  
Intoxication / Alcoholism / Drug and Alcohol Abuse  
Remorse / Confession  
Death of Mother  
Dysfunctional Childhood  
Friendly with Neighbors  
Good behavior during prior incarceration

**Direct Appeal:** Gibson v. State, 51 N.E.3d 204 (Ind. April 12, 2016) (22S00-1206-DP-00360)  
Direct Appeal (Victim Stephanie Kirk)  
Floyd County Superior Court #1 (22D01-1205-MR-1145).  
Conviction Affirmed 5-0 DP Affirmed 5-0.  
Rush Opinion; Dickson, Rucker, David, Massa concur.  
For Defendant: Steven E. Ripstra, Jasper, Indiana; Laura Paul, Indianapolis, Indiana.  
For State: Andrew A. Kobe, Deputy Attorney General (Zoeller)  
Gibson v. State, 2016 Ind. LEXIS 479 (Ind. June 29, 2016) (Reh. denied)  
Gibson v. Indiana, 137 S. Ct. 1082 (Feb. 21, 2017) (Cert. denied).

**PCR:** Case No. 22D01-1606-PC-000004 (Victim Stephanie Kirk)  
Floyd County Superior Court #1 Judge Susan L. Orth.  
01/20/17 Petition for Post-Conviction Relief Filed.  
01/27/17 Answer Filed.  
03/13/17 State's Motion to Answer Interrogatories, Request for Production filed.  
05/12/17 Amended Petition for Post-Conviction Relief Filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 133 N.E.3d 673 (Ind. October 24, 2019)  
(22S00-1601-PD-00009, 22S00-1608-PD-00411)  
PCR Appeal from the Floyd County Superior Court  
(22D01-1606-PC-4 and 22D01-1701-PC-00001 consolidated PCR hearing and appeal).  
Judge Susan L. Orth. (Victims Christine Whitis and Stephanie Kirk)

(This matter comes before the Court upon Petitioner William Clyde Gibson, III's petitions for post-conviction relief as amended in Cause Numbers 22D01-1606-PC-4, 22D01-1701-PC-1, and 22D01-1703-PC-4. By agreement of the parties, the Court held a consolidated evidentiary hearing under all three causes commencing on July 17, 2017, and concluding on July 21, 2017.)

Denial of PCR; Conviction Affirmed 4-0 DP Affirmed 4-0.  
Massa Opinion; Rush, David, Goff concur. Slaughter not participating.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Steven Schutte, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Tyler G. Banks, Andrew A. Kobe, Kelly A. Loy, Denise A. Robinson, Deputy Attorneys General (Hill)

**PCR:** Case No. 22D01-1703-PC-000004 (Victim Karen Hodella)  
Floyd County Superior Court #1 Judge Susan L. Orth.  
03/31/17 Petition for Post-Conviction Relief Filed.  
05-12-17 Motion to Consolidate filed, Granted 06-06-17.  
05/12/17 Amended Petition for Post-Conviction Relief Filed.  
07/05/17 State's Answer to Amended Petition filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 107 N.E.3d 1115 (Ind. App. Unpub. July 16, 2018) (22A01-1711-PC-2528)  
(In case #22D01-1205-MR-001144 Gibson pled guilty pursuant to a Plea Agreement to the murder of KAREN HODELLA, and on 04-17-14 was sentenced to 65 years imprisonment. He then filed a PCR and appeals the denial of that petition by Floyd County Superior Court #1 Judge Susan L. Orth.)  
Conviction Affirmed 3-0, 65 yr sentence Affirmed.

Opinion by Altice; Robb and Brown concur.

For Defendant: Joanna L. Green, Laura L. Volk, Deidre R. Eltzroth, Lindsay Van Gorkom, Deputy Public Defenders (Owens)

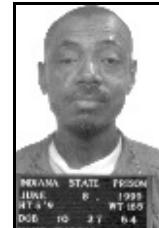
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Hill)

Gibson v. State, 137 N.E.3d 924 (Ind., Oct. 24, 2019) (Transfer denied)

- ▶ PENDING PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA.

## HARRIS, JAMES ALLEN # 28

OFF DEATH ROW SINCE 03-05-92  
DOB: 10-27-1954 DOC#: 9581 Black Male



Marion County Superior Court Judge John W. Tranberg

**Cause #:** 49G01-8307-CF-004233

**Prosecutor:** Timothy M. Morrison, Michael T. Conway

**Defense:** L. Craig Turner

**Date of Murder:** March 28, 1983

**Victim(s):** Jane Brumblay W / F / 31 (No relationship to Harris)

**Method of Murder:** manual strangulation

**Summary:** Harris confronted Jane Brumblay as she was preparing to get into her car parked in the Glendale Shopping Mall. Brumblay was startled and threatened to report Harris, who promptly overpowered her, and forced her into her car. Harris removed her pantyhose and tied her hands, then drove to a movie theater lot and raped her more than once. Brumblay began to struggle and Harris choked her with her scarf until she was semi-conscious. He then placed the scarf in her mouth and drove to Broad Ripple Park. The victim had by this time swallowed part of the scarf and had stopped breathing. Harris placed her body in the trunk and abandoned the car. The pathologist testified that Brumblay died as a result of manual strangulation, not the scarf.

**Trial:** Information/PC for Murder and Death Penalty Filed (07-14-83); Death Sentence Request Filed (08-01-83); Guilty Plea (11-30-83); Plea Accepted (12-15-83); DP Sentencing Hearing (01-18-83, 01-19-83); Court Sentencing (02-10-84).

**Conviction:** Harris pled Guilty But Mentally Ill to Murder, Kidnapping, and Rape

**Sentencing:** February 10, 1984 (Death Sentence)

**Aggravating Circumstances:** b (1) Rape  
b (1) Kidnapping

**Mitigating Circumstances:** suffering from a psychiatric disorder which substantially disturbed his thinking, feeling, and behavior; extreme emotional disturbance

**Direct Appeal:** Harris v. State, 499 N.E.2d 723 (Ind. November 5, 1986) (784-S-270)

Conviction Affirmed 5-0 DP Affirmed 4-1

Pivarnik, Opinion; Givan, Shepard, Dickson concur; Debruler dissents.

For Defendant: Kenneth M. Stroud, Michael T. Conway, L. Craig Turner, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Harris v. Indiana, 107 S.Ct. 2490 (1987) (Cert. denied)

**PCR:** PCR Petition filed 10-03-90. Amended PCR filed 09-30-91.

State's Answer to PCR Petition filed 10-16-91.

PCR Hearing (02-24-92, 02-25-92, 02-26-92, 02-27-92, 02-28-92, 03-03-92, 03-04-92, 03-05-92)

Marion County Superior Court Judge Paula E. Lapossa

For Defendant: Kathleen Little, Lorinda Youngcourt, Rhonda Long-Sharp.

For State: John V. Commons, Frank A. Gleaves

03-05-92 Joint Petition to End Litigation While Insuring that Petitioner is Never Released From Prison

03-05-92 Defendant pled guilty to Murder, Kidnapping (A Felony), and Rape (A Felony), and is sentenced to consecutive terms of 60 years, 50 years, 50 years for a total of 160 years imprisonment.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 160 YEARS IMPRISONMENT.

## HARRISON, JAMES PATRICK # 70

OFF DEATH ROW SINCE 01-22-04

DOB: 11-09-1949 DOC#: 913713 White Male

Posey County Circuit Court Judge James M. Redwine

**Trial Cause #:** 65CO1-9104-CF-00008

**Prosecutor:** Kimberley Kelley Mohr, Trent Van Haften

**Defense:** Ronald Warrum, Thomas M. Swain

**Date of Murder:** January 17, 1989

**Victim(s):** Stacey Forsee W / F / 20 (Acquaintance from church);

Tia Forsee W / F / 3 and Jordan Hanmore, W / M / 21mo (Children of Stacey)

**Method of Murder:** stabbing w/ knife (Stacey); fire burns (Tia); smoke inhalation (Jordan)



**Summary:** Harrison met Stacey Forsee at church. An arson fire burned down the Forsee home containing the bodies of Stacey and her 2 children, Tia Forsee and Jordan Hanmore. Stacey had been stabbed to death and semen was found in her mouth. Evidence at trial showed that Harrison often

carried a hunting knife and was seen near the fire scene before fire trucks arrived; that the fire was started by a flammable liquid and Harrison had purchased kerosene several days before the murders; and that Harrison confessed to a fellow jail inmate. Charges were not filed until 2 years after the fire. Harrison was arrested and returned from Maryland. Harrison has prior convictions of Involuntary Manslaughter (1972) and Murder (1973) in Virginia.

**Trial:** Information/PC for Murder and DP filed (04-18-91); Amended Information filed (06-12-91, 10-04-91); Voir Dire (11-06-91); Jury Trial (11-06-91; 11-07-91, 11-08-91, 11-09-91; 11-11-91, 11-12-91); Deliberations over 3 days; Verdict (11-14-91); Habitual Sentencing Hearing (11-14-91); DP Trial (11-15-91); Verdict (11-15-91); Court Sentencing (12-14-91).

**Conviction:** Knowing Murder of Tia, Felony-Murder of Jordan, Arson, Habitual Offender  
Found Not Guilty of the Knowing Murder of Stacey

**Sentencing:** December 14, 1991 (Death Sentence (Tia) Death Sentence (Jordan))

**Aggravating Circumstances:** b (12) 2 victims less than 12 years old  
b (1) Arson (Jordan);  
b (7) 1973 Murder Conviction

**Mitigating Circumstances:** wounded in Vietnam  
suffered emotional, physical and sexual abuse as a child  
56 years old after remand  
evidence not overwhelming

**Direct Appeal:** Harrison v. State, 644 N.E.2d 1243 (Ind. January 4, 1995) (65S00-9105-DP-380)  
Conviction Affirmed 5-0 DP Remanded for more specific Sentencing Order 5-0  
Sullivan Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: William H. Bender, Poseyville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Harrison v. State, 659 N.E.2d 480 (Ind. 1995) (65S00-9105-DP-380)  
(Direct Appeal after remand and more specific sentencing order entered)  
DP Affirmed 5-0; Sullivan Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: William H. Bender, Poseyville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Harrison v. Indiana, 117 S.Ct. 307 (1996) (Cert. denied)

**PCR:** 05-08-96 Petitioner files Notice of Intent to File PCR Petition.  
PCR Petition filed 10-01-96. Amended PCR filed 11-01-96, 01-02-97, 02-07-97.  
State's Answer to PCR Petition filed 11-19-96, 01-16-97, 02-24-97.  
Hearing 03-03-97, 03-04-97, 03-05-97, 03-06-97.  
Posey Circuit Court Judge James M. Redwine  
For Defendant: Thomas C. Hinesley, Joanna Green, Robert E. Lancaster, Deputy Public Defenders.  
For State: Geoff Davis, Robert L. Collins, Deputy Attorneys General (P. Carter), Trent Van Haaften.  
05-29-97 PCR Petition denied.  
Harrison v. State, 707 N.E.2d 767 (Ind. 1999) (65S00-9605-PD-318)  
(Appeal of PCR denial by Judge James M. Redwine)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Thomas C. Hinesley, Joanna Green, Robert E. Lancaster, Deputy Public Defenders  
For State: Priscilla J. Fossum, Deputy Attorney General (Modisett)  
Harrison v. Indiana, 120 S.Ct. 1722 (2000) (Cert. denied)

**Habeas:** 02-17-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
James P. Harrison v. Rondle Anderson, Superintendent (IP 99-C-0933-B/S)  
Judge Sarah Evans Barker  
For Defendant: Joseph M. Cleary, Indianapolis, IN  
For State: Priscilla J. Fossum, Deputy Attorney General (S. Carter)

07-27-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
11-17-00 Petitioner files Findings of Fact, Conclusions of Law for Writ of Habeas Corpus.  
10-08-02 Evidentiary Hearing granted on claim of judicial bias.  
01-22-04 Petition for Writ of Habeas Corpus granted as to conviction and sentence.  
02-12-04 Notice of Appeal filed by State.

Harrison v. Anderson, 300 F.Supp.2d 690 (S. D. Ind. January 22, 2004) (IP 99-C-0933-B/S)  
(Habeas granted as to conviction and death sentence by U.S. District Court for the Southern District of Indiana, Judge Sarah Evans Barker. Actual bias by trial judge Redwine was established, and different judge should have been named. "The State of Indiana shall set a new trial date within sixty (60) days of the date of this Entry at which time the State can retry its case against Harrison before an impartial judge.")

Harrison v. McBride, 428 F.3d 652 (7th Cir. October 27, 2005) (04-1398)  
(State's Appeal of granting Petition for Writ of Habeas Corpus)  
Affirmed 3-0. Opinion by Circuit Judge Kenneth F. Ripple.  
Judge Anne Claire Williams and Judge Joel M. Flaum concur.

**On Remand:** On May 5, 2008, Harrison pled guilty to Murder (Tia Forsee), Felony-Murder (Arson Causing death of Jordan Hanmore), and Habitual Offender pursuant to a fixed Plea Agreement and was sentenced in the Posey Circuit Court by Special Judge Carl A. Heldt to a 60+60+30 = 150 year term of imprisonment.

- CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 150 YEARS IMPRISONMENT.

## HICKS, LARRY # 2

OFF DEATH ROW SINCE 04-02-80  
DOB: 02-12-1958 DOC#: 13124 Black Male



Lake County Superior Court Judge James C. Kimbrough

**Trial Cause #:** 3CR-49-378-195  
**Prosecutor:** Michael M. Greener / Marilyn E. Hrnjak  
**Defense:** J. Robert Vegter / Nile Stanton, Kevin McShane

**Date of Murder:** February 5, 1978  
**Method of Murder:** stabbing with knife  
**Victim(s):** Norton Miller B / M / 28; Stephen Crosby B / M / 26

**Summary:** Hicks attended a party at the apartment of a neighbor. Hicks was seen waving a knife in his hand while arguing with Norton Miller and Stephen Crosby. They were later found stabbed to death in an alley outside the apartments.

**Trial:** Indictment for Murder and DP filed (03-02-78); Voir Dire (08-14-78); Jury Trial (08-15-78, 08-16-78); Deliberations 6 hours, Verdict (08-16-78); DP Trial (08-17-78); Deliberations over 2 Days, Hung Jury (08-18-78); Court Sentencing (09-01-78); Defense Attorney Stanton enters Appearance (05-17-79); Motion to Correct Errors Granted (04-02-80); Voir Dire (11-10-80, 11-12-80); Jury Trial (11-13-80, 11-14-80, 11-17-80, 11-18-80 11-19-80, 11-20-80); Verdict (11-21-80 12:05 a.m.).

**Conviction:** Murder (2 counts); Hung Jury on Death Sentence  
**Sentencing:** September 1, 1978

**Aggravating Circumstances:** b (8) 2 murders

**Mitigating Circumstances:** 19 years old, lack of prior criminal record

**Direct Appeal:** None. Following his sentencing, Hicks filed a Motion to Correct Errors and a Motion for Competency Hearing. On April 2, 1980, trial Judge James Kimbrough, following the appointment of two psychiatrists, granted the motions and held that at the time of the defendant's trial, he was incompetent.

A new trial was held on November 13-20, 1980 with Nile Stanton and Kevin McShane representing Hicks, and Deputy Prosecutor Marilyn E. Hrnjak representing the State. Two eyewitnesses, who had identified Hicks in the first trial as menacing the victims with a knife in his hand, recanted their testimony in the second trial. Other evidence reinforcing Hicks' claim of actual innocence was also presented. Hicks was found Not Guilty of the charges. (See webpage of defense counsel Nile Stanton, "The Ordeal of Larry Hicks: How an Innocent Man was Almost Executed." According to Nile Stanton, Larry Hicks passed away on September 23, 2018.

## HOLLIS, DAVID # 14

OFF DEATH ROW SINCE SUICIDE 02-19-84  
DOB: 08-14-1960 DOC#: 13152 White Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 4CR-55-382-214

**Prosecutor:** Thomas W. Vanes

**Defense:** Herbert I. Shaps



**Date of Murder:** February 27, 1982

**Victim(s):** Debbie Hollis W / F / 18 (wife); Kim Mezei W / F / 18 (neighbor);  
Craig Mezei W / M / 2 (neighbor's son)

**Method of Murder:** strangulation (Debbie, Kim, Craig); stabbing with knife (Debbie)

**Summary:** Hollis went looking one night for his estranged wife, Debbie, and found her at an apartment in Hammond in the company of a neighbor, Kim Mezci, and her two year old son. Hollis repeatedly stabbed Debbie and Kim and strangled all three. The following day, Hollis went to the residence of an acquaintance, Donald K. White, in Griffith armed with a shotgun. When White told Hollis that the police suspected him of killing his wife, a neighbor, and a baby, Hollis replied that he did kill them, and he was sorry for killing the neighbor and child, but they just got in the way. Hollis then tied up White and his roommate, and forced White to perform oral sex.

**Trial:** Information/PC for Murder filed (03-01-82); Amended Information for DP filed (09-22-82); Insanity Defense filed (09-20-82); Guilty Plea (10-13-82); DP Trial (10-20-82, 10-21-82, 10-22-82, 10-28-82); Court Sentencing (11-12-82).

**Conviction:** Murder, Murder, Murder, Criminal Deviate Conduct (A Felony), Confinement (B Felony)  
Pled guilty without plea agreement.

**Sentencing:** November 12, 1982 (Death Sentence, 30 years, 10 years, concurrent)

**Aggravating Circumstances:** b (8) 3 murders

**Mitigating Circumstances:** None

**Direct Appeal:** None

COMMITTED SUICIDE BY HANGING AT INDIANA STATE PRISON, MICHIGAN CITY ON FEBRUARY 19, 1984.

## HOLMES, ERIC D. # 78

ON DEATH ROW SINCE 03-26-93  
DOB: 08-23-1968 DOC#: 932132 Black Male

Marion County Superior Court  
Special Judge Cynthia S. Emkes



Trial Cause #: 49G05-8911-CF-131401

**Prosecutor:** David S. Milton  
**Defense:** Robert F. Alden, Arnold P. Baratz

**Date of Murder:** November 16, 1989

**Victim(s):** Charles Ervin W / M / 30; Theresa Blosl W / F / 20  
(Supervisors of Holmes at work)



**Method of Murder:** stabbing with knife

**Summary:** Holmes was fired from his job at Shoney's Restaurant after getting into an argument with co-worker Amy Foshee. At closing on the day of his firing, Holmes waited in the parking lot with Michael Vance. Foshee left the restaurant with Charles Ervin, a manager, and Theresa Blosl, a manager. Ervin was carrying the till. Holmes and Vance trapped them in the foyer leaving the restaurant and attacked them, stabbing them multiple times, and grabbed the till. Ervin and Blosl died, but Foshee survived. Vance was tried separately, convicted, and sentenced to 190 years imprisonment.

**Trial:** Information/PC for Murder filed (11-17-89); Amended Information for DP filed (01-31-90); Competency Hearing (04-18-90); Motion for Speedy Trial (09-21-92); Voir Dire (11-04-92, 11-04-92, 11-05-92, 11-06-92, 11-07-92, 11-09-92, 11-10-92, 11-11-92, 11-12-92, 11-13-92, 11-14-92); Jury Trial (11-14-92; 11-16-92, 11-17-92, 11-18-92, 11-19-92, 11-20-92 11-21-92, 11-23-92, 11-24-92, 11-27-92, 11-28-92); Verdict (11-28-92); DP Trial (11-29-92, 11-30-92, 12-01-92, 12-02-92); Deliberations over 2 days; Hung Jury/Mistrial (12-03-92); Court Sentencing (03-24-92, 03-25-92, 03-26-92).

**Conviction:** Murder (Ervin), Murder (Blosl), Attempted Murder (A Felony), Robbery (A Felony), Conspiracy to Commit Robbery (B Felony)

**Sentencing:** March 26, 1993 (Death Sentence, 60 years, 50 years, 50 years, 20 years, all consecutive)  
May 23, 1997 (8 years on Conspiracy to Commit Robbery, reduced to C Felony on appeal)

**Aggravating Circumstances:**  
b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** 21 years old at time of murders  
accomplice did not receive death sentence  
no prior criminal record  
mother died when he was 7 years old  
suffered from child neglect and abuse as a child  
IQ of 79; has adjusted well to jail

Hung Jury on Death Sentence

**Direct Appeal:** Holmes v. State, 671 N.E.2d 841 (Ind. August 7, 1996) (49S00-9002-DP-00104)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
DeBruler Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Richard Kammen, James T. Flanigan, Susan D. Rayl, Arnold P. Baratz, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Holmes v. Indiana, 118 S.Ct. 137 (1997) (Cert. denied)

**PCR:** PCR Petition filed 09-25-97. Amended PCR filed 11-10-97, 03-18-98, 04-01-98, 04-20-98.  
State's Answer to PCR Petition filed.  
PCR Hearing 05-18-98, 05-19-98, 05-20-98.  
Marion County Superior Court Judge Tonya Walton Pratt  
For Defendant: Steven H. Schutte, Joanna Green, Kathleen Cleary, Linda K. Hughes,  
Deputy Public Defenders.  
For State: Michael A. Hurst, Greg Ulrich, Deputy Attorneys General (Modisett).  
07-28-98 PCR Petition granted as to Death Sentence only.

Holmes v. State, 728 N.E.2d 164 (Ind. May 19, 2000) (49S00-9808-PD-436)  
(Appeal by State of the granting of PCR as to death penalty - Reversed)  
(Appeal by Holmes of the denial of PCR as to convictions)  
Conviction Affirmed 5-0 DP Affirmed 5-0; PCR denied.  
Dickson Opinion, Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven H. Schutte, Joanna Green, Kathleen Cleary, Linda K. Hughes,  
Deputy Public Defenders (Carpenter)  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
Holmes v. Indiana, 121 S.Ct. 2220 (2001) (Cert. denied)

Holmes v. State, 820 N.E.2d 136 (Ind. January 7, 2005)  
n/k/a Koor An Nur of Mary Katie Brown.  
Shepard Opinion; Dickson, Boehm concur. Rucker, Sullivan dissent.  
(Holmes sought leave to file successive petition for state postconviction relief. Held: Denied; Even though hung jury on death sentence, neither change in statute nor Apprendi warranted relief from death sentence.)

**Habeas:** 09-22-00 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-29-01 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Eric D. Holmes v. Ron Anderson, Superintendent (IP 00-1477-C-D/F)  
Judge Larry J. McKinney  
For Defendant: Michael J. Benza, Cleveland, OH, Kathy Lea Stinton-Glen, Indianapolis  
For State: Michael A. Hurst, Thomas D. Perkins, Gary Damon Secrest, Stephen R. Creason,  
Deputy Attorneys General (S. Carter)

08-12-02 Amended Petition for Writ of Habeas Corpus filed.  
09-16-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-15-03 Motion for Stay pending competency evaluation.  
07-01-03 Petitioner files Traverse.  
07-16-04 Motion for Stay pending review by Indiana Supreme Court.  
09-02-04 Amended Petition for Writ of Habeas Corpus denied.  
01-18-05 Certificate of Appealability granted in part.

11-23-05 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Eric D. Holmes v. Ed Buss, Superintendent (1:05-CV-1763-LJM-WTL)  
Judge Larry J. McKinney  
For Defendant: Michael J. Benza, Cleveland, OH, Kathy Lea Stinton-Glen, Indianapolis  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (S. Carter)  
06-12-06 Order of Dismissal for Lack of Jurisdiction as Successive Petition entered.

08-10-05 Remanded to the District Court for the limited purpose of determining petitioner's current competence to proceed in this appeal. Because the referenced affidavits are now over a year old, we suggest that the district court solicit contemporary affidavits from counsel and consider obtaining the opinion of an expert. This court shall retain jurisdiction in this matter and briefing is stayed.

01-31-06 Psychiatric Reports filed with U.S. District Court.

06-20-06 Entry holding that Holmes is competent to proceed and assist his attorneys in the appellate phase of this habeas action.

Holmes v. Buss, 506 F.3d 576 (7th Cir. October 30, 2007) (04-3549, 06-2905)

Remanded to District Court 3-0.

Court should have allowed cross examination of State's expert witness on the issue of competency. Opinion by Judge Richard A. Posner. Joined by Judge Joel M. Flaum , Judge Diane P. Wood.

For Defendant: Michael J. Benza, Cleveland, OH, Kathy Lea Stinton-Glen, Zionsville, IN,

For State: James B. Martin, Stephen R. Creason, Indiana Attorneys General (S. Carter)

Holmes v. Levenhagen, 600 F.3d 756 (7th Cir. April 2, 2010) (04-3549, 06-2905)

Appeal of competency finding by U.S. District Judge Larry J. McKinney.

Reversed 3-0. Opinion by Judge Richard A. Posner; Judge Joel M. Flaum and Judge Diane P. Wood concur. ("We reverse the judgment with instructions to suspend the habeas corpus proceeding unless and until the State provides substantial new evidence that Holmes' psychiatric illness has abated, or its symptoms sufficiently controlled, to justify resumption of the proceeding.")

For Defendant: Michael J. Benza, Chagrin Falls, OH, Kathy Lea Stinton-Glen, Indianapolis, IN

For State: Stephen R. Creason, James B. Martin, Deputy Attorneys General (Zoeller)

**Habeas:** Holmes v. Neal, 816 F.3d 949 (7th Cir. Ind. March 22, 2016)

United States Court of Appeals for the Seventh Circuit (Nos. 14-3359, 04-3549, 06-2905)

Appeals from the United States District Court for the Southern District of Indiana, Indianapolis (No. 1:00-cv-01477-SEB-DML) — Judge Sarah Evans Barker  
(No. 1:05-cv-01763-LJM-WTL) — Judge Larry J. McKinney.

Convictions Affirmed 3-0 DP Affirmed 3-0 Opinion by Posner; Wood, Flaum concur.

(On remand the District Court granted the stay, thereby placing the habeas proceeding in limbo. Considering that he was convicted of the murders almost a quarter of a century ago and that if he fails to obtain relief in a hearing in the Indiana court system on his mental competency to be executed, and having thus exhausted his state remedies files a further petition for habeas corpus in the federal district court and loses and appeals once again to us it, will be the fourth time that we are called on to render a decision in this protracted litigation, we are dismayed at the prospect that looms before us of further and perhaps endless protraction of federal judicial review of Holmes's conviction and sentence. But we are obliged by section 2254(b)(1)(A) to proceed as just indicated. In conclusion, the rulings of the district court appealed from in appeals No. 14-3359 and No. 04-3549 are affirmed, and the appeal in No. 06-2905 is dismissed.)

For Defendant: (14-3359, 04-3549, 06-2905) )

Michael Benza, Chagrin Falls, OH; Kathy Lea Stinton-Glen, Indianapolis, IN.

For State: Steve Carter, Stephen R. Creason, James Blaine Martin, Deputy Attorneys General

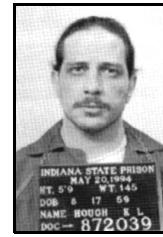
Holmes v. Neal, 825 F.3d 347 (7th Cir. Ind., 2016) (Reh. denied)

Holmes v. Neal (U.S., Jan. 23, 2017) (Cert. denied)

- ▶ STAY OF HABEAS PROCEEDINGS UNTIL STATE OF INDIANA CAN SHOW HOLMES HAS REGAINED COMPETENCY.

## HOUGH, KEVIN LEE # 52

EXECUTED BY LETHAL INJECTION 05-02-03 12:25 AM EST  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.



DOB: 08-17-1959 DOC#: 872039 White Male

Allen County Superior Court Special Judge Edward J. Meyers

**Trial Cause #:** CR-86-185

**Prosecutor:** Stephen M. Sims, Robert E. Love

**Defense:** Bruce R. Snyder, Bruce S. Cowan

**Date of Murder:** November 6, 1985

**Victim(s):** Theodore G. Bosler W / M / 49; Gene Eugene Rubrake W / M / 56 (Landlords of Hough's cousin)

**Method of Murder:** shooting with .45 handgun

**Summary:** Hough was upset with his cousin's landlords, Bosler and Rubrake. When his cousin failed to pay rent, his landlords took his cousin's property. Along with his brother, Duane Lapp, Hough went to their residence in Fort Wayne "to get the property back." They were invited inside and once downstairs, Hough pulled a .45 automatic pistol. When Rubrake swung at him, Hough shot him in the chest. Bosler dropped to the floor and Hough shot him in the back. Hough then shot Rubrake again in the face. Hough took a TV remote and a beer which he thought may have fingerprints and left. Lapp testified at trial as the State's star witness.

**Trial:** Information/PC for Murder filed (04-10-86); Amended Information for DP filed (05-21-86); Voir Dire in Marion County (05-11-87); Jury Trial in Allen County (05-12-87, 05-13-87, 05-14-87); Verdict (05-14-87); DP Trial (05-15-87); Verdict (05-15-87); Court Sentencing (06-11-87).

**Conviction:** Murder, Murder

**Sentencing:** June 11, 1987 (Death Sentence, Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (7) Prior murder conviction  
b (8) 2 murders

**Mitigating Circumstances:** dysfunctional childhood  
drug and alcohol abuse

**Direct Appeal:** Hough v. State, 560 N.E.2d 511 (Ind. October 4, 1990) (02S00-8712-CR-1179)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Shepard concur; Debruler, Dickson dissent.  
For Defendant: Bruce R. Snyder and Bruce S. Cowan, Fort Wayne  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Hough v. State, 560 N.E.2d 522 (Ind. 1990) (On Rehearing)

**PCR:** 05-06-92 Notice of Intent to File PCR Petition filed.  
06-21-93 PCR Petition filed.  
01-07-94 State's Answer to PCR Petition filed.  
Special Judge Edward J. Meyers  
For Defendant: Kevin L. Likes  
For State: Stephen M. Sims  
08-09-94 PCR Petition denied, Summary Judgment to State.

Hough v. State, 690 N.E.2d 267 (Ind. 1997) (02S00-9305-PD-497)  
(Appeal of PCR denial by Special Judge Edward J. Meyers, granting State's Summary Judgment)  
Affirmed 5-0; Selby Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Kevin L. Likes, Auburn, David L. Doughten, Cleveland  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Hough v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

**Habeas:** 05-13-98 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-11-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Kevin L. Hough v. Ron Anderson, Superintendent (3:98-CV-246-AS)  
Judge Allen Sharp  
For Defendant: John L. Stainthorp, Joey Mogul, People's Law Office, Chicago, IL  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)

05-04-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-21-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-22-99 Amended Petition for Writ of Habeas Corpus filed.  
10-14-99 Writ of Habeas Corpus denied.  
12-07-99 Certificate of Appealability granted in part.

Hough v. Anderson, 73 F.Supp.2d 981 (N.D. Ind. October 12, 1999) (3:98-CV-246-AS)  
(Petition for Habeas Writ denied by Judge Allen Sharp)

Hough v. Anderson, 272 F.3d 878 (7th Cir. November 20, 2001) (99-3968)  
(Appeal of denial of Habeas Writ by Judge Allen Sharp)  
Affirmed 3-0; Opinion by Judge Kenneth F. Ripple, Judge Diane P. Wood, Judge Terence T. Evans  
For Defendant: John L. Stainthorp, Joey Mogul, People's Law Office, Chicago, IL  
For State: Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)  
Hough v. Indiana, 123 S.Ct. 661 (December 2, 2002) (Cert. denied)  
Hough v. Indiana, 123 S.Ct. 1927 (May 1, 2003) (Application for stay denied)

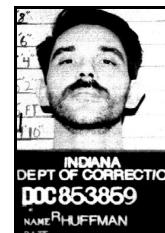
HOUGH WAS EXECUTED BY LETHAL INJECTION ON 05-02-03 12:25 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 80TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 10TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## HUFFMAN, RICHARD D., JR. # 39

OFF DEATH ROW SINCE 08-11-93  
DOB: 12-31-1960 DOC#: 853859 White Male

Marion County Superior Court Judge Thomas E. Alsip

Trial Cause #: 49G01-8406-CF-004843



**Prosecutor:** David E. Cook, Robert P. Thomas  
**Defense:** Gerald DeWester

**Date of Murder:** June 5, 1984

**Victim(s):** Kerry Golden W / M / 29 (Acquaintance of Huffman, met on night of murder)

**Method of Murder:** beating with tire iron; stomping; manual strangulation

**Summary:** Kerry Golden was introduced to Huffman while at the 50 Yard Line Bar in Indianapolis. They sat together and Golden displayed a large amount of money and marijuana on his person. They met Huffman's longtime friends, Herb Underwood and Rick Asbury and closed down the bar. They smoked some marijuana in the parking lot together and left in a car with Huffman driving, Underwood in the front, and Asbury with Golden in the back. The car was stopped in a remote area. Underwood got out and pulled Golden from the car. Huffman and Underwood told Golden to "give up the pot," then attacked him, both punching and kicking him. They stripped off his clothing and Underwood grabbed his penis and lifted him off the ground as Golden screamed. Underwood then took money from Golden's pants. Asbury got out and kicked Golden and gave his knife to Huffman when he asked. Huffman threatened to kill Golden if he told. Underwood stated that he had to kill him because he did not want to be identified and go to prison. Huffman got a tire iron from the trunk and both he and Underwood beat Golden. Underwood then told Asbury he had to hit Golden. Asbury "tapped" Golden twice with the tire iron. Asbury testified for the State at trial, pled guilty, and received a 25 year sentence for his role in the killing.

**Trial:** Information/PC for Murder Filed (06-06-84); Death Sentence Request Filed (10-16-84); Jury Trial (07-17-85 through 07-24-85); Verdict (07-24-85); DP Trial (07-25-85); DP Verdict (07-25-85); Court Sentencing (08-23-85).

**Conviction:** Murder, Felony-Murder, Robbery (A Felony), Conspiracy to Commit Murder (A Felony), Conspiracy to Commit Robbery (A Felony)

**Sentencing:** August 23, 1985 (Death Sentence - Murder and Felony-Murder merged)  
50 years, 50 years, 50 years consecutive

Joint Trial with Herbert Underwood

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** alcohol and marijuana intoxication on night of murder  
penalty disproportionate to other murder cases

**Direct Appeal:** Huffman v. State, 543 N.E.2d 360 (Ind. September 7, 1989) (49S00-8602-CR-207)  
Conviction Affirmed 3-2 DP Affirmed 3-2  
Givan Opinion; Shepard, Pivarnik concur; Debruler, Dickson dissent.  
For Defendant: Jill E. Greuling, Monica Foster, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Huffman v. Indiana, 110 S.Ct. 3257 (1990) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition filed 08-21-90.  
PCR Petition filed 03-23-92.  
State's Answer to PCR Petition filed 05-29-92.  
Special Judge James E. Harris  
For Defendant: Monica Foster, Scott A. Weathers, Indianapolis  
For State: John V. Commons, Frank A. Gleaves  
09-03-92 Defendant files Motion for Summary Judgment.  
08-11-93 PCR Petition granted as to convictions and sentence, Summary Judgment to Defendant.

State v. Huffman, 643 N.E.2d 899 (Ind. December 7, 1994) (49S00-9312-PD-1320)  
(State's appeal of Special Judge James E. Harris granting PCR on convictions and sentence)  
Affirmed 4-1 and remanded for new trial due to jury instruction which shifted burden on intoxication.  
DeBruler Opinion; Givan, Dickson, Sullivan concur; Shepard dissents.  
For Defendant: Monica Foster, Scott A. Weathers, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

**On Remand:** 06-14-96 Plea Agreement filed.

Huffman pleads guilty to Murder and Conspiracy to Commit Robbery (A Felony).

10-31-96 Plea accepted. Huffman sentenced to concurrent terms of 60 years (Murder) and 30 years (Conspiracy to Commit Robbery - A Felony), for a total sentence of 60 years imprisonment. (30,959 days credit)

Marion County Superior Court Judge Paula E. Lapossa  
For Defendant: Monica Foster, Richard Kammen, Indianapolis

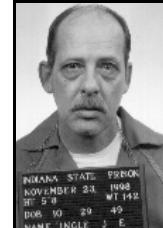
For State: Barbara Crawford, Diane Moore, James Nave  
Huffman v. State, 717 N.E.2d 571 (Ind. October 4, 1999) (49S00-9704-CR-260) (Affirmed)

HUFFMAN (AT 54 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON FEBRUARY 6, 2014, AFTER SERVING ± 29 YEARS IN CUSTODY.

## INGLE, JOHN E. # 90

OFF DEATH ROW SINCE 05-08-01

DOB: 10-29-49 DOC: #987991 White Male



INDIANA STATE PRISON  
NUMBER 23-1498  
BT 5-19-98 WT 142  
DOB 10-29-49  
NAME INGLE J E

Floyd County Superior Court Judge Richard G. Striegel

**Trial Cause #:** 22D01-0607-CF-183

**Prosecutor:** Stanley O. Faith, Susan L. Orth, Cynthia L. Winkler, Robert L. Collins

**Defense:** Michael J. McDaniel, Patrick Biggs, Steven E. Ripstra

**Date of Murder:** July 27, 1996

**Victim(s):** Debbie Chaffin Ingle W/F 41 (estranged wife)

**Method of Murder:** Shooting with handgun

**Summary:** Ingle and his wife Debbie had been married approximately twenty-five years. They married immediately after his release from federal prison when she was seventeen years of age. The marriage was one of repeated domestic violence. Debbie tried to leave on numerous occasions, but he physically intimidated her into remaining in the marriage. In July 1996, Debbie moved out of the house and made it clear to Ingle she would not return. Ingle stalked her for weeks using disguises and borrowed cars and kept her under constant surveillance. On the morning of the murder, Ingle donned a disguise, loaded a handgun, and walked up to Debbie where she worked as a waitress. His confessed plan was to take her out of the restaurant and physically force her to return as he had done on prior occasions. Debbie recognized him, screamed his name and instructed co-workers to call for police. Ingle responded by shooting her 7 times with a handgun and fled. Within minutes, Ingle was confronted by police on the street and shot a New Albany Police Officer three times, once in the back, and fled a second time before he was arrested. The officer was wearing a vest and survived with serious injuries. (Insanity Defense)

**Trial:** Information/PC for Murder filed (07-29-96); Motion for Speedy Trial (10-03-96); Amended Information for DP filed (02-03-04); Voir Dire in Dubois County (08-31-98, 09-01-98, 09-02-98, 09-03-98, 09-04-98, 09-08-98, 09-09-98, 09-10-98, 09-11-98); Jury Trial in Floyd County (09-21-98, 09-22-98, 09-23-98, 09-24-98, 09-25-98, 09-28-98, 09-29-98, 09-30-98, 10-01-98, 10-02-98, 10-05-98, 10-07-98, 10-08-98, 10-09-98, 10-12-98, 10-13-98, 10-14-98, 10-15-98); Verdict (10-15-98); DP Trial (10-16-98, 10-19-98, 10-20-98); Verdict (10-20-98); Court Sentencing (11-19-98, 11-23-98); Resentencing after Remand (06-20-01).

**Conviction:** Murder, Attempted Murder (A Felony), Attempted Kidnapping (A Felony)

**Sentencing:** November 23, 1998 (Death Sentence, 50 years, 50 years, consecutive)

**Aggravating Circumstances:** b (3) Lying in Wait  
b (1) Attempted Kidnapping

**Mitigating Circumstances:** Mental State (not rising to level of insanity)  
Intermittent Explosive Disorder

**Direct Appeal:** Ingle v. State, 746 N.E.2d 927 (Ind. May 8, 2001) (22S00-9611-DP-724)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, and Rucker concur.  
(Convictions for Murder and Attempted Murder affirmed, but conviction for Attempted Kidnapping reversed; Death sentence vacated due to insufficient evidence to show aggravators - No evidence to show Ingle confined victim to secure act by a third party, therefore not a hostage and no Attempted Kidnapping; Although Ingle did watch, wait and conceal himself outside restaurant, this was day before murder. A disguise alone worn when entering restaurant was not enough to show lying in wait; Remanded for resentencing to a term of years.)  
For Defendant: Michael J. McDaniel, New Albany  
For State: Andrew L. Hedges, Deputy Attorney General (Modisett)

**On Remand:** Ingle resentenced by Floyd Superior Court Judge Richard G. Striegel on June 20, 2001 to consecutive terms of 65 years imprisonment for Murder and 50 years imprisonment for Attempted Murder (A Felony).

Ingle v. State, 766 N.E.2d 392 (Ind. 2002) (22A01-0109-CR-340)  
(Appeal after remand and imposition of 115 years imprisonment - Affirmed)

INGLE DIED IN THE INDIANA DEPARTMENT OF CORRECTIONS ON NOVEMBER 24, 2009.

## ISOM, KEVIN CHARLES # 105

ON DEATH ROW SINCE 03-08-2013  
DOB: 01-04-1966 DOC#: 108003 Black Male

Lake County Superior Court Judge Thomas Stefaniak, Jr.  
**Trial Cause #:** 45G04-0708-MR-00008



**Prosecutor:** David Urbanski, Michelle Jatkiewicz  
**Defense:** Herb Shaps, Casey McCloskey

**Date of Murder:** August 6, 2007

**Victim(s):** Cassandra Isom B / F / 40 (wife); Michael Moore B / M / 16 (stepson);  
Ci'Andria Cole B / F / 13 (stepdaughter)

**Method of Murder:** shooting with shotgun and handgun

**Summary:** Isom was convicted of the murders of his wife of 12 years and her two teenage children from prior relationships in their apartment in Gary's Miller Beach neighborhood. The triple homicide was discovered when Gary police raided Isom's apartment after a standoff of several hours. All three victims had been shot at close range with a shotgun and with handguns. A neighbor of the family had alerted police to the sound of gunshots about 10:30 p.m. Isom was found on the floor of a bedroom with a revolver in his waistband and his wife and stepchildren shot dead. He told the police his wife was upset about his unemployment, and had mentioned leaving him a few days before the shootings. Though disputed by the defense, police also testified that Isom said, "I can't believe I killed my family."

**Trial:** Information for Murder/PC Affidavit filed (08-08-07); Request for DP filed (01-17-08); Individual Voir Dire 11-26-12 to 12-18-12); Jury Trial (01-07-13 to 01-12-13, 01-14-13 to 01-19-13, 01-21-13 to 01-26-13, 01-28-13 to 02-02-13, 02-04-05, 02-05-13); Verdict (02-05-13); DP Trial (02-06-13, 02-07-13, 02-08-13); Verdict (02-08-13); Court Sentencing (03-08-13).

**Conviction:** Murder, Murder, Murder, Criminal Recklessness (Class D Felony) (3 Counts)

**Sentencing:** March 8, 2013 (3 Consecutive Death Sentences; 3 Consecutive Terms of 18 Months)

**Aggravating Circumstances:** b (8) 3 Murders

**Mitigating Circumstances:** extreme emotional disturbance  
mental illness  
raised by women without male role model  
raised in Chicago gang-ridden housing project  
lost job one month before murders  
post-traumatic stress syndrome  
dissociative amnesia  
significant limitations in cognitive development

**Direct Appeal:** Isom v. State, 31 N.E.3d 469 (Ind. May 20, 2015) (45S00-0803-DP-125)

Conviction Affirmed 5-0 DP Affirmed 5-0

Rucker Opinion; Rush, Dickson, David and Massa concur.

For Defendant: Mark A. Bates, Office of the Public Defender, Crown Point, Indiana.

For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

Isom v. State, 2015 Ind. LEXIS 673 (Ind., July 28, 2015) (Rehearing denied).

Isom v. Indiana, 136 S.Ct. 1161 (2016) (Cert. denied).

**PCR:** Notice of Intent to File PCR Petition filed 08-28-15.

PCR Petition, unsigned by Defendant, filed 01-12-16.

Dismissal of PCR for lack of signature 05-04-16.

On appeal, Indiana Supreme Court Orders Petition filed as of 01-03-17. (45S00-1508-PD-508)

Evidentiary Hearing held 03-12-18. Amendment to PCR Petition allowed. Exhibits allowed.

PCR Petition denied 06-08-18.

Isom v. State, 170 N.E.3d 623 (Ind. June 30, 2021) (45S00-1508-PD-508)

(Appeal of PCR denial by Lake County Superior Court (45G04-1701-PC-1)

Judge Samuel L. Cappas, Magistrate Natalie Bokota

Conviction Affirmed 5-0 DP Affirmed 5-0.

Slaughter Opinion; Rush, David, Massa, Goff concur.

For Defendant: Steven Schutte, Kathleen Cleary, Meggan Smith, Deputy Public Defenders(Karozos)

For State: Andrew A. Kobe, Tyler G. Banks, Deputy Attorneys General (Rokita)

**Habeas:** Kevin Isom v. Ron Neal, Warden (#: 2:21-cv-00231-HAB)

U.S. District Court Northern District of Indiana, Judge Holly A. Brady

For Petitioner: Shawn Nolan, Federal Community Defender

For State: Caroline G Templeton, Kelly A Loy, Deputy Attorneys General

10/25/2021 Petition for Writ of Habeas Corpus filed

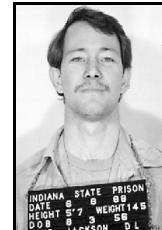
Isom v. Neal,(N.D. Ind. December 2, 2021) (2:21-CV-231-HAB)

(District Court CERTIFIES the following questions to the Indiana Supreme Court: "Is a petition for post-conviction relief, tendered to a trial court without the verification required by Post-Conviction Rule 1, Sections 2 and 3, properly filed?

- ▶ PENDING PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA. (2:21-CV-231-HAB)

## JACKSON, DONALD LEE, JR. # 54

OFF DEATH ROW SINCE 08-19-92  
DOB: 08-03-1956 DOC#: 881974 White Male



Franklin County Circuit Court Judge Eugene A. Stewart  
Venued from Dearborn County

**Trial Cause #:** 9766 (Dearborn County) 24CO1-8704-CF-072 (Franklin County)

**Prosecutor:** James D. Humphrey

**Defense:** Terrance W. Richmond, Ronald Richmer

**Date of Murder:** October 9, 1986

**Victim(s):** Michelle Seagraves W / F / 22 (No relationship to Jackson)

**Method of Murder:** shooting .41 handgun; strangulation with a strap

**Summary:** Michelle Seagraves was kidnapped as she was getting into her car in an apartment complex parking lot in Columbus, Ohio. Witnesses identified Stuart Kennedy as driving Seagraves' Ford Grenada while holding a woman down in the seat. Other witnesses identified a Corvette following the Ford Grenada from Columbus to Moores Hill, Indiana. The license plate of the Corvette showed it registered to Jackson. On the same day, the Peoples National Bank in Moores Hill was robbed by 2 men matching the description of Jackson and Kennedy. The Ford Grenada was identified as the getaway car. Jackson was arrested at his home in Columbus, Ohio as he was getting into the Corvette. Officers recovered \$5,000 in cash, a .45 handgun, and a submachine gun from the car. Jackson gave a complete confession, directing Officers to the body of Seagraves. An autopsy showed she had been strangled with a strap still on her neck, and shot once in the back of the neck through her head. Jackson also directed Officers to the bloody clothing worn by Kennedy and Jackson discarded in a dumpster.

**Trial:** Information for Murder filed (12-04-86); Agreement for Change of Venue to Franklin County (04-06-87); Voir Dire/Jury Trial (04-25-88, 04-26-88, 04-27-88, 04-28-88, 04-29-88, 05-02-88, 05-04-88, 05-05-88, 05-06-88, 05-09-88, 05-10-88, 05-11-88, 05-12-88, 05-13-88, 05-16-88, 05-17-88); Verdict (05-17-88); DP Trial (05-18-88, 05-19-88); Verdict (05-19-88); Court Sentencing (06-07-88); Resentencing after Remand (01-25-93).

**Conviction:** Murder, Felony-Murder(Robbery), Felony-Murder(Kidnapping),  
Robbery (A Felony), Kidnapping (A Felony)

**Sentencing:** June 7, 1988 (Murder: Death Sentence,  
Robbery: 50 years, Kidnapping: 50 years consecutive)

Judge Overrides Jury Recommendation against DP  
Companion Case to Kennedy

**Aggravating Circumstances:** b (1) Robbery, b (1) Kidnapping

**Mitigating Circumstances:** uncertainty as to triggerman

**Direct Appeal:** Jackson v. State, 597 N.E.2d 950 (Ind. August 19, 1992) (24S00-8811-CR-906)  
Conviction Affirmed 5-0 DP Vacated 3-2  
Shepard Opinion; Debruler, Krahulik concur; Givan, Dickson dissent.  
(remanded to impose term of years; Judge findings overruling jury recommendation fails to meet Martinez test, due to uncertainty as to who was triggerman)  
For Defendant: Terrance W. Richmond, Milan  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Jackson v. Indiana, 113 S.Ct. 1424 (1993) (Cert. denied)

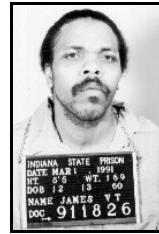
**On Remand:** On January 25, 1993, in compliance with Indiana Supreme Court Opinion setting aside death sentence and mandating a term of years, Franklin County Circuit Court Judge Eugene A. Stewart sentenced Jackson to consecutive terms of 60 years (Murder), 50 years (Robbery - Class A Felony), and 50 years (Kidnapping - Class A Felony), for a total sentence of 160 years imprisonment.

**Direct Appeal:** Jackson v. State, 625 N.E.2d 1219 (1993) (24S00-9306-CR-597)  
(Appeal after remand and 160 year sentence imposed - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE SENTENCES TOTALING 160 YEARS IMPRISONMENT.

### **JAMES, VINCENT (a/k/a Victor James) # 67**

OFF DEATH ROW SINCE 04-29-93  
DOB: 12-13-1960 DOC#: 911826 Black Male



INDIANA STATE PRISON  
DATE MAR 1 1991  
HGT 5' 10" WT 169  
DOC# 2 100-50  
NAME JAMES V T  
DOC. 911826

Porter County Superior Court Judge Thomas W. Webber, Sr.  
Venued from LaPorte County

**Trial Cause #:** 46D01-8912-CF-118 (LaPorte), 64DO2-9002-CF-30 (Porter)

**Prosecutor:** William F. Herrbach

**Defense:** Donald W. Pagos, William Janes

**Date of Murder:** December 15, 1989

**Victim(s):** Gayle Taylor W / F / 35 (No relationship to James)

**Method of Murder:** shooting with handgun

**Trial:** Information/PC for Murder filed (12-21-89); Change of Venue to Porter County (02-02-90); Amended Habitual Information (10-01-90); Voir Dire/Jury Trial (09-24-90, 09-25-90, 09-26-90, 09-27-90, 09-28-90, 09-29-90, 09-30-90, 10-01-90, 10-02-90); Verdict (10-01-90); DP Trial (10-02-90); Verdict (10-02-90); Court Sentencing (02-28-91).

**Summary:** James entered an Insurance agency in Michigan City intending to rob. He instructed Gayle Taylor, an employee, to give him her ring, and she complied. He moved Taylor to a back room where she was shot once in the head with a handgun. James was identified going into the Agency. Upon his arrest, James attempted to swallow a ring, later identified as Taylor's engagement ring. James then gave a full confession, but said that when he took Taylor to the back room, an argument ensued and the gun went off accidentally. An ISP blood splatter expert testified that Taylor's head was 1 foot from the floor when shot, implying that she was shot while on the ground, not accidentally during a scuffle.

**Conviction:** Felony-Murder, Habitual Offender

**Sentencing:** February 28, 1991 (Death Sentence, 30 year enhancement of sentence for Murder and Habitual Offender "if Death Penalty is overturned")

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** James v. State, 613 N.E.2d 15 (Ind. April 29, 1993) (64S00-9012-DP-01050)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Krahulik Opinion; Shepard, Debruler, Givan, Dickson concur.

(Remanded with instructions for either a new Death Sentence Hearing or imposition of a term of years - Defendant denied blood spatter expert when State's expert's testimony critical to show intentional murder)

For Defendant: Donald W. Pagos, William Janes, Michigan City

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

**On Remand:** 11-22-93 State files Motion to Withdraw Pursuit of Death Penalty.

11-29-93 James resentenced to consecutive terms of 60 years (Murder) and 30 years (Habitual Offender), for a total sentence of 90 years imprisonment.

James v. State, 643 N.E.2d 321 (Ind. 1994) (64S00-9404-CR-310)

(Appeal after remand and defendant resentenced to 90 years imprisonment - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE SENTENCES TOTALING 90 YEARS IMPRISONMENT.

## **JOHNSON, GREGORY SCOTT # 44**

EXECUTED BY LETHAL INJECTION 05-25-05 12:28 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 02-18-1965 DOC#: 863293 White Male

Madison County Superior Court  
Judge Thomas Newman, Jr.

**Trial Cause #:** 3SCR-85-71

**Prosecutor:** William F. Lawler, Jr.

**Defense:** Gary Miracle

**Date of Murder:** June 23, 1985

**Victim(s):** Ruby Hutsler W / F / 82 (No relationship to Johnson)

**Method of Murder:** stomping with feet; beating with broom handle



**Summary:** A newspaper delivery boy noticed the home of 82 year old Ruby Hutsler on fire and roused a neighbor to call police. He returned but could not enter the home due to the fire and smoke. Firemen were able to put out the fire in about a half hour. Ruby Hutsler was found 5 feet from the front door with broken bones on her nose and cheek and 20 fractured ribs. Her larynx and spine were also fractured. An autopsy revealed that she died as a result of these injuries and not fire or smoke inhalation. A dispatch was sent out that Johnson was a suspect in several fires in the area. Johnson was seen by Officers watching the firemen fight the fire and was arrested for Public Intoxication. In custody, Johnson initially denied any involvement, but admitted setting 4 recent fires in the area. During a later interrogation, Johnson was asked if by killing Hutsler he was trying to join his friend, Mark Wisehart, on death row. Johnson became emotional and gave a full confession. (Johnson had testified as a prosecution witness against his friend Mark Wisehart charged with capital murder) Johnson stated that he had entered the home by breaking a front window with a broom and immediately confronted 90 pound Hutsler in her night clothes. Hutsler slumped to the floor, breathing heavily. Johnson said he stepped on her as he moved around the house. He took a watch and silver dollars, found matches, started the fire and fled.

**Trial:** Information/PC for Murder and Death Penalty Filed (06-27-85); Jury Trial (05-12-86, 05-13-86, 05-14-86, 05-15-86, 05-16-86); Verdict (05-16-86); DP Trial (05-19-86, 05-20-86); DP Verdict (05-20-86); Court Sentencing (06-19-86).

**Conviction:** Felony-Murder (Burglary), Arson (B Felony)

**Sentencing:** June 19, 1986 (Death Sentence, 10 years imprisonment)

**Aggravating Circumstances:** b(1) Burglary

**Mitigating Circumstances:** alcoholism, intoxication; got along well in jail  
20 years old at the time of the crime  
graduated from high school at Indiana Boys School  
served 9 months in National Guard / 2 months in Army

**Direct Appeal:** Johnson v. State, 584 N.E.2d 1092 (Ind. January 27, 1992) (48S00-8611-CR-992)  
Conviction Affirmed 4-0 DP Affirmed 4-0  
Debruler Opinion; Shepard, Dickson, Krahulik concur. Givan Not Participating  
For Defendant: William Byer, Jr., Anderson  
For State: Gary Damon Secrest, Deputy Attorney General (Pearson)  
Johnson v. Indiana, 113 S.Ct. 155 (1992) (Cert. denied)

**PCR:** PCR Petition filed 12-01-93. Amended PCR filed 06-21-94.  
State's Answer to PCR Petition filed.  
03-31-95 Indiana Supreme Court issues "no more continuances" Order.  
PCR Hearing 05-04-95.  
Special Judge Richard D. Culver  
For Defendant: Linda M. Wagoner, Indianapolis, Michelle Fennessy, Fort Wayne  
07-19-95 PCR Petition denied.

Johnson v. State, 693 N.E.2d 941 (Ind. 1998) (48S00-9305-PD-00498)  
(Appeal of PCR denial by Special Judge Richard D. Culver)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Linda M. Wagoner, Indianapolis, Michelle Fennessy, Fort Wayne  
For State: Geoff Davis, Deputy Attorney General (P. Carter)

Johnson v. State, 827 N.E.2d 547 (Ind. May 16, 2005) (48S00-0505-SD-192).  
(Johnson sought leave to file successive petition for state postconviction relief. Held: Denied.)  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.

**Habeas:** 07-16-98 Notice of Intent to file Petition for Writ of Habeas Corpus filed.  
06-29-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Gregory Scott Johnson v. Cecil Davis, Superintendent (IP 98-963-C-Y/G)  
Judge Richard L. Young  
For Defendant: Michelle F. Kraus, Stanley C. Campbell, Fort Wayne  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
04-15-02 Amended Petition for Writ of Habeas Corpus filed.  
01-10-03 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
10-28-03 Entry dismissing Petition as untimely.  
02-02-04 Certificate of Appealability denied.

Johnson v. McBride, 381 F.3d 587 (7th Cir. August 20, 2004) (04-1354).  
(Appeal of Habeas Denial; Affirmed 3-0)  
For Defendant: Stanley L. Campbell, Michelle F. Kraus, Ft. Wayne  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Frank H. Easterbrook Opinion; William J. Bauer, Daniel A. Manion concur.  
Johnson v. McBride, 125 S.Ct. 1649 (March 21, 2005) (Cert. denied)

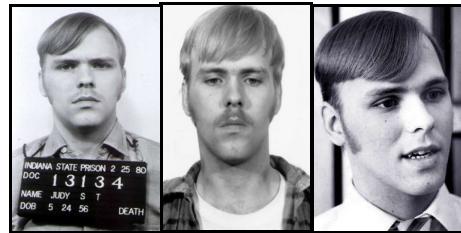
JOHNSON WAS EXECUTED BY LETHAL INJECTION ON 05-25-05 12:28 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 84TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 14TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## JUDY, STEVEN TIMOTHY # 4

EXECUTED BY ELECTRIC CHAIR 03-09-81 AT 12:12 CST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 05-24-1956 DOC#: 13134 White Male

Morgan County Superior Court Special Judge Jeffrey V. Boles



**Trial Cause #:** 79 S 61

**Prosecutor:** G. Thomas Gray, Stephen A. Oliver

**Defense:** Steven L. Harris

**Date of Murder:** April 28, 1979

**Victim(s):** Terry Chasteen W / F / 21 and her 3 children: Misty Zollers W / F / 5;  
Stephen Chasteen W / M / 4; Mark Chasteen W / M / 2 (No relationship to Judy)

**Method of Murder:** strangulation with strips of cloth (Terry Chasteen);  
asphyxia due to drowning (children)

**Summary:** Hunters discovered Terry Chasteen's body in White Lick Creek, near State Road 67 and Mooresville in Morgan County. A police search of the creek led to the discovery of the bodies of 3 small children, aged 2, 4 and 5. Terry Chasteen was found naked, with her hands and feet bound with strips of material torn from her clothing, and her head covered with her slacks. She had been gagged and strangled with other strips of cloth. The evidence established that Terry Chasteen had been raped and that she died of strangulation, while the children died of asphyxia due to drowning. At trial, Judy presented an insanity defense and testified at length concerning his commission of the rape and murders. Judy stated that he was driving on Interstate 465 in Marion County when he passed Terry Chasteen's car. He testified that he motioned for her to pull over to the shoulder of the road, indicating that something was wrong with the rear of her car. The two vehicles pulled to the shoulder and stopped, and Judy purported to assist the victims. In the process, he removed the coil wire, thereby rendering Terry Chasteen's car inoperable. When her car would not start, Judy offered her and the children a ride, and she accepted. Judy then drove the victims to the location of the killings and pulled his truck off the road. He testified that he directed them on foot toward the creek, and that he sent the children down the path ahead of Terry and him. Judy testified that he then raped Terry Chasteen and bound her hands and feet and gagged her. When Terry cried out, the children ran back up the path to them. Judy stated that the children stood around him and yelled. At that point, he strangled Terry Chasteen and threw her body into the creek. Judy testified that he then threw each of the children as far as he could into the water. He stated that he remembered seeing one of the children standing in the creek. Judy returned to his truck after attempting to eradicate his footprints. He then drove away. Judy's version of the events very substantially corroborated the evidence presented by the State. At the death phase of the trial, Judy ordered his attorneys not to present any evidence of mitigating circumstances. Judy stated to the jury in open court at the sentencing hearing that he would advise them to give him the death sentence, because he had no doubt that he would kill again if he had an opportunity, and some of the people he might kill in the future might be members of the jury. A similar comment was directed to the trial judge. (Insanity defense)

**Trial:** Information for Murder filed (05-01-79); Probable Cause Hearing (05-03-79); Competency Hearing (07-09-79); Amended "Indictment" (01-07-80); Voir Dire/Jury Trial (01-07-80, 01-08-80, 01-09-80, 01-10-80, 01-11-80, 01-12-80, 01-14-80, 01-15-80, 01-16-80, 01-17-80, 01-18-80, 01-19-80, 01-21-80, 01-22-80, 01-23-80, 01-24-80, 01-25-80, 01-28-80, 01-29-80, 01-30-80, 01-31-80, 02-01-80, 02-02-80); Verdict (02-02-80); DP Trial (02-02-80); Verdict (02-02-80); Court Sentencing (02-25-80).

**Conviction:** Murder (Misty), Murder (Stephen), Murder (Mark), Felony-Murder (Terry)  
**Sentencing:** February 25, 1980 (Death Sentence)

**Aggravating Circumstances:** b (1) Rape  
b (8) 4 murders

**Mitigating Circumstances:** None

**Direct Appeal:** Judy v. State, 416 N.E.2d 95 (Ind. January 30, 1981) (580-S-128)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Pivarnik Opinion; Givan, Hunter, Prentice concur; Debruler dissents.  
For Defendant: Kenneth M. Stroud, Indianapolis, Stephen L. Harris, Mooresville  
For State: Michael Gene Worden, Charles D. Rodgers, Deputy Attorneys General (Pearson)

JUDY WAIVED ALL APPEALS AND WAS EXECUTED BY ELECTRIC CHAIR ON 03-09-81 AT 12:12 CST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 71ST CONVICTED  
MURDERER EXECUTED IN INDIANA SINCE 1900, AND 1ST SINCE THE DEATH PENALTY WAS  
REINSTATED IN 1977.

## KENNEDY, STUART S. # 53 & # 72

OFF DEATH ROW SINCE 09-16-93  
DOB: 12-20-1960 DOC#: 881972 White Male



Decatur County Circuit Court Judge John A. Westhafer  
Venued from Dearborn County

**Trial Cause #:** 9767 (Dearborn County), 16CO1-8704-CF-045 (Decatur County)

**Prosecutor:** James D. Humphrey, Mike Miller  
**Defense:** J. Richard Kiefer, Kevin P. McGoff

**Date of Murder:** October 9, 1986

**Victim(s):** Michelle Seagraves W / F / 22 (No relationship to Kennedy)

**Method of Murder:** shooting with .41 handgun; strangulation with a strap.

**Summary:** Michelle Seagraves was kidnapped as she was getting into her car in an apartment complex parking lot in Columbus, Ohio. Witnesses identified Stuart Kennedy as driving Seagraves' Ford Grenada while holding a woman down in the seat. Other witnesses identified a Corvette following the Ford Grenada from Columbus to Moores Hill, Indiana. The license plate of the Corvette showed it registered to Jackson. On the same day, the Peoples National Bank in Moores Hill was robbed by 2 men matching the description of Jackson and Kennedy. The Ford Grenada was identified as the getaway car. Jackson was arrested at his home in Columbus, Ohio as he was getting into the Corvette. Officers recovered \$5000 in cash, a .45 handgun, and a submachine gun from the car. Jackson gave a complete confession, directing Officers to the body of Seagraves. An autopsy showed she had been strangled with a strap still on her neck, and shot once in the back of the neck through her head. Jackson also directed Officers to the bloody clothing worn by Kennedy and Jackson discarded in a dumpster.

**Trial:** Information/PC for Murder filed (12-04-86); Change of Venue to Decatur County (04-06-87); Voir Dire (01-12-88, 01-13-88, 01-14-88, 01-15-88, 01-18-88, 01-19-88, 01-20-88, 01-21-88); Jury Trial (01-21-88, 01-22-88, 01-25-88, 01-26-88, 01-27-88, 01-28-88, 01-29-88, 02-01-88, 02-02-88, 02-03-88, 02-04-88, 02-05-88); Verdict (02-05-88); DP Trial (02-08-88, 02-09-88); Verdict (02-09-88); Court Sentencing (03-21-88); Resentencing After Remand (04-20-95).

**Conviction:** Murder, Felony-Murder, Kidnapping (A Felony), Robbery (C Felony)

**Sentencing:** March 21, 1988 (Death Sentence, 50 years, 8 years, consecutive)

Judge Overrides Jury Recommendation against DP  
Companion Case to Jackson

**Aggravating Circumstances:** b (1) Kidnapping  
b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Kennedy v. State, 578 N.E.2d 633 (Ind. September 19, 1991) (16S00-8808-CR-785)  
Conviction Affirmed 4-1 DP Vacated 4-1  
(Remanded for a "new sentencing determination"; Judge findings overruling jury recommendation fails to meet Martinez test)  
Krahulik Opinion; Shepard, Dickson concur; Debruler dissents against conviction;  
Givan dissents for DP.  
For Defendant: J. Richard Kiefer, Kevin P. McGoff, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Kennedy v. Indiana, 112 S.Ct. 1299 (1992) (Cert. denied)

**On Remand:** On April 28, 1992 Decatur County Circuit Court Judge John A. Westhafer again sentenced Kennedy to death, again overriding the jury recommendation against death, without a hearing in compliance with Indiana Supreme Court Opinion setting aside death sentence and mandating a "new sentencing determination."

**Direct Appeal:** Kennedy v. State, 620 N.E.2d 17 (Ind. September 16, 1993) (16C01-8704-CF-45)  
DP Vacated 3-2 with instructions to impose a term of years.  
(Judge findings overruling recommendation again fails to meet Martinez test)  
Krahulik Opinion; Debruler, Dickson concur; Givan, Shepard dissent.  
(Shepard cites argument of Deputy AG Thad Perry in dissent)  
For Defendant: Richard Kiefer, Kevin P. McGoff, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Kennedy v. State, 644 N.E.2d 854 (Ind. 1994) (16S00-9208-DP-651) (Reh. denied 3-2)  
Debruler, Dickson, Sullivan; Shepard, Givan dissent to uphold death sentence)

**On Remand:** On April 20, 1995, in compliance with Indiana Supreme Court Opinion setting aside death sentence and mandating a "new sentencing determination," Decatur County Circuit Court Judge John A. Westhafer resentenced Kennedy to consecutive terms of 60 years (Murder), 50 years (Kidnapping - A Felony), and 8 years (Robbery - C Felony), for a total sentence of 118 years imprisonment.

Kennedy v. State, 674 N.E.2d 966 (Ind. 1996) (16S00-9508-CR-960)  
(Appeal after remand and sentence of 118 years imposed - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE SENTENCES TOTALING 118 YEARS IMPRISONMENT.

## KUBSCH, WAYNE D. # 94 & # 101

OFF DEATH ROW SINCE 02-11-19  
DOB: 10-31-67 DOC#: 108000 White Male

St. Joseph County Superior Court  
Judge Jerome Frese



**Trial Cause #:** 71D02-9812-CF-00592  
**Prosecutor:** Scott H. Duerring, Joel V. Williams  
**Defense:** James F. Korpak, Neil Wiseman

**Date of Murder:** September 18, 1998

**Victim(s):** Beth Kubsch W / F / 31 (wife);  
Rick Milewski W / M / 35 (Beth's Ex-Husband);  
Aaron Milewski W / M / 10 (Son of Beth & Rick)



**Method of Murder:** stabbing, shooting with handgun

**Summary:** September 18, 1998 was the 31st birthday of the defendant's wife Elizabeth Kubsch. It was also the day she was found dead by her 13 year old son under the stairs in the basement of the home she shared with the defendant. She had been stabbed numerous times, and was hogtied with duct tape. Also discovered in the basement were the bodies of Elizabeth's former husband, Rick Milewski, and their 10 year old son from that marriage, Aaron Milewski. Aaron had been stabbed 21 times and shot once in the mouth. Rick had been stabbed in the heart and shot twice in the head. Kubsch claimed to have worked all day, then went straight to pick up his other son in Michigan. However, cell phone records put him in the vicinity of the murder at the time of the murders. Duct tape from Elizabeth was matched to a wrapper in his vehicle. A receipt that was received by Elizabeth two hours before the murder was also found in his vehicle. He was over \$400,000 in debt and 2 months before the murders had taken out a life insurance policy on the life of Elizabeth for \$575,000.

**Trial:** Information/PC for Murder filed (12-22-98); Amended Information for DP filed (04-07-99); Voir Dire (05-15-00, 05-22-00, 05-23-00, 05-24-00, 05-25-00, 05-26-00, 05-30-00, 05-31-00); Jury Trial (06-01-00, 06-02-00, 06-03-00, 06-05-00, 06-06-00, 06-07-00, 06-08-00, 06-09-00, 06-10-00, 06-12-00, 06-13-00, 06-14-00, 06-15-00); Deliberations 10 hours, 22 minutes; Verdict (06-15-00); DP Trial (06-16-00); Deliberations 1 hour, 30 minutes; Verdict (06-16-00); Court Sentencing (08-28-00).

**Conviction:** Murder (3 counts)

**Sentencing:** August 28, 2000 (Death Sentence)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age  
b (8) 3 Murders

**Mitigating Circumstances Raised:** No significant criminal history  
Neglect by parents, poor and deprived childhood  
Poor family (male) role models, Seeing parental violence  
Defendant's "good character"  
Absent parents, Multiple parent figures, Disorganized chaotic families  
Substance abuse in family  
Residual doubt  
Even if incarcerated for the rest of his life,  
the defendant's family would benefit from their relationship.

**Direct Appeal:** Kubsch v. State, 784 N.E.2d 905 (Ind. March 14, 2003) (71S00-9904-DP-239)  
Conviction Reversed 5-0 DP Vacated 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
(In violation of Doyle v. Ohio, the State presented videotaped interrogation where Kubsch asserted right to remain silent.)  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
Amicus Curiae: Kenneth J. Falk, Indiana Civil Liberties Union Marshall L. Dayan,  
NC Commission on Social Action of Reform Judaism  
For State: James B. Martin, Deputy Attorney General (S. Carter)

**On Remand:** Following a new jury trial, on March 19, 2005 Kubsch was again found guilty of 3 counts of Murder. After the verdict, Kubsch fired his lawyers, who remained only as standby counsel for the abbreviated sentencing hearing. On March 21, 2005 the jury recommended a death sentence. On April 18, 2005, St. Joseph County Superior Court Judge William H. Albright sentenced Kubsch to death in accordance with the jury verdict.  
For State: Deputy Prosecutors Scott H. Duerring, Frank E. Schaffer.  
For Defendant: Philip R. Skodinski, Brian J. May.

Retrial: Jury Panel Present to Complete Questionnaires (02-07-05, 02-08-05); Small Group Voir Dire (02-23-05, 02-24-05, 02-25-05, 02-28-05, 03-01-05, 03-02-05); Regular Voir Dire (03-03-05); Trial (03-04-05, 03-05-05, 03-07-05, 03-08-05, 03-09-05, 03-10-05, 03-11-05, 03-12-05, 03-14-05, State Rests, 03-15-05, 03-16-05, 03-17-05, 03-18-05, Defendant Rests, (03-19-05); Deliberations and Verdict (03-19-05); DP Trial (03-21-05); Deliberations and Verdict (03-21-05); Court Sentencing (04-18-05).

The case against Kubsch was entirely circumstantial. There was no eyewitness, no DNA evidence, no fingerprint testimony, indeed no forensic evidence at all that linked Kubsch to the murders. There was, however, moderately strong evidence of motive and opportunity. But most damning to Kubsch was a series of lies, inexplicable omissions, and inconsistencies in what Kubsch told the police and later testified on the witness stand, and these statements — in conjunction with a few pieces of circumstantial evidence — are what almost assuredly got Kubsch convicted.

At sentencing, Kubsch fired his lawyers and proceeded pro se. He told the jury that if they thought he did the heinous crimes for which he was convicted — and they obviously did since that was the verdict they just reached — then he deserved the death penalty. Since there was no evidence presented to contradict the State's request for the death sentence, that is precisely what the jury recommended, and that is what the judge imposed in April of 2005.

**Direct Appeal:** Kubsch v. State, 866 N.E.2d 726 (Ind. May 22, 2007) (71S00-0507-DP-333)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Eric Kosek, Brent L. Westerfeld, Indianapolis  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Kubsch v. Indiana, 128 S.Ct. 2501 (May 27, 2008) (Cert. denied)

**PCR:** PCR denied January 7, 2009 by St. Joseph Superior Court Judge Jane Woodward Miller.

Kubsch v. State, 934 N.E.2d 1138 (Ind. October 05, 2010) (71S00-0708-PD-335)  
(Appeal of denial of postconviction relief)  
Conviction Affirmed 5-0, DP Affirmed 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan, Boehm, concur.  
For Defendant: Steven H. Shutte, Laura L. Volk, Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (Zoeller)

**Habeas:** 01-27-11 Notice of Intent to file Petition for Writ of Habeas Corpus filed.  
04-27-11 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Wayne Kubsch v. Superintendent (3:11-cv-00042-PPS)  
Chief United States District Judge Philip P. Simon  
For Defendant: Joseph M. Cleary, Indianapolis, Marie F. Donnelly, Chicago, IL  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)  
09-14-11 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-29-12 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.  
08-21-12 Oral Arguments heard.  
09-14-11 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-29-12 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.  
08-21-12 Oral Arguments heard.  
Kubsch v. Superintendent, Ind. State Prison, (N.D.Ind. December 2, 2013) (3:11CV42-PPS)  
United States District Court for the Northern District of Indiana, South Bend Division  
Chief United States District Judge Philip P. Simon  
(Kubsch has not shown that any constitutional error had a substantial and injurious influence in determining the jury's verdicts. Writ of Habeas Corpus denied.)  
For Defendant: Joseph M Cleary, Indianapolis, IN; Marie F Donnelly, Chicago, IL.  
For State: James B Martin, Stephen R Creason, Deputy Attorneys General (Zoeller)

03-24-14 Petitioner's Motion to Alter and Amend Judgment is denied. Fed.R.Civ.P. 59(e)  
Neal v. Kubsch (U.S., May 22, 2017) (Cert.denied)

Kubsch v. Neal, 800 F.3d 783 (7th Cir. Ind., Aug. 12, 2015) (No. 14-1898)  
Appeal from the United States District Court for the Northern District of Indiana, South Bend (No. 3:11-cv-42-PPS)  
Conviction Affirmed 2-1 DP Affirmed 2-1 Opinion by Hamilton; Tinder concurs; Wood Dissents. (Kubsch's three principal arguments on appeal are that his conviction and sentence are unconstitutional because (a) the Indiana trial court excluded evidence of a witness's exculpatory but hearsay statement to police, (b) he was denied effective assistance of counsel in seeking admission of the witness's hearsay statement, and (c) his waiver of counsel and choice to represent himself at the sentencing phase of trial were not knowing and voluntary. We reject all three claims. Accordingly, we affirm the denial of relief as to both Kubsch's convictions and the death sentence.) (Wood, Chief Judge, dissenting. My colleagues are prepared to send Wayne Kubsch to his death on the basis of a trial at which the jury never heard critical evidence that, if believed, would have shown that Kubsch was not the man responsible for the horrible murders of his wife Beth, her son, Aaron Milewski, and her ex-husband, Rick Milewski. I am not. They concede that the evidence against Kubsch was entirely circumstantial. While there is nothing wrong with circumstantial evidence, it is impossible to have any confidence in a verdict rendered by a jury that heard only part of the story.)  
For Defendant: Alan Michael Freedman, Marie F Donnelly, Evanston, IL.  
For State: James B Martin, Stephen R Creason, Deputy Attorneys General (Zoeller)

Kubsch v. Neal, 838 F.3d 845 (7th Cir. September 23, 2016) (No. 14-1898) (*En banc*)  
Denial of Habeas Writ Reversed and Remanded 6-3.  
Opinion by: Wood; Posner, Flaum, Kanne, Rovner, Williams Concur.  
Hamilton, Easterbrook and Sykes, Dissent.  
(We thus conclude that the Indiana Supreme Court's conclusion that Chambers did not require the admission of this critical evidence was either contrary to, or an unreasonable application of the Chambers line of Supreme Court precedent. We therefore Reverse the judgment of the district court and Remand for issuance of the writ of habeas corpus, unless the state within 120 days takes steps to give Kubsch a new trial)  
For Defendant: Alan Michael Freedman, Marie F Donnelly, Evanston, IL.  
For State: James B. Martin, Andrew A. Kobe, Stephen R. Creason, Deputy Attorneys General  
Neal v. Kubsch, 2017 U.S. LEXIS 3345 (U.S., May 22, 2017) (Cert. denied) (Zoeller)

**On Remand:** On September 10, 2018 the State withdrew its request for a death sentence, instead seeking only Life Without Parole. On February 11, 2019, the day jury selection was set to begin, Kubsch pled guilty to Count I: Murder (Beth Kubsch) and Count III: Murder (Rick Milewski) pursuant to a Plea Agreement which called for a sentence of Life Without Parole. Count II: Murder (Aaron Milewski) was dismissed. On March 8, 2019 he was sentenced to two consecutive terms of Life Without Parole in accordance with the Plea Agreement by St. Joseph County Superior Court Judge Jane Woodward Miller, with 7,381 days credit for time served. (71D01-9812-CF-00592)  
For State: Christopher Fronk, Eric Tamashasky, St. Joseph County Deputy Prosecutors.  
For Defendant: Mark Lenyo, Thomas Keller.

- ▶ CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## LAMBERT, MICHAEL ALLEN # 71

EXECUTED BY LETHAL INJECTION 06-15-07 AT 12:29 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 10-21-1970 DOC#: 922001 White Male

Delaware County Superior Court  
Judge Robert L. Barnet, Jr.

**Trial Cause #:** 18D01-9101-CF-02

**Prosecutor:** Richard W. Reed, J. A. Cummins, Jeffrey L. Arnold  
**Defense:** Ronald E. McShurley, Mark D. Maynard

**Date of Murder:** December 28, 1990

**Victim(s):** Gregg Winters W / M / 31 (Muncie Police Officer - No relationship to Lambert)

**Method of Murder:** shooting with .25 handgun



**Summary:** Muncie Police Officers were dispatched to a traffic accident and observed an abandoned utility truck. The truck was towed and Lambert was found nearby crawling under a vehicle. Lambert had spent most of the night getting drunk and after telling officers he was trying to sleep, was arrested by Officer Kirk Mace for Public Intoxication. He was patted down and placed into the back of a police car driven by Officer Gregg Winters for transport to jail. A few minutes later, the police vehicle was observed sliding off the road into a ditch. Lambert was still handcuffed in the backseat and Officer Winters had been shot 5 times in the back of the head and neck. A .25 handgun was found laying on the floorboard. It was later learned that Lambert had stolen the .25 pistol from his employer. A demonstration/re-enactment video was introduced into evidence showing the manner in which a gun could be retrieved and fired while handcuffed. A statement by the defendant was admitted despite his 0.18 BAC.

**Trial:** Information/PC for Murder and DP filed (01-09-91); Voir Dire (11-04-91, 11-06-91, 11-07-91, 11-08-91, 11-11-91, 11-12-91, 11-13-91); Jury Trial (11-13-91, 11-14-91, 11-15-91, 11-16-91); Deliberations over 2 days; Verdict (11-16-91); DP Trial (11-18-91); Verdict (11-18-91); Court Sentencing (01-17-92).

**Conviction:** Murder

**Sentencing:** January 17, 1992 (Death Sentence)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** 20 years old and intoxicated at the time of the murder  
lack of guidance in upbringing  
positive signs of rehabilitation

**Also Serving Time For:** Burglary, sentenced to 8 years imprisonment on 08-31-92. (Delaware)  
Battery, sentenced to 8 years imprisonment on 11-07-97. (LaPorte)

**Direct Appeal:** Lambert v. State, 643 N.E.2d 349 (Ind. December 6, 1994) (18S00-9107-DP-544)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Shepard, Dickson concur; Debruler, Sullivan dissent.  
(Case was remanded back to the trial court before this opinion to allow for correct application  
of intoxication as mitigating circumstance)  
For Defendant: Mark D. Maynard, Anderson, Ronald E. McShurley, Muncie  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Lambert v. State, 675 N.E.2d 1060 (Ind. December 31, 1996) (18S00-9107-DP-544)  
(On Rehearing, DP Affirmed 4-1 despite error in admitting victim impact evidence)  
Selby Opinion; Shepard, Dickson, Sullivan concur; Boehm dissents.  
Lambert v. Indiana, 117 S.Ct. 2417 (1997) (Cert. denied)  
Lambert v. Indiana, 118 S.Ct. 7 (1997) (Reh. denied)

**PCR:** Notice of Intent to File PCR Petition filed 02-04-97.  
PCR Petition filed 10-01-97. Amended PCR Petition filed 03-25-98.  
State's Answer to PCR Petition filed 11-14-97, 04-15-98.  
PCR Hearing 06-08-98, 06-09-98.  
Delaware Superior Court Judge Robert L. Barnet, Jr.  
For Defendant: Thomas C. Hinesley, Scott B. Rudolf, Kathleen Cleary,  
Deputy Public Defenders (Carpenter)  
For State: Geoffrey Davis, James Dimitri, Deputy Attorneys General, Richard W. Reed  
07-10-98 PCR Petition denied.

Lambert v. State, 743 N.E.2d 719 (Ind. March 5, 2001) (18S00-9702-PD-96)  
(Appeal of PCR denial by Delaware Superior Court Judge Robert L. Barnet, Jr.)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Thomas C. Hinesley, Kathleen Cleary, Deputy Public Defenders (Carpenter)  
For State: Priscilla J. Fossum, Deputy Attorney General (Modisett)  
Lambert v. Indiana, 122 S.Ct. 1082 (2002) (Cert. denied)

Lambert v. State, 825 N.E.2d 1261 (Ind. Apr 28, 2005) (18S00-0412-SD-503).  
(Lambert sought leave to file successive petition for state PCR. Held: Denied; Indiana Supreme Court,  
on direct appeal, had appellate authority to independently reweigh the proper aggravating and  
mitigating circumstances, as remedy for improper victim impact evidence admitted during trial.)  
Shepard Opinion; Dickson, Sullivan concur. Rucker, Boehm dissent.  
Lambert v. State, 867 N.E.2d 134 (Ind. May 21, 2007) (18S00-0412-SD-503)  
(Lambert sought leave to file successive petition for state postconviction relief. Held: Denied 3-2)  
Shepard, Dickson, Sullivan concur; Boehm, Rucker dissent.  
Lambert v. Indiana, 127 S.Ct. 7970 (2007) (Cert. denied)

**Habeas:** 06-19-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
Petition for Writ of Habeas Corpus filed 11-13-01 in U.S. District Court, Southern District of Indiana.  
Michael Allen Lambert v. Ron Anderson, Superintendent (IP 01-C- 864-M/S)  
Judge Larry J. McKinney  
For Defendant: Alan M. Freedman, Evanston, IL, Thomas A. Durkin  
For State: Michael A. Hurst, Stephen R. Creason, Deputy Attorneys General (S. Carter)

03-12-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
07-15-02 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-07-02 Writ of Habeas Corpus denied.  
01-31-03 Certificate of Appealability granted.

Lambert v. McBride, 365 F.3d 557 (7th Cir. April 7, 2004) (03-1015)  
(Appeal of denial of Habeas Writ by U.S. District Court for the Southern District of Indiana)  
Affirmed 3-0 (Ring does not apply retroactively)  
Circuit Judge Terence T. Evans, Judge Kenneth F. Ripple, Judge Michael S. Kanne.  
For Defendant: Alan M. Freedman, Evanston, IL, Laurence E. Komp, Ballwin, MO  
For State: Stephen R. Creason Deputy Attorney General (S. Carter)  
Lambert v. McBride, 125 S.Ct. 669 (December 6, 2004) (Cert. denied)

05-12-05 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Michael Allen Lambert v. Cecil Davis, Superintendent (1:05-CV-00708-LJM-VSS)  
Judge Larry J. McKinney  
05-31-05 Petition for Writ of Habeas Corpus dismissed for lack of jurisdiction; Stay denied.  
For Defendant: Alan M. Freedman, Carol R. Heise, Evanston, IL, Laurence E. Kemp, Baldwin, MO  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

06-17-05 Stay of Execution ordered by 7th Circuit U.S. Court of Appeals for scheduled 06-22-05 execution date. "In due course, the court will issue an order addressing whether a certificate of appealability should be issued.

Davis v. Lambert, 125 S.Ct. 2954 (2005) (Application to vacate stay denied)

Lambert v. Davis, 449 F.3d 774 (7th Cir. May 31, 2006) (05-2610)  
Appeal of dismissal of Successive Petition for Habeas Relief.  
(Whether Lambert was entitled to benefit of "Saylor" rule is a matter of state, not federal, law)  
Affirmed 2-1; Opinion by Circuit Judge Terence T. Evans.  
Judge Michael S. Kanne concurs; Judge Kenneth F. Ripple dissents.  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Evanston, IL  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Lambert v. Buss, 127 S.Ct. 1814 (2007) (Cert. denied)  
Lambert v. Buss, 127 S.Ct. 2158 (2007) (Reh. denied)

Lambert v. Buss, 489 F.3d 779 (7th Cir. June 12, 2007) (03-1015, 05-2610)  
(Stay / Mandate Recall denied; )  
Per Curiam Opinion. (Judge Kenneth F. Ripple, Judge Michael S. Kanne , Judge Terrance T. Evans)  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

Lambert v. Buss, 498 F.3d 446 (7th Cir. June 14, 2007) (07-2378)  
(Challenge to lethal injection method of execution; Stay / Injunction denied since no showing that inmate would suffer unnecessary pain)  
Per Curiam Opinion. (Judge Kenneth F. Ripple, Judge Michael S. Kanne , Judge Terrance T. Evans)  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Evanston, IL  
For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

LAMBERT WAS EXECUTED BY LETHAL INJECTION 06-15-07 AT 12:29 AM EST.AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 89TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 19TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## LANDRESS, CINDY LOU # 61

OFF DEATH ROW SINCE 10-15-92  
DOB: 01-20-1958 DOC#: 893767 White Female



Lake County Superior Court Judge Richard J. Conroy

**Trial Cause #:** 45G03-8805-CF-00118

**Prosecutor:** John J. Burke

**Defense:** Kevin B. Relphorde, Albert E. Marshall, Jr.

**Date of Murder:** April 23, 1988

**Victim(s):** Leonard Fowler W / M / 46 (Live-In boyfriend of Landress)

**Method of Murder:** stabbing with knives

**Summary:** Landress lived with her boyfriend, Leonard Fowler. They were joined one morning by Landress' friend, William Lewellen. All three sat around the kitchen table talking and drinking. Lewellen suddenly threatened Fowler with a knife and forced him to the floor. Landress retrieved an extension cord and Lewellen tied Fowler up and took his wallet, giving it to Landress. While they were removing the money, Landress told Lewellen that Fowler had escaped and was in the bedroom loading his shotgun. Lewellen ran to the bedroom and began stabbing Fowler. Landress got a knife from the kitchen and returned to the bedroom where she says she attempted only to break up the fight. Landress received a deep cut to her hand and dropped the knife. Landress then got the keys from Fowler's pocket and they fled in his car. They were apprehended in California two weeks later. The day before the murder, Landress had displayed a large buck knife and Lewellen had displayed a smaller butterfly knife. Both had expressed a desire to go "rolling." (knocking someone out and robbing them). Most all of the above details came from the testimony of Landress and Lewellen.

**Trial:** Information filed/PC Hearing for Murder (05-04-88); Amended Information for DP filed (12-13-88); Voir Dire (05-15-89); Jury Trial (05-16-89, 05-17-89, 05-18-89, 05-19-89); Verdict (05-19-89); DP Trial (05-20-89); Deliberations 4 hours, 15 minutes; Verdict (05-20-89); Court Sentencing (06-26-89).

**Conviction:** Felony-Murder (Robbery)

**Sentencing:** June 26, 1989 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Landress v. State, 600 N.E.2d 938 (Ind. October 15, 1992) (45S00-8911-CR-837)

Conviction Affirmed 5-0 DP Vacated 4-1

(Intent to kill of one Defendant cannot be imputed to accomplice)

Krahulik Opinion; Shepard, Debruler, Dickson concur; Givan dissents.

For Defendant: James F. Stanton, Crown Point

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** On March 18, 1993, in compliance with Indiana Supreme Court Opinion setting aside death sentence and "remanded for imposition of a new sentence," Lake County Superior Court Judge Richard J. Conroy resentenced Landress to 60 years imprisonment for Murder

Landress v. State, 638 N.E.2d 787 (Ind. August 18, 1994) (45S00-9311-CR-1285)

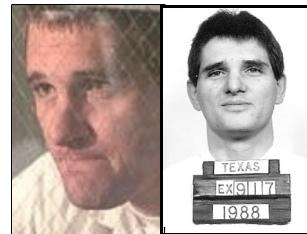
(Appeal after remand and sentence of 60 years imposed; Affirmed)

Lewellen was sentenced to 60 years imprisonment and was discharged from IDOC on 12/28/17.

- ▶ LANDRESS (AT 58 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON MAY 1, 2016, AFTER SERVING ± 28 YEARS IN CUSTODY.

## **LOCKHART, MICHAEL LEE # 62**

EXECUTED 12-09-97 6:24 PM BY STATE OF TEXAS  
DOB: 09-30-1960 DOC#: 892136 White Male



Lake County Superior Court Judge James E. Letsinger  
**Trial Cause #:** 45GO2-8806-CF-00134  
**Prosecutor:** Thomas W. Vanes, Joan Kuoros  
**Defense:** Robert L. Lewis, Willie Harris, Darnail Lyles

**Date of Murder:** October 13, 1987

**Victim(s):** Windy Gallagher W / F / 16 (No relationship to Lockhart)

**Method of Murder:** stabbing with large knife 21 times

**Summary:** The body of 16 year old Windy Gallagher was found by her sister in the bedroom of their home in Griffith, Indiana. She was nude from the waist down with her hands tied behind her back, and her bra pushed up above her breasts. She was stabbed with a large knife 4 times in the neck and 17 times in the abdomen. There was a large pool of blood and her intestines were hanging out. Missing from her room was a photo of Windy and a small purse. Fingerprints in the room were identified as Lockhart's. The day before in Chicago, a woman was robbed of her purse at knifepoint. She identified Lockhart as her attacker. She was fortunate to recover her purse 3 days later. Inside it, she found the small purse belonging to Windy Gallagher. In January 1988, a 14 year old girl was raped and stabbed to death in Florida. Lockhart was identified by witnesses and DNA as the murderer. Because of striking similarities, evidence of this crime was admitted at trial. Lockhart's crime spree ended in Texas, where he murdered a police officer in Beaumont. He was convicted of Capital Murder in Texas in October 1988. This crime and conviction was kept from the jury until the penalty phase of the trial. Following the trial, Lockhart was returned and held on Texas Death Row until his execution there on 12-09-97.

**Trial:** Information filed/PC Hearing for Murder (06-17-88); Amended Information for DP filed (02-02-89); Competency Hearing (04-05-89); Voir Dire (06-12-89, 06-13-89, 06-14-89); Jury Trial (06-14-89, 06-15-89, 06-16-89, 06-17-89, 06-19-89, 06-23-89); Verdict (06-23-89); DP Trial (06-23-89, 06-24-89, 06-25-89, 06-26-89); Verdict (06-26-89); Court Sentencing (07-19-89).

**Conviction:** Murder

**Sentencing:** July 19, 1989 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (7) Convicted of another murder in Texas

**Mitigating Circumstances:** None

**Direct Appeal:** Lockhart v. State, 609 N.E.2d 1093 (Ind. March 8, 1993) (45S00-8911-CR-851)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Daniel L. Bella, Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

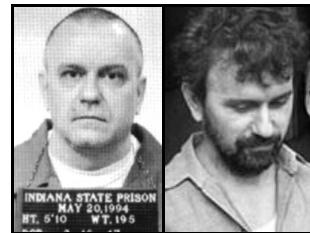
**PCR:** PCR Petition filed 01-06-94; State's Answer to PCR Petition filed 03-03-94.  
PCR Hearing 01-27-95.  
Lake County Magistrate T. Edward Page  
For Defendant: Juliet Yackel, Steven Schutte, Thomas Essex  
For State: Natalie Bokota, Susan Collins, Cynthia Taylor  
02-28-96 PCR Petition denied.

LOCKHART WAS EXECUTED BY LETHAL INJECTION ON 12-09-97 AT 6:24 PM BY THE STATE OF TEXAS.

## **LOWERY, JIM # 5 & # 17**

EXECUTED BY LETHAL INJECTION 06-27-01 12:29 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 03-16-1947 DOC#: 18667 White Male



Boone County Superior Court Judge Paul H. Johnson, Jr.  
Venued from Tippecanoe County

**Trial Cause #:** S459191 (Tippecanoe County)  
S6751C (Boone County)  
CCRV882-92 (Hendricks County)  
32C01-8208-CF-000092 (Hendricks County)

**Prosecutor:** John H. Meyers, IV, John W. Barce  
**Defense:** Lawrence D. Giddings, Donald R. Peyton

**Date of Murder:** September 30, 1979

**Victim(s):** Mark Thompson W / M / 80; Gertrude Thompson W / F / 80 (Former employers)

**Method of Murder:** shooting with .32 handgun

**Summary:** Mark and Gertrude Thompson were 80 years of age, in declining health, and needed assistance in caring for themselves and their property. Both were found shot to death in their country home in West Point, Indiana. The Thompsons had earlier employed Lowery and his wife as caretakers. The Thompsons, dissatisfied with the Lowerys, asked them to leave. Lowery and his friend Jim Bennett discussed committing robbery and Lowery told Bennett he knew where he could get some money. On September 30, Bennett picked Lowery up and followed Lowery's directions. Lowery told Bennett they were going to the Thompson's residence to force him to write a check for \$9,000, then to kill and bury both Thompsons. Janet Brown, housekeeper and caretaker for the Thompsons, was sitting in her trailer adjacent to the Thompson's garage when Lowery, armed with a pistol and sawed-off shotgun, kicked the door open and entered. After some conversation, Lowery forced her to take him into the Thompson's residence. Lowery took Brown into the kitchen where Mark Thompson was standing. He told Thompson he was being held up and then shot him in the stomach. Lowery then went to another room, forced Mrs. Thompson into the kitchen and shot her in the head. He also shot Brown, but Brown had her hand over her head when Lowery fired at her, causing injury to her hand and her head, but not fatally wounding her. A burglar alarm began ringing and Lowery became excited. He went back to and shot Mr. Thompson in the head before fleeing the scene. Lowery admitted the killings during penalty phase testimony. Bennett pled guilty by agreement, received a 40 year sentence, and testified against Lowery at his first trial. When he refused to testify at the second trial, his previous testimony was admitted.

**Trial:** Information/PC for Murder and DP filed (10-16-79); Agreed Change of Venue to Boone County (12-04-79); Voir Dire (06-09-80, 06-10-80); Jury Trial (06-11-80, 06-12-80, 06-16-80, 06-17-80); Verdict (06-18-80); DP Trial (06-19-80); Verdict (06-19-80); Court Sentencing (07-11-80).

**Conviction:** Murder, Murder, Attempted Murder (A Felony)

**Sentencing:** July 11, 1980 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no parental love  
mental commitment as a teenager

**Direct Appeal:** Lowery v. State, 434 N.E.2d 868 (Ind. May 5, 1982) (1280-S-448)  
Conviction Reversed 3-2 DP Vacated 3-2 (Failure to sequester)  
Debruler Opinion; Hunter, Prentice concur; Givan, Pivarnik dissent.  
For Defendant: Lawrence D. Giddings, Lebanon  
For State: Michael Gene Worden, Deputy Attorney General (Pearson)

Lowery v. State, 471 N.E.2d 258 (Ind. 1984) (184-S-11)  
(Regarding attorney fees for public defenders at DP trial)

**On Remand:** On remand, the trial was venued to Hendricks County and Lowery was again convicted of Murder, Murder, Attempted Murder (A Felony) and sentenced to death and 50 years imprisonment by Hendricks County Circuit Court Judge Jeffrey V. Boles on 01-07-83.

[Voir Dire/Jury Trial (11-30-82 to 12-08-82); Deliberations 2 hours; Verdict (12-08-82); DP Trial (12-09-82, 12-10-82); Deliberations 2 hours, 15 minutes; Verdict (12-10-82); Court Sentencing (01-07-83).]

Special Judge Judge Jeffrey V. Boles  
For Defendant: Lawrence D. Giddings, Lewis  
For State: John H. Meyers, IV, Richard J. Rudman

**Direct Appeal:** Lowery v. State, 478 N.E.2d 1214 (Ind. June 4, 1985) (483-S-116)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Pivarnik Opinion; Givan, Hunter, Prentice concur; Debruler dissents.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Michael Gene Worden, Deputy Attorney General (Pearson)  
Lowery v. Indiana, 106 S.Ct. 1500 (1986) (Cert. denied)

**PCR:** PCR Petition filed 07-18-86. Amended PCR filed 03-03-87, 05-02-88, 03-30-89.  
State's Answer to PCR Petition filed 04-03-87.  
PCR Hearing 12-13-88, 12-14-88, 12-15-88, 12-16-88, 12-19-88.  
Special Judge Thomas K. Milligan  
For Defendant: Monica Foster, Brent L. Westerfield  
For State: Daniel A. Lane, Timothy L. Kern, Jerry Bean  
10-22-90 PCR Petition denied.

Lowery v. State, 640 N.E.2d 1031 (Ind. 1994) (32S00-9008-PD-542)  
(Appeal of PCR denial by Special Judge Thomas Milligan)  
Affirmed 5-0, except Attempted Murder conviction reversed.  
Debruler Opinion; Shepard, Dickson, Givan, Sullivan concur.  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Lowery v. Indiana, 116 S.Ct. 525 (1995) (Cert. denied)

**Habeas:** 06-19-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-05-96 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Jim Lowery v. Rondle Anderson, Superintendent (IP 96-71-C-H/G) (Judge David Hamilton)  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Robert L. Collins, Stephen R. Creason, Deputy Attorneys General (Modisett)  
04-04-96 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-19-96 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-06-99 Writ of Habeas Corpus denied.  
12-21-99 Certificate of Appealability granted.

Lowery v. Anderson, 69 F.Supp.2d 1078 (S.D. Ind. July 6, 1999) (IP 96-71-C-H/G)  
(Petition for Habeas Writ denied by Judge David Hamilton)  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Robert L. Collins, Deputy Attorney General (Modisett)

Lowery v. Anderson, 225 F.3d 833 (7th Cir. August 29, 2000) (99-3227)  
(Affirming the denial of Writ of Habeas Corpus 3-0.  
Opinion by Judge William J. Bauer; Judge Joel M. Flaum, Judge Daniel A. Manion concur.  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Lowery v. Anderson, 121 S.Ct. 1488 (April 2, 2001) (Cert. denied)

**Clemency:** Lowery v. Anderson, 138 F.Supp.2d 1128 (S.D. Ind. April 13, 2001) (IP 96-0071-C H/G)  
(Order of Judge Hamilton granting the Motion for Appointment of Counsel for state clemency proceedings; Monica Foster and Brent L. Westerfield appointed; "the Court anticipates that a maximum of approximately 80 hours of attorney work may be 'reasonably necessary' in the clemency proceedings.")  
For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis  
For State: Robert L. Collins, Deputy Attorney General (Modisett)

**Stay:** Lowery v. Indiana, 121 S.Ct. 2580 (2001) (Application for stay denied)

LOWERY WAS EXECUTED BY LETHAL INJECTION ON 06-27-01 12:29 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 79TH CONVICTED MURDER EXECUTED IN INDIANA SINCE 1900, AND THE 9TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## LOWERY, TERRY LEE (a/k/a Terry Lee Spencer) # 41

OFF DEATH ROW SINCE 06-16-94  
DOB: 07-04-1961 DOC#: 855781 White Male



Allen County Superior Court Judge Alfred W. Moellering

Trial Cause #: CR-85-298  
Prosecutor: Stephen M. Sims Michael J. McAlexander  
Defense: Barrie C. Tremper, Charles F. Leonard

Date of Murder: May 19, 1985  
Victim(s): Tricia L. Woods W / F / 13 (Girlfriend of Lowery's friend)

Method of Murder: beating with wooden board

**Summary:** Lowery and his 14 year old friend. Johnnie Winners, drove to a wooded area along with Winners' 13 year old girlfriend, Tricia Woods. Lowery asked Woods to have sex with him, and when she refused, Lowery hit her in the head with a 2 X 4 piece of wood. Lowery then got on top of her and had sex. Lowery instructed Winners to go back to the car. 10-15 minutes later, Lowery also returned to the car with blood on his hands, admitting that he had killed Woods. These facts were testified to by Winners at trial. Lowery's pretrial statement differed significantly, claiming that it was Winners who forced sex with Woods. Lowery stated that he hit Woods in the back of the head with the 2 X 4, then Winners hit her in the face, caving it in. Lowery stated that Winners then put a stick in her vagina and kicked it. The body was discovered 30 days after her death. A stick was found between her legs and death was caused by the blows with the wooden boards.

**Trial:** Information/PC for Murder filed (06-26-85); Amended Information for DP filed (06-28-85); Voir Dire (11-19-85); Jury Trial (11-20-85, 11-21-98); Deliberations 6 hours, 20 minutes; Verdict (11-21-85); DP Trial (11-22-85); Deliberation 5 hours, 45 minutes; Verdict (11-22-85); Court Sentencing (12-19-85).

**Conviction:** Murder, Aiding Murder, Felony-Murder, Battery (C Felony)

**Sentencing:** December 19, 1985  
(Death Sentence for Murder; Aiding Murder, Felony-Murder, and Battery (C Felony) merged)

**Aggravating Circumstances:** b (1) Rape  
b (1) Child Molesting  
b (1) Criminal Deviate Conduct

**Mitigating Circumstances:** mental illness  
no significant prior criminal history  
23 years old and married at the time of the murder  
extreme emotional disturbance  
disproportionate treatment of accomplice  
turbulent childhood

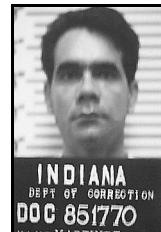
**Direct Appeal:** Lowery v. State, 547 N.E.2d 1046 (Ind. December 8, 1989) (02S00-8606-CR-591)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: Barrie C. Tremper, Charles F. Leonard, Fort Wayne Public Defenders  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Lowery v. Indiana, 111 S.Ct. 217 (1990) (Cert. denied)

**PCR:** PCR Petition filed 04-19-92. Amended PCR filed 07-16-93.  
State's Answer to PCR Petition filed 08-13-92, 09-14-93.  
03-18-93 Defendant advises of name change to "Terry Lee Spencer."  
Allen County Superior Court Judge Alfred W. Moellering  
For Defendant: Judith G. Menadue, Kevin L. Likes  
For State: Fran C. Gull, David H. McClamrock  
06-14-94 Agreed disposition entered, resentenced to 60 years imprisonment.

- ▶ LOWERY (AT 50 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON MAY 25, 2012, AFTER SERVING ± 27 YEARS IN CUSTODY.

## MARTINEZ-CHAVEZ, ELADIO # 36

OFF DEATH ROW SINCE 03-01-89  
DOB: 08-04-1951 DOC#: 851770 Hispanic Male



Lake County Superior Court Judge James E. Letsinger  
**Trial Cause #:** 2CR-199-1184-811  
**Prosecutor:** John F. Crawford, Jr.  
**Defense:** Robert L. Lewis

**Date of Murder:** October 11, 1984  
**Victim(s):** Francisco Alarcon H / M / 82 (Acquaintance)  
**Method of Murder:** stabbing with a knife 15 times

**Summary:** The body of 82 year old Francisco Alarcon was found in the bathroom of his home, stabbed 15 times. A trail of blood was noted from the living room to the bathroom. The evidence showed that Everette Amiotte drove Martinez Chavez and Reynaldo Rondon to a place near Alarcon's home on the night of the murder. As Amiotte stayed in the car, Martinez Chavez and Rondon walked around the corner and returned 20 minutes later. Both men were overheard earlier planning to rob Alarcon. The next day, Rondon gave his girlfriend 2 knives and told her to hide them. A search of Rondon's residence recovered blood-stained money and jewelry.

**Trial:** Information/PC for Murder and DP filed (11-13-84); Amiotte Guilty Plea (04-02-85); Amiotte Sentencing (05-21-85); Voir Dire (04-15-85); Jury Trial (04-16-85, 04-17-85, 04-18-85, 04-19-85); Verdict (04-18-85); DP Trial (04-20-85); Verdict (04-20-85); Court Sentencing (05-15-85).

**Conviction:** Murder, Felony-Murder

**Sentencing:** May 15, 1985 Death Sentence (Martinez); Death Sentence (Rondon)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

Judge Overrides Jury Recommendation against DP

Joint Trial with Reynaldo Rondon. Jury recommended a death sentence for Rondon, and did not recommend a death sentence for Martinez-Chavez. Amiotte pled guilty before trial to Assisting a Criminal (C Felony) and was sentenced after trial to 7 years imprisonment. The death sentence of Rondon was later vacated on appeal and he was resentenced to 55 years imprisonment on remand.

**Direct Appeal:** Martinez-Chavez v. State, 534 N.E.2d 731 (Ind. March 1, 1989) (1085-S-426)

Conviction Affirmed 5-0

DP Vacated 4-1 with Instructions to impose a term of years.

(Judge Findings insufficient to override jury recommendation against DP)

Shepard Opinion; Debruler, Givan, Dickson concur; Pivarnik dissents.

For Defendant: M.E. Tuke, Hector L. Flores, Deputy Public Defenders (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Martinez-Chavez v. State, 539 N.E.2d 4 (Ind. 1989) (Reh. denied)

**On Remand:** On July 12, 1989 Lake County Superior Court Judge James E. Letsinger resentenced Martinez-Chavez to 60 years imprisonment for Felony-Murder in compliance with Indiana Supreme Court Opinion setting aside death sentence and remanding "for sentencing to a term of years on the felony murder conviction."

- MARTINEZ-CHAVEZ (AT 58 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON APRIL 30, 2010, AFTER SERVING ± 25 YEARS IN CUSTODY.

## MATHENEY, ALAN LEHMAN # 65

EXECUTED BY LETHAL INJECTION 09-27-05 AT 12:27 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 11-06-1950 DOC#: 875922 White Male

Lake County Superior Court Judge James E. Letsinger  
Venued from St. Joseph County

**Trial Cause #:** 71D05-8903-CF-000181 (St. Joseph)  
45G02-9001-CF-00022 (Lake County)

**Prosecutor:** John D. Krisor

**Defense:** Scott L. King



**Date of Murder:** March 4, 1989

**Victim(s):** Lisa Bianco W / F / 34 (Ex-wife of Matheney)

**Method of Murder:** beating with shotgun

**Summary:** Matheney was convicted and sent to prison in 1987 for Battery and Confinement of his ex-wife, Lisa Bianco. While in prison, Matheney had repeatedly expressed a desire to kill Bianco, and attempted to solicit others to do so. After serving almost 2 years, he was given an 8-hour furlough from Pendleton, where he was an inmate. Although the pass authorized a trip to Indianapolis, Matheney headed straight for St. Joseph County. Once there, he parked the car in a lot two doors down from his ex-wife's house, then broke in through the back door. Bianco ran from the home, pursued by Matheney through the neighborhood. When he caught her, he beat her with a shotgun that broke into pieces. He then got into his car and drove away. Bianco died as a result of this blunt force trauma. (insanity defense) (This case generated massive amounts of publicity and led to legislation requiring DOC to notify victims of any release from prison)

**Trial:** Information/PC for Murder Filed (03-07-89); Death Sentence Request Filed (03-20-89); State Motion for Change of Venue (03-20-89); Jury Trial (04-02-90, 04-03-90, 04-04-90, 04-05-90, 04-06-90, 04-09-90, 04-10-90, 04-11-90); Verdict (04-11-90); DP Trial (04-12-90); DP Verdict (04-12-90); Court Sentencing (05-11-90).

**Conviction:** Murder, Burglary (B Felony)

**Sentencing:** May 11, 1990 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (3) Lying in wait

**Mitigating Circumstances:** turned himself in  
extreme mental and emotional disturbance  
helpful, useful, generous and kind  
mental disease (schizophreniform disorder)

**Direct Appeal:** Matheney v. State, 583 N.E.2d 1202 (Ind. January 9, 1992) (45S00-9002-DP-116)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Shepard, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Scott L. King, Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Matheney v. Indiana, 112 S.Ct. 2320 (1992) (Cert. denied)

**PCR:** PCR Petition filed 11-25-92. Amended PCR filed 09-09-94, 10-26-94.  
State's Answer to PCR Petition filed 12-08-92, 10-11-94.  
PCR Hearing 10-11-94.  
Special Judge Richard J. Conroy  
For Defendant: J. Jeffreys Merryman, Jr., Steven H. Schutte, Deputy Public Defenders (Carpenter)  
For State: Michael G. Gotsch  
04-10-95 PCR Petition denied.

Matheney v. State, 688 N.E.2d 883 (Ind. 1997) (45S00-9207-PD-584)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: J. Jeffreys Merryman, Jr., Steven H. Schutte, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Matheney v. Indiana, 119 S.Ct. 1046 (1999) (Cert. denied)

Matheney v. State, 833 N.E.2d 454 (Ind. August 29, 2005) (45S00-0506-SD-271)  
Motion for leave to file successive Petition for Postconviction Relief. Motion denied.  
("Mentally ill" persons not on same footing as mentally retarded)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

Matheney v. State, 834 N.E.2d 658 (Ind. September 23, 2005) (45S00-0509-SD-425)  
Motion for leave to file second successive Petition for Postconviction Relief. Motion denied.  
(Not entitled to appointment of counsel on second successive petition, Post-Conviction DNA testing not material, Ineffective Assistance and Prosecutorial Misconduct claims were procedurally barred)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

**Habeas:** 04-14-98 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
07-11-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
08-17-98 Amended Petition for Writ of Habeas Corpus filed  
Alan L. Matheney v. Ron Anderson, Superintendent (3:98-CV-00183-AS)  
Judge Allen Sharp  
For Defendant: Marie F. Donnelly, Alan M. Freedman, Chicago, IL  
For State: Andrew L. Hedges, Michael A. Hurst, Deputy Attorneys General (Modisett)

03-29-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-08-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-30-99 Writ of Habeas Corpus denied.  
10-25-99 Certificate of Appealability granted in part.  
Matheney v. Anderson, 60 F.Supp.2d 846 (N.D. Ind. July 30, 1999) (3:98-CV-183-AS)  
(Petition for Habeas Writ denied by Judge Allen Sharp)

Matheney v. Anderson, 253 F.3d 1025 (7th Cir. June 18, 2001) (99-3657)  
(Appeal of habeas denial; Affirmed 2-1, but remanded to U.S. District Court for evidentiary hearing on issue of competency at trial)  
Circuit Judge Michael S. Kanne, Judge John L. Coffey; Judge Ilana Diamond Rovner dissents.  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Chicago, IL  
For State: Michael R. McLaughlin, Deputy Attorney General (Freeman-Wilson)  
Anderson v. Matheney, 122 S.Ct. 1635 (2002) (Cert. denied).

Matheney v. Anderson, 377 F.3d 740 (7th Cir. July 29, 2004) (03-1739).  
(After remand to U.S. District Court for evidentiary hearing on issue of competency at trial, and denial of habeas)  
Affirmed 3-0; . Michael S. Kanne Opinion; William J. Bauer, Ilana Diamond Rovner concur.  
For Defendant: Alan M. Freedman, Carol R. Heise, Evanston, IL

For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General (S. Carter)  
Matheney v. Davis, 125 S.Ct. 2252 (May 16, 2005) (Cert. denied)

MATHENEY WAS EXECUTED BY LETHAL INJECTION 09-28-05 AT 12:27 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 86TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 16TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **MCCOLLUM, PHILLIP # 33**

OFF DEATH ROW SINCE 04-29-99  
DOB: 06-19-1965 DOC#: 850552 Black Male



Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-227-1283-898

**Prosecutor:** Thomas L. Jackson, Kathleen M. O'Halloran

**Defense:** Cornell Collins, Daniel L. Toomey, Hamilton Carmouche

**Date of Murder:** November 28, 1983

**Victim(s):** Hal Fuller B / M / 65; Margaret Fuller B / F / 63 (Acquaintances of Townsend)

**Method of Murder:** stabbing with a steak knife 10 times (Hal) and 9 times (Margaret)

**Summary:** The bodies of Hal and Margaret Fuller were discovered in their home with multiple stab wounds. Mr. Fuller's open wallet was found at his feet and a serrated steak knife with blood was found in the driveway. The Fuller's car was found abandoned two days later. The girlfriends of Phillip McCollum and Johnny Townsend gave statements that they had driven in a similar car with McCollum and Townsend, that they had picked up a radio to sell, and that Townsend had a cut hand. Bloody clothing was later recovered from their residence. Both Townsend and McCollum gave remarkably similar statements to police. They said they went to the Fuller home and talked for awhile. When Mr. Fuller started to use the phone, Townsend stabbed him in the back. McCollum then started stabbing Mrs. Fuller, who cried out "Please don't kill me." McCollum told her to shut up and kept on stabbing her. When Townsend asked for help with Mr. Fuller, he stabbed him in the chest to finish him off. They found no money, but took a radio, stole the Fullers' car, and fled.

**Conviction:** Murder, Felony-Murder

**Sentencing:** March 8, 1985 Death Sentence (McCollum); Death Sentence (Townsend)

**Aggravating Circumstances:** b (1) Robbery, b (8) 2 murders

**Mitigating Circumstances:** 18 years old and single at the time of the murder  
no prior criminal record

Joint Trial and Direct Appeal (Both McCollum and Townsend Received DP)

**Direct Appeal:** Townsend v. State, 533 N.E.2d 1215 (Ind. February 14, 1989) (885-S-339)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: James F. Stanton, Merrillville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Townsend v. Indiana, 110 S.Ct. 1327 (1990) (Cert. denied)  
McCollum v. Indiana, 110 S.Ct. 2633 (1990) (Cert. denied)  
McCollum v. Indiana, 111 S.Ct. 9 (1990) (Reh. denied)

**PCR:** 11-13-90 Townsend PCR filed; Denied by Special Judge Richard J. Conroy 04-10-95.  
07-08-91 McCollum PCR filed; Denied by Special Judge Richard J. Conroy 04-10-95.  
(While appeal pending, on 04-29-99 parties entered into agreement. Judge Richard W. Maroc modified sentence of both McCollum and Townsend to 60 years consecutive on each count, for a total sentence of 120 years imprisonment.)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## **MCMANUS, PAUL MICHAEL # 96**

OFF DEATH ROW SINCE 08-06-2015  
DOB: 07-14-72 DOC#: White Male

Vanderburgh County Circuit Court Judge Carl A. Heldt

**Trial Cause #:** 82C-01012-CF-00192  
**Prosecutor:** Stanley M. Levco, Steven A. Hunt  
**Defense:** Glenn A. Grampp, Mitchell Rothman

**Date of Murder:** February 26, 2001

**Victim(s):** Melissa McManus W / F / 29 (wife);  
Lindsey McManus W / F / 8 (daughter);  
Shelby McManus W / F / 23 months (daughter)



**Method of Murder:** shooting with .38 handgun

**Summary:** McManus was separated from his wife, Melissa. His two daughters, Lindsay (8) and Shelby (23 months) lived with Melissa. Shelby was born with severe birth defects. Divorce papers were served on him at his mother's house on the day of the murders. McManus took a taxi to his wife's residence and shot her once in the leg and 3 times in the head, killing her. He then shot 8 year old Lindsey 3 times in the head, then shot Shelby once in the head. He then drove to the Henderson bridge between Indiana and Kentucky and climbed to the very top (the equivalent of 11 stories). Despite the best efforts of law enforcement to talk him down, he jumped into the Ohio River. Miraculously, he was rescued from the water with only minor back injuries. An insanity defense was unsuccessfully presented at trial. McManus had told acquaintances the weekend before the murders to "watch the papers," because he was going to "do something big."

**Trial:** Information/PC for Murder filed (02-27-01); Amended Information for DP filed (03-20-01); Voir Dire (04-24-02, 04-25-02); Jury Trial (04-29-02, 04-30-02, 05-01-02, 05-09-02, 05-09-02); Verdict (05-09-02); DP Trial (05-10-02); Verdict (05-10-02); Court Sentencing (06-05-02).

**Conviction:** Murder, Murder, Murder  
**Sentencing:** June 5, 2002 Death Sentence

**Aggravating Circumstances:** b (8) 3 murders  
b (12) two victims less than 12 years of age

**Mitigating Circumstances:** Lack of prior criminal history  
Depression and mental abnormalities  
Irresistible impulse

**Direct Appeal:** McManus v. State, 814 N.E.2d 253 (Ind. August 31, 2004) (82S00-0104-DP-188)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Timothy R. Dodd, John P. Brinson, Evansville  
For State: Scott A. Kreider, Deputy Attorney General (S. Carter)  
McManus v. Indiana, 126 S.Ct. 53 (2005) (Cert. denied)

**PCR:** 02-28-05 Notice of Intent to File PCR filed.  
PCR Petition filed 08-22-05; Amended Petition filed 01-06-06.  
For Defendant: Steven H. Shutte, JoAnna McFadden, Deputy Public Defenders (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
05-10-06 Senior Judge William J. Brune grants Petition for Postconviction Relief as to death sentence,  
holding that McManus meets the statutory requirements of mental retardation, and imposes a sentence  
of Life Without Parole.

State v. McManus, 868 N.E.2d 778 (Ind. June 27, 2007) (82S00-0503-PD-78)  
(State's Appeal of granting of PCR as to death sentence by Special Judge William J. Brune)  
Reversed; Conviction Affirmed 5-0 DP Affirmed 3-2  
Shepard Opinion; Dickson, Sullivan concur; Boehm, Rucker dissent, maintaining that the determination  
of mental retardation by the PCR Court should have been given greater deference.  
For Defendant: Steven H. Schutte, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: Andrew A. Kobe, James B. Martin, Deputy Attorneys General (S. Carter)  
McManus v. Indiana, 128 S.Ct. 1739 (2008) (Cert. denied)

**Habeas:** 11-19-07 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-18-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, S.D. Indiana.  
Paul M. McManus v. Ed Buss, Superintendent (1:07-CV-01483-DFH-JMS)  
05-30-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas.  
10-31-08 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
01-08-09 Pay Vouchers for Joseph M. Cleary (\$14,824) and Marie F. Donnelly (\$25,160).

McManus v. Wilson, 2011 WL 1257969 (S.D. Ind. March 31, 2011) (1:07-CV-1483-TWP-MJD)  
Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
Petition for Writ of Habeas Corpus denied.  
For Defendant: Mary F. Donnelly, Chicago, IL and Joseph Martin Cleary, Indianapolis, IN  
For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

McManus v. Wilson, 2012 WL 4755354 (S.D. Ind. October 4, 2012) (1:07-CV-1483-TWP-MJD)  
Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
(Certificate of Appealability granted as to Atkins claim and denied as to all others)

McManus v. Neal, 779 F.3d 634 (7th Cir. February 17, 2015) (No. 12-2001)  
Appeal from the United States District Court for the Southern District of Indiana  
Reversed and remanded 3-0; Opinion By: Sykes; Wood and Flaum concur.  
(The state court unreasonably applied federal due process principles in addressing the defendant's  
competency to stand trial, since the defendant's panic attacks at trial required emergency medical  
treatment and the psychotropic medications used to treat them - Versed, Morphine, Xanax, and  
Lortab - raised bona fide doubts about the defendant's competency. The powerful effect of the  
medications alone created substantial doubt about McManus's mental fitness for trial, but the  
judge never ordered a competency evaluation. Accordingly, we reverse and remand to the district

court with instructions to grant the writ unless Indiana gives notice of its intent to retry McManus within a reasonable time to be set by the district court.)

For Defendant: Marie F. Donnelly and Alan Michael Freedman, Evanston, IL.

For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

Paul M. McManus v. Ed Buss, Superintendent (1:07-CV-01483-DFH-JMS)

U.S. District Court, Southern District of Indiana, U.S. District Judge Tanya Walton Pratt

04/15/2015 In conformity with the appellate mandate in No. 12-2001 issued on March 11, 2015, the Court now enters Final Judgment in favor of the petitioner, Paul M. McManus, and against the respondent. The petition for a writ of habeas corpus is granted. The State of Indiana shall vacate any and all criminal penalties stemming from No. 82C01-0102-CF- 192 in the Vanderburgh Circuit Court and release Paul M. McManus from its custody pursuant to that conviction unless the State of Indiana gives notice within 180 days of its intent to retry Paul M. McManus.

10/09/2015 Notice of State's Intention of Retry and Subsequent Conviction of McManus filed.

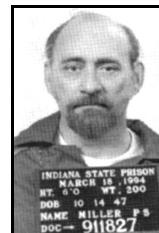
**On Remand:** By plea agreement, McManus entered a plea of guilty to Count I (Murder), Count II (Murder), and Count III (Murder), and admitted the charged Aggravating Circumstances. The evidence of the previous trial on April 14, 2002 was incorporated by agreement. On August 6, 2015 Vanderburgh Circuit Court Judge David D. Keily sentenced McManus to Life Without Parole on each of 3 Counts of Murder. Credit for time served 3/6/2001 to 8/6/2015.

- ▶ CURRENTLY SERVING THREE TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## MILLER, PERRY S. # 68

OFF DEATH ROW SINCE 06-29-01

DOB: 10-14-1947 DOC#: 911827 White Male



Porter County Superior Court Judge Roger V. Bradford

**Trial Cause #:** 64DO1-9011-CF-181

**Prosecutor:** James H. Douglas, Gwenn R. Rinkenberger

**Defense:** Ronald V. Aungst, Robert S. Kentner

**Date of Murder:** November 14, 1990

**Victim(s):** Christel Helmchen W / F / 19 (No relationship to Miller)

**Method of Murder:** shooting with shotgun

**Summary:** At 1:30 a.m. Valparaiso Police discovered that Christel Helmchen, the attendant at the White Hen Pantry on Calumet Avenue was missing. A few hours later, her body was found near Highway #6 with evidence of sexual assault and severe injuries to her pubic area and anal canal. The cause of death was a shotgun wound to the head. Helmchen's checkbook was later found in Miller's driveway. Miller's stepson, Rodney Wood, had lived with Miller at that address for 3 months, and during that time committed numerous burglaries and thefts. Wood and his friend, William Harmon, were arrested in Kentucky in a stolen car that contained clothing belonging to Helmchen. Wood entered into a plea agreement whereby the State would not pursue a Death Sentence in exchange for a statement. In the statement, Wood admitted that he, Miller, and Harmon had discussed robbing the White Hen, and that Harmon told them he had found a remote place to take the clerk where they could rape her and kill her. Miller drove Wood and Harmon to the White Hen and waited in the car while Wood and Harmon went inside, robbed the clerk at gunpoint, and escorted her to her car. Wood drove Helmchen's car and Miller followed to Highway #6. Harmon gagged and tied her and she was then dragged to a construction site. Miller fondled her, threw her to the

floor and ordered Wood to have sex with her, which he did. Miller instructed Wood and Harmon to tie her upright to a wall and Miller beat her with his fists. Harmon struck her with the shotgun. Miller then beat her with a 2 X 4 and stuck her with an ice pick in the thigh and breast. Upon Miller's direction, Wood and Harmon retrieved a tire iron and inserted it into her rectum while Miller watched. Miller and Wood then walked to the car. Harmon followed Helmchen out, put the shotgun to the back of her head and fired. An ISP hair examiner identified pubic hairs from Miller on the body of the victim.

Miller had previously been sentenced to Life Imprisonment for Kidnapping in Hamilton County on 10-08-69. (SC9-032 / 29D01-6905-CF-000032)

**Trial:** Information/PC for Murder and DP filed (11-19-90); Motion for Early Trial (12-18-90); Amended Information filed (02-22-91); Voir Dire (04-01-91, 04-02-91, 04-03-91, 04-04-91, 04-05-91); Jury Trial (04-08-91, 04-09-91, 04-10-91, 04-11-91, 04-12-91, 04-13-91, 04-15-91, 04-16-91, 04-17-91); Verdict (04-17-91); DP Trial (04-18-91); Verdict (04-18-91); Court Sentencing (05-20-91).

**Conviction:** Murder, Felony-Murder (3 counts), Confinement (B Felony), Rape (A Felony), CDC (A Felony), Robbery (A Felony), Conspiracy to Commit Murder (A Felony)

**Sentencing:** May 20, 1991 (Death Sentence, 20 years, 50 years, 50 years, 50 years imprisonment)

**Aggravating Circumstances:** b (1) Rape, b (1) Criminal Deviate Conduct, b (1) Robbery  
b (9) On parole

**Mitigating Circumstances:** behaved well as a prisoner for 19 years  
kind and helpful to roommate and child  
during childhood did not display sadistic tendencies  
sensitive and caring individual  
stepdaughter allowed him to babysit

**Direct Appeal:** Miller v. State, 623 N.E.2d 403 (Ind. October 26, 1993) (64S00-9012-DP-817)

Conviction Affirmed 5-0 DP Affirmed 4-1

Givan Opinion; Shepard, Debruler, Krahulik concur; Dickson dissents.

For Defendant: John E. Martin, Valparaiso

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 03-17-95. Amended PCR filed 02-14-96.

State's Answer to PCR Petition filed 04-17-95, 03-12-96.

PCR Hearing by affidavit and deposition.

Special Judge Raymond D. Kickbush

For Defendant: Ann M. Pfarr, Joanna Green, Deputy Public Defenders (Carpenter)

For State: James H. Douglas, Gwenn R. Rinkenberger.

07-22-96 PCR Petition denied.

Miller v. State, 702 N.E.2d 1053 (Ind. 1998) (64S00-9408-PD-00742)

(Appeal of PCR denial by Special Judge Raymond D. Kickbush)

Conviction Affirmed 5-0, DP Affirmed 5-0; Sullivan Opinion; Shepherd, Dickson, Selby, Boehm concur.

For Defendant: Ann M. Pfarr, Joanna Green, Deputy Public Defenders (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**Habeas:** 05-07-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

08-17-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Perry Steven Miller v. Rondle Anderson, Superintendent (3:99-CV-00258-AS)

Judge Allen Sharp

For Defendant: Eric Kosalke, Brent L. Westerfeld, Indianapolis  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
12-07-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-06-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
06-19-00 Writ of Habeas Corpus denied.  
08-21-00 Attorney Payment Voucher for Brent L. Westerfield for \$29,053.75  
08-21-00 Attorney Payment Voucher for Eric Kosalke for \$22,600.00  
09-07-00 Certificate of Appealability granted in part.

Miller v. Anderson, 255 F.3d 455 (7th Cir. June 29, 2001) (00-2979)  
(Appeal of denial of Habeas Writ by Judge Allen Sharp) Reversed 3-0  
Opinion by Circuit Judge Richard A. Posner, Judge Frank H. Easterbrook, Judge Kenneth F. Ripple.  
(Habeas Granted as to conviction and sentence on grounds of ineffective assistance of trial counsel  
for failure to call as witnesses hair and DNA experts, and in calling psychologist which allowed  
impeachment by Miller's prior convictions. State ordered to retry or release Miller within 120 days.)  
For Defendant: Eric Kosalke, Brent L. Westerfeld, Indianapolis  
For State: James B. Martin, Deputy Attorney General (S. Carter)

Miller v. Anderson, 268 F.3d 485 (7th Cir. September 28, 2001) (00-2979)  
(Based upon Joint Motion: "This court's order directing the district court to issue a conditional writ  
of habeas corpus and the award of costs are vacated and the petition for rehearing is DISMISSED.")  
Opinion by Circuit Judge Richard A. Posner, Judge Frank H. Easterbrook, Judge Kenneth F. Ripple.

**On Remand:** On August 7, 2001, Miller entered a guilty plea to the charges pursuant to a Plea Agreement  
calling for a 138 year sentence, and was sentenced by Porter County Superior Court Judge  
Roger V. Bradford to consecutive terms of 60 years (Murder), 50 years (Conspiracy to Murder),  
20 years (Confinement), and 8 years (Robbery).

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 138 YEARS IMPRISONMENT.

### MINNICK, WILLIAM A. # 13 & # 40

OFF DEATH ROW SINCE 08-22-00  
DOB: 08-21-1963 DOC#: 13150 White Male

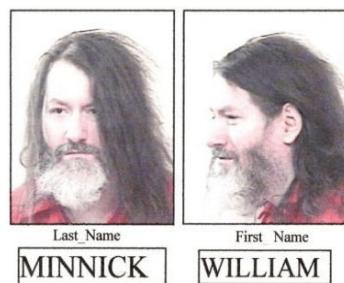
Clay County Circuit Court Judge Ernest E. Yelton  
Venued from Putnam County



**Trial Cause #:** CR-81-104 (Putnam County)  
CR-81-86 (Clay County)  
C-85-CR-39 (Lawrence County)

**Prosecutor:** Delbert H. Brewer, Fritz D. Modesitt  
**Defense:** Woodrow S. Nasser

**Date of Murder:** October 26, 1981  
**Victim(s):** Martha Payne W / F / 24 (Acquaintance of Minnick)  
**Method of Murder:** stabbing with knife



**Summary:** James D. Payne returned to his home in Greencastle and found the body of his wife, Martha, on the bedroom floor. She had been raped, anally sodomized, and stabbed in the shoulder/back area, which caused her death. There were also ligature marks on her neck, and burns on her ankles indicating an attempt at electrocution. Among other things, a jugful of coins was taken. Minnick's car was observed in the area near the time of death. When confronted, Minnick admitted being

at the victim's home earlier in the day, but only to ask if she needed work done. A more incriminating statement made later was admitted at the first trial in violation of Edwards / Miranda, and was the basis for reversal on appeal. A hair on an electrical wire recovered from Minnick's car matched those of the victim. Minnick was found in possession of coins and broken glass. His girlfriend testified that Minnick told her that "Ace" killed the woman, but he raped her.

**Trial:** Information/PC for Murder filed (10-27-81); Amended Information for DP filed (10-29-81, 01-05-82); Venued to Clay County (12-81); Voir Dire (04-22-82, 04-23-82, 04-26-82, 04-28-82); Jury Trial (04-28-82, 04-29-82, 04-30-82, 05-03-82, 05-05-82, 05-06-82, 05-07-82, 05-10-82, 05-11-82, 05-12-82, 05-13-82, 05-14-82, 05-17-82, 05-19-82, 05-20-82, 05-21-82, 05-22-82); Verdict (05-22-82); DP Trial (05-24-82); Verdict (05-24-82); Court Sentencing (06-10-82).

**Conviction:** Murder, Rape (A Felony), Robbery (A Felony); Directed verdict of Not Guilty on CDC  
**Sentencing:** June 10, 1982 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (1) Rape

**Mitigating Circumstances:** 18 years old at the time of the murder

**Direct Appeal:** Minnick v. State, 467 N.E.2d 754 (Ind. September 7, 1984) (1282-S-467)  
Conviction Reversed 5-0 DP Vacated 5-0 with Instructions for new trial  
(Confession improperly admitted in violation of Edwards / Miranda)  
Givan Opinion; Debruler, Prentice, Pivarnik, Hunter concur.  
For Defendant: Woodrow S. Nasser, Terre Haute  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Indiana v. Minnick, 105 S.Ct. 3512 (1985) (Cert. denied)

**On Remand:** Venued to Lawrence County (07-15-85); Voir Dire (09-04-85, 09-05-85, 09-06-85); Jury Trial (09-06-85, 09-06-85, 09-09-85, 09-10-85, 09-11-85, 09-12-85, 09-13-85, 09-16-85, 09-17-85, 09-18-85); Verdict (08-18-85); DP Trial (09-19-85); Verdict (09-19-85); Court Sentencing (10-16-85).

On remand, trial was venued to Lawrence County and Minnick was again convicted of Murder, Rape (A Felony), and Robbery (A Felony) and sentenced to death on 10-16-85 by Lawrence County Circuit Court Judge Linda Chezem, despite a jury recommendation against death. No sentence was entered on Rape (A Felony) or Robbery (A Felony).  
Judge Overrides Jury Recommendation against DP  
For Defendant: Woodrow S. Nasser, Terre Haute  
For State: Delbert H. Brewer

**Direct Appeal:** Minnick v. State, 544 N.E.2d 471 (Ind. October 2, 1989) (47S00-8603-CR-314)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Shepard, Pivarnik concur; Debruler, Dickson dissent.  
For Defendant: Woodrow S. Nasser, Terre Haute Public Defender  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**PCR:** 12-31-90 Petition for Enlargement of Time to File PCR Petition  
11-15-91 Pro se Petition to Terminate Post Conviction.  
PCR Petition filed 06-03-92. Amended PCR filed 07-29-94, 03-01-95.  
State's Answer to PCR Petition filed 06-08-92, 08-24-94.  
PCR Hearing 11-21-94.  
Judge Richard D. McIntyre  
For Defendant: Lorinda Meier Youngcourt  
For State: Robert J. Lowe  
06-13-95 PCR Petition denied.

Minnick v. State, 698 N.E.2d 745 (Ind. 1998) (47S00-9008-PD-497)  
(Appeal of PCR denial by Judge Richard D. McIntyre) Affirmed 4-1  
Dickson Opinion; Shepard, Selby, Boehm concur. Sullivan dissents.  
For Defendant: Lorinda Meier Youngcourt, Kevin P. McGoff, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Minnick v. State, 705 N.E.2d 179 (Ind. 1999) (Reh. denied 4-1)  
Minnick v. Indiana, 120 S.Ct. 501 (1999) (Cert. denied)

07-28-04 The Indiana Supreme Court remanded William Minnick's case back to the Lawrence Circuit Court, authorizing the filing of a successive post-conviction relief petition, to consider arguments for resentencing in light of Saylor v. State. The post-conviction court was directed to first determine competency.

09-14-04 Successive Petition for PCR filed.

10-12-04 State's Answer filed.

12-01-04 PCR granted by Lawrence Circuit Court Judge Richard D. McIntyre, Sr.

(Judge originally sentenced Minnick to death over the recommendation of the jury against imposition of death penalty. Under Saylor v. State the death sentence was "inappropriate," since under current statute, Judge must sentence in accordance with jury verdict. The parties agreed that Minnick was not competent at this time.)

Following the Indiana Department of Mental Health's certification of competency, on August 23, 2011 Minnick was resentenced by Lawrence County Circuit Court Judge Andrea McCord to 60 years (Murder), 50 years (Robbery), and 50 years (Rape) to run consecutively for a total sentence of 160 years imprisonment.

Minnick v. State, 965 N.E.2d 124 (Ind. April 3, 2012) (47A05-1108-CR-448)

Direct Appeal of 160 year sentence.

Affirmed in part 3-0. Opinion by Bradford. Vadik and Crone concur.

(Robbery (A Felony) and Murder sentences constitute Double Jeopardy. Robbery (A Felony) reduced to Robbery (B Felony) and 50 year sentence reduced to 20 years, for a total sentence of 130 years imprisonment. Otherwise affirmed)

**Habeas:** 03-16-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

09-08-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

William A. Minnick v. Ron Anderson, Superintendent (3:99-CV-00157-RLM)

Judge Robert L. Miller, Jr.

For Defendant: Alan M. Freedman, Thomas A. Durkin, Chicago, IL, Monica Foster, Indianapolis,  
Donald C. Swanson, Michelle F. Kraus, Ft. Wayne

For State: Stephen R. Creason, Thomas D. Perkins, Deputy Attorneys General (S. Carter)

12-03-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

03-16-00 Oral Argument held in Lafayette, Indiana

08-22-00 Order conditionally granting Petition for Writ of Habeas Corpus.

Minnick v. Anderson, 151 F.Supp.2d 1015 (N.D. Ind. August 22, 2000) (3:99-CV-00157-RLM)

(Granting Habeas Writ as to death sentence only, conditioned upon resentencing to "imprisonment during his natural life without parole." - Imposition of death sentence in the face of a contrary jury recommendation violated equal protection clause)

For Defendant: Donald C. Swanson, Michelle F. Kraus, Ft. Wayne

For State: Michael A. Hurst, Michael R. McLaughlin, Deputy Attorneys General (S. Carter)

03-25-02, 03-26-02, 04-10-02 Sanity Hearing as Ordered by 7th Circuit U.S. Court of Appeals.

04-24-02 Guardian Ad Litem appointed for Minnick

07-01-02 7th Circuit U.S. Court of Appeals relieves lawyers of authority to represent Minnick

08-25-04 Petitioner's Motion to Stay Proceedings granted (to pursue state PCR)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 138 YEARS IMPRISONMENT.

## MOORE, RICHARD D. # 7 & # 92

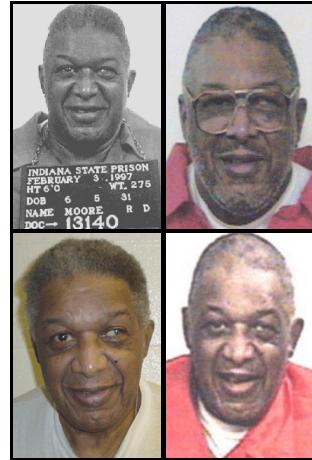
DIED OF NATURAL CAUSES ON DEATH ROW 12-24-06  
DOB: 06-05-1931 DOC#: 13140 Black Male

Hamilton County Superior Court Judge Jerry M. Barr  
Venued from Marion County

**Trial Cause #:** CR79-369A (Marion County)  
2SCR-80-005 (Hamilton County)  
06D02-9904-CF-176 (Boone County)

**Prosecutor:** J. Gregory Garrison, John D. Tinder, Stephen Goldsmith

**Defense:** Wilmer E. Goering, II



**Date of Murder:** November 6, 1979

**Victim(s):** Rhonda L. Caldwell B / F / 27 (Ex-wife);  
John H. Caldwell B / M / 54 (Ex-Father-In-Law);  
Gerald F. Griffin W / M / 29 (Indianapolis Police Officer - No relationship to Moore)

**Method of Murder:** shooting with shotgun

**Summary:** Moore was divorced from his second wife, Rhonda Caldwell, 8 days before murdering her. Moore went to the home of her parents on 36th Street in Indianapolis and talked to Rhonda in the carport for awhile. Rhonda began to cry and headed back in the house. As she did, she shouted at her parents to "get inside, lock the doors, Richard's got a gun." Moore was armed with a shotgun and when it was all over he had shot John Caldwell to death in the living room, shot Rhonda to death in the kitchen, and seriously injured Ruth Caldwell with shots to her right arm and buttocks. A responding Indianapolis Police Officer in full uniform, Gerald Griffin was dead just outside, Moore having shot him with the shotgun through the garage/patio doorway. Another Officer, Cicero Mukes was also in full uniform and shot while getting out of his marked patrol car.

**Trial:** Information/PC for Murder and Death Sentence filed (11-07-79); Petition to Allow Marriage (01-07-90); Guilty Plea (08-25-80); DP Trial (10-22-80, 10-23-80, 10-24-80); Court Sentencing (10-24-80).

**Conviction:** Pled Guilty to Murder, Murder, Murder with no Plea Agreement; State dismissed Attempted Murder (A Felony) (3 counts) and Confinement (B Felony) (3 counts) upon the Court's acceptance of the guilty pleas.

**Sentencing:** October 24, 1980 (Death Sentence)

Guilty Plea

**Aggravating Circumstances:** b (6) Victim was law enforcement officer  
b (8) 3 murders

Mitigating Circumstances: improvements made in his life as he overcame alcoholism  
religious activities while in jail  
opinion evidence that he is not likely to repeat crimes  
extreme emotional disturbance  
good works  
no significant prior criminal record

**Direct Appeal:** Moore v. State, 479 N.E.2d 1264 (Ind. June 26, 1985) (1082-S-400)  
Conviction Affirmed 4-0 DP Affirmed 3-1  
Pivarnik Opinion; Givan, Prentice concur; Debruler dissents. Hunter did not participate  
For Defendant: Kenneth M. Stroud, Indianapolis, John Proffitt, Noblesville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Moore v. Indiana, 106 S.Ct. 583 (1985) (Cert. denied)

**PCR:** PCR Petition filed 02-13-86. Amended PCR filed 11-25-86.  
State's Answer to PCR Petition filed 03-11-86, 12-09-86.  
11-30-90 Motion for Default Judgment to Defendant denied.  
11-24-93 Motion for Summary Judgment to Defendant denied.  
PCR Hearing 05-16-94, 05-17-94, 05-18-94, 05-19-94, 05-20-94, 01-06-95.  
Special Judge Thomas Newman, Jr.  
For Defendant: Joanna Green, Thomas C. Hinesley, Deputy Public Defenders (Carpenter)  
For State: John V. Commons  
05-15-95 PCR Petition granted as to conviction and sentence.  
(Appealed by the State on conviction only)

State v. Moore, 678 N.E.2d 1258 (Ind. April 23, 1997) (29S00-9008-PD-543)  
(State's appeal on granting of PCR on conviction only by Special Judge Thomas Newman)  
Reversed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
(Guilty Plea reinstated and remanded for new sentencing hearing.)  
For Defendant: Thomas C. Hinesley, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Moore v. Indiana, 118 S.Ct. 1528 (1998) (Cert. denied)

**On Remand:** Stipulation to Change Venue to Boone County (04-01-99);  
DP Trial (11-30-99, 12-01-99, 12-02-99, 12-03-99, 01-13-00).  
On remand, venued to Boone County by agreement. Following a new sentencing hearing,  
Special Judge James R. Detamore sentenced Moore to death on 01-13-00.  
For Defendant: Eric K. Kosek, Lorinda Meier Youngcourt  
For State: John V. Commons, Sheila Carlisle

**Direct Appeal:** Moore v. State, 771 N.E.2d 46 (Ind. June 26, 2002) (06S00-0006-PD-389)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Boehm, Sullivan, Rucker concur.  
For Defendant: Lorinda Youngcourt, Indianapolis, Janice L. Stevens, Marion Public Defender  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)  
Moore v. Indiana, 123 S.Ct. 1931 (May 5, 2003) (Cert. denied)

**Habeas:** 06-04-03 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
03-29-04 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Richard Moore v. Daniel McBride, Superintendent (1:03-CV-00828-LJM-WTL)  
Judge Larry J. McKinney  
For Defendant: Alan M. Freedman, Chicago, IL, Laurence E. Komp, Ballwin, MO  
For State: Stephen R. Creason, Scott Alan Kreider, Deputy Attorneys General (S. Carter)

07-30-04 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
10-28-04 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
04-29-04 Attorney Payment Vouchers for Alan M. Freedman for \$10,437.50, \$12,250.00  
04-29-04 Attorney Payment Vouchers for Laurence E. Komp for \$5,375.00, \$11,975.00

WHILE AWAITING DECISION BY U.S. DISTRICT COURT ON PETITION FOR WRIT OF HABEAS CORPUS,  
MOORE DIED OF NATURAL CAUSES ON DEATH ROW AT INDIANA STATE PRISON, MICHIGAN CITY,  
INDIANA ON 12-24-06. HE WAS 75 YEARS OLD AT THE TIME OF HIS DEATH.

## **OVERSTREET, MICHAEL DEAN # 93**

ON DEATH ROW SINCE 07-31-00  
DOB: 11-18-1966 DOC#: 993801 White Male

Johnson County Superior Court  
Judge Cynthia S. Emkes



Trial Cause #: 41D02-9711-CF-00158

**Prosecutor:** Lance D. Hamner, Bradley D. Cooper, Tina L. Mann  
**Defense:** Jeffrey A. Baldwin, Peter D. Nugent

**Date of Murder:** September 27, 1997

**Victim(s):** Kelly Eckart W / F / 18 (No relationship to Overstreet)



Last Name

OVERSTREET

First Name

MICHAEL

**Method of Murder:** ligature strangulation with shoestring and overalls strap

**Summary:** Kelly Eckart was an 18 year old freshman attending Franklin College, working her way through school with a part-time job at Walmart. On September 27, 1997 she left work, met briefly with her boyfriend and drove towards her home in Shelby County. That was the last time she was seen alive. The next morning, her car was found abandoned in a rural area, with its lights on and keys in the ignition. Four days later, the partially nude body of Kelly Eckart was found in a ravine in Brown County. She had been strangled with her own shoe string and a strap cut from the suspenders of her overalls. She had also been shot once in the forehead. Semen was discovered on the victim which was later matched through DNA analysis as having been contributed by Overstreet. The defendant's brother first contacted the police and admitted that the defendant called him on the 27th, he had met him at a hotel, drove his van, and transported him and a girl to a remote wooded area where he dropped them off. The Defendant returned later and moved the body to Brown County. Fibers found on the victim's body matched those from the defendant's van, which he had spent several hours cleaning before the victim's body was found. An eyewitness identified the defendant near the dump site on the day the body was recovered.

**Trial:** Information/PC for Murder filed (11-10-97); Amended Information for DP filed (04-15-98, 04-11-00); Voir Dire in Clark County (04-24-00, 04-25-00, 04-26-00, 04-27-00); Jury Trial in Johnson County (05-01-00, 05-02-00, 05-03-00, 05-04-00, 05-05-00, 05-08-00, 05-09-00, 05-10-00, 05-11-00, 05-12-00); Deliberations 10 hours, 43 minutes; Verdict (05-13-00); DP Trial (05-15-00, 05-16-00, 05-17-00, 05-18-00); Deliberations 2 hours, 15 minutes; Verdict (05-18-00); Court Sentencing (06-20-00, 07-31-00).

**Conviction:** Murder, Rape (B Felony), Confinement (B Felony)

**Sentencing:** July 31, 2000 (Death Sentence, 20 years, 20 years consecutive)

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** Deprived and abusive childhood  
Schizotypal Personality Disorder / Psychological deterioration  
Hallucination as a child, including "demons"  
Mother failed to seek mental help for him  
3 months in Marines before discharge for mental illness  
He loves his children and nieces who idolize him  
Has only a misdemeanor criminal history  
Model prisoner since his incarceration

**Direct Appeal:** Overstreet v. State, 783 N.E.2d 1140 (Ind. February 24, 2003) (41S00-9804-DP-217)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Teresa D. Harper, Bloomington, Jeffrey Baldwin, Indianapolis  
For State: Timothy W. Beam, Deputy Attorney General (S. Carter)  
Overstreet v. Indiana, 124 S.Ct. 1145 (January 20, 2004) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition filed 06-12-03.  
12-03-04 PCR denied by Johnson County Superior Court Judge Cynthia S. Emkes.  
For Defendant: Kathleen Cleary, Thomas C. Hinesley, Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (S. Carter)

Overstreet v. State, 877 N.E.2d 144 (Ind. November 27, 2007) 41S00-0306-PD-249.  
(Appeal of PCR denial by Johnson Superior Court Judge Cynthia S. Emkes.  
Affirmed 5-0; Opinion by Rucker, Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Steven H. Schutte, Thomas C. Hinesley, Kathleen Cleary,  
Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Overstreet v. Indiana, 129 S.Ct. 458 (Oct. 20, 2008) (Cert. Denied)

Overstreet v. State, 910 N.E.2d 272 (Ind. App. July 17, 2009) (41A05-0902-CV-060)  
(Memorandum Decision - Not for Publication)  
Appeal of denial of Motion for Return of Property by Johnson Superior Court Judge Cynthia S. Emkes  
Cause#: 41D02-9711-CF-159  
For Defendant: Pro-se  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Affirmed 3-0; Mathias Opinion; Riley, Kirsch concur.  
(No need to return property, even though not introduced as evidence, since case still pending on  
Habeas and no "final disposition" reached)

**Habeas:** 05-09-08 Notice of Intent to File Petition for Writ of Habeas Corpus filed in U.S. District Court,  
Northern District of Indiana.  
08-11-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Michael Dean Overstreet v. Superintendent (3:08-CV-00226-PPS)  
Judge Philip P. Simon  
For Defendant: Marie F. Donnelly, Chicago, IL, Laurence E. Komp, Manchester, MO  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
01-28-09 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-15-09 Traverse filed by Petitioner in support of Writ of Habeas Corpus.  
03-04-11 Petition for Writ of Habeas Corpus denied.

Overstreet v. Superintendent, 2011 WL 836800 (N.D. Ind. March 04, 2011) (3:08-CV-226 PS)  
U.S. District Judge Philip P. Simon, Northern District of Indiana, denied the Petition for Writ of  
Habeas Corpus, rejecting claims of ineffective assistance of counsel.  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, MO.  
For State: James B. Martin, Deputy Attorney General (Zoeller)

Overstreet v. Superintendent, 686 F.3d 404 (7th Cir. July 11, 2012) (11-2276)  
Appeal of denial of Habeas Writ by U.S. District Court, Northern District Judge Philip P. Simon.  
Conviction Affirmed 2-1 DP Affirmed 2-1  
Opinion by Judge Frank H. Easterbrook; Judge William J. Bauer concurs. Judge Diane P. Wood  
dissents on IAC grounds for failure to present evidence of schizophrenia.  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, MO.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Overstreet v. Wilson, 133 S. Ct. 2735 (May 28, 2013) Cert. denied).

**PCR:** Overstreet v. State, 993 N.E.2d 179 (Ind. September 3, 2013) (41S00-1305-SD-397)

On Petition for Permission to File Successive PCR.

Johnson Superior Court (41D02-9711-CR-00158, 41D02-0401-PC-00001).

(Asserting that his mental illness renders him "incompetent to be executed")

Order granted 5-0.

Rucker Opinion; Dickson, David, Massa, and Rush concur.

No attorneys recognized.

Michael Dean Overstreet vs State of Indiana (41D02-1306-PC-000009)

06/27/13 Petition for Post Conviction Relief filed.

07/30/13 State of Indiana files Motion to Dismiss Unauthorized Successive Petition for PCR.

09/03/13 Indiana Supreme Court authorizes Successive PCR Petition.

09/10/13 "New" Petition for Post Conviction Relief filed.

10/23/13 State's Answer to Successive Petition for Post Conviction Relief filed.

03/13/14 Sup.Ct. Order Appointing Special Judge, Jane Woodward Miller, St. Joseph Superior Court.

07/30/14 Response to State's Motion for In-Court Waiver and Request for Prohibition on Future Attempt to Conduct Adversarial Interviews of a Represented, Mentally Ill Man Without an Expert Chosen by Overstreet's Attorneys Being Present is filed with the court.

07/30/14 Respondent files Emergency Verified Motion for Order to Release Psychological Testing Data and to Cooperate with State's Experts with proposed orders. Petitioner, by counsel, files Response to State's Motion to Exclude Testimony from Expert Theologian who may offer Rebuttal Testimony that Michael Dean Overstreet Delusional thoughts are not Religious Beliefs.

For Defendant: Steven H. Schutte, Kathleen Cleary, Deputy Public Defenders (Carpenter)

For State: James B. Martin, Kelly Miklos, Deputy Attorneys General (Zoeller)

On November 20, 2014 Special Judge and St. Joseph Superior Court Judge Jane Woodward Miller ruled Overstreet is not competent to be executed, in a 137-page decision. Indiana Attorney General Zoeller declined to pursue an appeal of the decision.

**Other:** In re Cooper, 78 N.E.3d 1098 (Ind. March 24, 2017) (41S00-1509-DI-520)

In the Matter of: Bradley D. Cooper, Johnson County Prosecuting Attorney

(Cooper statements to media after Special Judge Miller granted PCR included commentary that was false, misleading, and inflammatory in nature. The statement attacked Judge Miller's qualifications or integrity and was made with reckless disregard as to its truth or falsity. The Court imposes a public reprimand.)

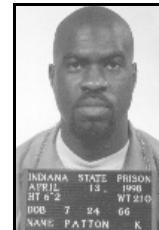
Opinion by Rucker. All Justices concur. 5-0

- ▶ CURRENTLY ADJUDGED NOT COMPETENT TO BE EXECUTED.

## PATTON, KEITH LAMONT # 30

OFF DEATH ROW SINCE 12-30-87

DOB: 07-24-1966 DOC#: 13157 Black Male



Marion County Superior Court Judge Thomas E. Alsip

**Trial Cause #:** CR83-232D, CR84-050D

**Prosecutor:** David E. Cook

**Defense:** Arnold P. Baratz

**Date of Murder:** October 21, 1983

**Victim(s):** Michael Pack B / M / 19 (No relationship to Patton)

**Method of Murder:** shooting with shotgun

**Summary:** Patton and Leroy Johnson discussed plans to commit a robbery. They drank some beer, armed themselves with shotguns, and went to Washington Park in Indianapolis. Patton approached the driver's side of a parked car, while Johnson went to the passenger side. Michael Pack sat in the driver's seat, with Dietra Maxey and her young daughter in the passenger seat. Patton shot out the driver side window and ordered Michael Pack out of the car. Instead, Pack attempted to start the car. Johnson shot out the rear tire, and Patton's second shot killed Pack. Patton and Johnson took Maxey to a wooded area and raped her, then went through her pockets for money. Patton admitted that he knowingly killed Pack at the guilty plea hearing, but at the sentencing hearing denied that he knew anyone was in the car.

**Trial:** Information/PC for Murder and Death Penalty Filed (10-28-83); Death Sentence Request Filed (12-02-83); Guilty Plea (06-01-84); Court Sentencing (07-20-84).

**Conviction:** Pled Guilty to Murder, Rape (A Felony), Attempted Murder (A Felony), Criminal Confinement, Criminal Deviate Conduct (3 counts), Dealing in Sawed Off Shotgun (C Felony).

**Sentencing:** July 20, 1984 (Death Sentence, 30 years, 30 years, 10 years, 30 years, 30 years, 30 years, 2 years, all sentences to run consecutively).

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** None

Guilty Plea

**Direct Appeal:** Patton v. State, 517 N.E.2d 374 (Ind. December 30, 1987) (1284-S-488)

Conviction Reversed 5-0 DP Vacated 5-0

(Appeal of Murder and Rape convictions and sentences only - Equivocation and later refusal of Defendant at Guilty Plea/Sentencing Hearing to admit he "knowingly" killed requires setting aside guilty plea for Murder. Remanded for trial on Murder and for sentencing on Rape (A Felony)

Shepard Opinion; Debruler, Givan, Dickson, Pivarnik concur.

For Defendant: L. Craig Turner, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**On Remand:** Voir Dire (03-12-90, 03-13-90, 03-14-90, 03-15-90); Jury Trial (03-15-90, 03-16-90, 03-17-90); Deliberations 1 hour, 46 minutes; Verdict (03-17-90); DP Trial (03-17-90, 03-19-90, 03-20-90, 03-21-90); Deliberations 7 hours, 3 minutes; Verdict (03-21-90); Court Sentencing (04-17-90).

Murder and Rape charges were tried to a jury. Patton was convicted of both. The jury recommended against death and the Court sentenced Patton to 60 years for Murder and 30 years for Rape (Class A Felony), consecutive to the sentences imposed for Attempted Murder and the other offenses, bringing the total sentence to 222 years.

Marion County Superior Court Judge Patricia J. Gifford

For Defendant: Robert Joe Hill, Jr., Arnold P. Baratz

For State: John V. Commons, Richard R. Plath

State ex rel. Patton v. Superior Court, 547 N.E.2d 255 (Ind. December 6, 1989)

(49S00-8904-OR-294) (On remand, dispute as to which Division should retry case)

Patton v. State, 588 N.E.2d 494 (Ind. March 16, 1992) (49S00-9007-CR-00475)

(Appeal after remand where jury recommended against DP - Affirmed)

Patton v. State, 810 N.E.2d 690 (Ind. June 22, 2004) (49S02-0309-PC-402)

(Appeal of denial of PCR - Guilty Plea to Attempted Murder not "knowing" and set aside; Other convictions and sentences affirmed.)

Patton v. Davis, \_\_\_ F.Supp. \_\_\_, 2007 WL 129036 (2:05-CV-00050-AS-CAN)

(N.D. Ind. January 11, 2007) (Judge Allen Sharp denying habeas relief)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 222 YEARS IMPRISONMENT.

**PETERSON, CHRISTOPHER DWAYNE # 74  
(Obadyah Ben-Yisrayl)**

OFF DEATH ROW SINCE 09-10-04  
DOB: 01-20-1969 DOC#: 922005 Black Male

Lake County Superior Court Judge James L. Clement



**Trial Cause #:** 45G04-9103-CF-00042

**Date of Murder:** 12-18-90

**Method of Murder:** shooting with sawed-off shotgun

**Victim(s):** George Balovsky W / M / 66  
Eli Balovsky W / M / 60  
(No relationship to Peterson)



**Prosecutor:** James J. Olszewski, Ralph W. Staples, Jr., John G. Eron

**Defense:** I. Alexander Woloshansky, Jerry Jarrett

**Summary:** The Balovsky brothers were found dead in their tailor shop as a result of shotgun wounds to the head. A sawed-off shotgun, identified as the murder weapon, was later recovered from Peterson's home after his mother consented to the search. Peterson made incriminating statements to an acquaintance, and gave a complete confession to police. He also confessed to two additional shotgun murders in Porter County, upon which he was later convicted. These convictions served as the basis for a second aggravating circumstance in this case.

Peterson was also convicted of the 1991 Attempted Murder/Armed Robbery of Ronald Nitsch in Lake County, and was sentenced to 50 years and 20 years imprisonment on 11-16-93.  
(See Peterson v. State, 653 N.E.2d 1022 (Ind.App. 1995) (45G04-9101-CF-00014)).

**Trial:** Information/PC for Murder and Death Sentence filed (03-01-91); Individual Voir Dire (04-20-92, 04-21-92, 04-22-92, 04-23-92); Jury Trial (04-24-92, 04-25-92, 04-27-92, 04-28-92, 04-29-92, 04-30-92, 05-01-92, 05-02-92); Deliberations (05-02-92, 05-03-92, 05-04-92); Guilty Verdict (05-04-92); DP Trial (05-04-92); Verdict Against DP (05-04-92); Court Sentencing (06-05-92).

**Conviction:** Murder, Murder

**Sentencing:** June 5, 1992 (Death Sentence)

**Aggravating Circumstances:** b (7) Convicted of murders in Porter County  
b (8) 2 murders

**Mitigating Circumstances:** neglected in childhood by Father  
caring, supportive of others, including girlfriend and baby  
good and quiet prisoner during confinement in jail  
extreme emotional disturbance  
high school graduate  
2 years in Marines  
Father of 11 month old baby  
21 years old at the time of the murders

Judge Overrides Jury Recommendation against DP

**Direct Appeal:** Peterson v. State, 674 N.E.2d 528 (Ind. December 13, 1996) (45S00-9103-DP-223)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: James F. Stanton, Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Peterson v. Indiana, 118 S.Ct. 858 (1998) (Cert. denied)

**PCR:** Notice of Intent to File PCR filed 08-15-97.  
PCR Petition filed 12-29-97. Amended PCR Petition filed 04-06-98, 07-31-98.  
State's Answer to PCR Petition filed 02-20-98, 04-13-98.  
PCR Hearing 07-27-98, 07-28-98, 07-29-98, 07-30-98  
For Defendant: Steven H. Schutte, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Robert L. Collins, Deputy Attorney General (Modisett), Natalie Bokota, DPA  
PCR Denied 09-30-98.

Ben-Yisrayl v. State, 729 N.E.2d 102 (Ind. May 25, 2000) (45S00-9708-PD-460)  
(Appeal of Lake County Judge James L. Clement and Magistrate Kathleen A. Sullivan denial of PCR)  
Affirmed 5-0, Shepard Opinion, Dickson, Sullivan, Boehm, Rucker concur  
For Defendant: Steven H. Schutte, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)  
Ben-Yisrayl v. Indiana, 122 S.Ct. 73 (2001) (Cert. denied)

Permission to file successive PCR denied by Indiana Supreme Court 02-15-02.

09-10-04 Post-Conviction Relief is granted as to death sentence only, based upon the decision of the Indiana Supreme Court in Saylor v. State, where the Court ruled that any death sentence not returned by the jury was "inappropriate."

**Habeas:** 01-23-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
12-12-01 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Obadyah Ben-Yisrayl v. Ron Anderson, Superintendent (3:01-CV-00065-AS)  
Judge Allen Sharp  
For Defendant: Prentice H. Marshall Jr., John H. Gallo, Kelly Cox, Chicago, IL  
For State: Thomas D. Perkins, Gary Damon Secrest, Deputy Attorneys General (S. Carter)  
  
05-28-02 Order holding in abeyance until U.S. Supreme Court decision in Ring v. Arizona.  
07-26-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-20-02 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
12-27-02 Writ of Habeas Corpus denied.  
04-07-03 Certificate of Appealability granted.

Ben-Yisrayl v. Davis, 245 F.Supp.2d 960 (N.D.Ind. December 27, 2002) (3:01-CV-65-AS)  
(Order of United States District Court, Northern District of Indiana, Judge Allen Sharp, denying Petition for Writ of Habeas Corpus.)  
For Defendant: Prentice H. Marshall Jr., John H. Gallo, Denise Keliuotis, Kelly Cox, Chicago, IL  
For State: Thomas D. Perkins, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

Ben-Yisrayl v. Davis, 245 F.Supp.2d 973 (N.D.Ind. February 19, 2003) (3:01-CV-65-AS)  
(Order of United States District Court, Northern District of Indiana, Judge Allen Sharp, denying Motion to Amend Judgment, holding that Ring v. Arizona is not to be applied retroactively.)  
For Defendant: Prentice H. Marshall Jr., John H. Gallo, Denise Keliuotis, Kelly Cox, Chicago, IL  
For State: Thomas D. Perkins, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

Ben-Yisrayl v. Davis, 114 Fed.Appx. 760, 2004 WL 2496711 (7th Cir. October 29, 2004) (03-1851). (Unpublished). State Court granted PCR relief while appeal from Northern District denial of habeas pending. Seventh Circuit holds that because resentencing has not taken place, habeas is not ripe for review. Appeal dismissed.

Order of Circuit Judge Joel M. Flaum, Judge Daniel A. Manion, Judge Ann C. Williams concur.

For Defendant: John N. Gallo, Chicago, IL

For State: Steve Carter, Attorney General

**On Remand:** 12-12-04 Peterson was resentenced by Lake County Superior Court Judge Thomas Stefaniak to consecutive terms of 60 years imprisonment on each of two murder counts, for a total sentence of 120 years imprisonment. Affirmed by Memorandum decision at Ben-Yisrayl v. State, 841 N.E.2d 248 (Ind. App. December 15, 2005).

Ben-Yisrayl v. Buss, 540 F.3d 542 (7th Cir. August 28, 2008)

Appeal of denial of Habeas as to convictions, Cross appeal of granting Habeas as to sentence. Convictions and sentences affirmed. Reversing partial grant of Habeas as to 60 year sentence.

Ben-Yisrayl v. Buss, Nos. 07-2151, 07-228 (7th Cir. Oct. 31, 2008) (en banc denied)

Ben-Yisrayl v. Levenhagen, 129 S.Ct. 2890 (2009) (Cert. Denied)

Ben-Yisrayl v. State, 923 N.E.2d 27 (Ind. App. February 10, 2010)

(Memorandum Decision Not for Publication)

Appeal of trial court denial of Successive PCR. Affirmed.

Ben-Yisrayl v. State, 929 N.E.2d 794 (Ind. 2010) (Transfer denied)

Ben-Yisrayl v. State, Unpub. (Ind. App. Feb. 15, 2010) (No. 45A03-0903-PC-123)

Appeal of trial court denial of Successive PCR. Affirmed.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT IN CASE NO. 45G04-9103-CF-00042 AND CONSECUTIVE TERMS TOTALING 70 YEARS IN CASE NO. 45G04-9101-CF-00014.

**PETERSON, CHRISTOPHER DWAYNE # 73  
(Obadyah Ben-Yisrayl)**

OFF DEATH ROW SINCE 07-23-03  
DOB: 01-20-1969 DOC#: 922005 Black Male

Porter County Superior Court  
Judge Thomas W. Webber

**Trial Cause #:** 64D02-9102-CF-022

**Prosecutor:** James H. Douglas, Gwen R. Rinkenberger

**Defense:** Jerry T. Jarrett, I. Alexander Woloshansky

**Date of Murder:** December 13 & 15, 1990



Last Name      First Name  
**YISRAYL**      **OBADYAH**

**Victim(s):** Marie Meitzler W / F / 48; Harchand Dhaliwal I / M / 54 (No relationship to Peterson)

**Method of Murder:** shooting with sawed-off shotgun

**Summary:** Harchand Dhaliwal was working alone in the evening as an attendant at a Hudson Oil station in Portage. He was robbed and shot in the head at close range with a .12 gauge shotgun. Two days later, Marie Meitzler was working alone in the evening as the desk clerk in a Howard Johnson motel. She was robbed and shot in the neck at close range with a .12 gauge shotgun. Three days later, George and Eli Balovsky were found dead following a robbery in their tailor shop in Gary (Lake County). Both were shot in the head at close range by a .12 gauge shotgun. A sawed-off shotgun, identified as the murder weapon in all four murders, was later recovered from Peterson's home after his mother consented to the search, and several witnesses saw Peterson with the shotgun. Peterson made incriminating statements to an acquaintance, and gave a complete confession to police. Evidence of the Lake County murders of the Balovsky brothers was admitted into evidence at the Porter County trial.

Peterson was also convicted of the 1991 Attempted Murder/Armed Robbery of Ronald Nitsch in Lake County, and was sentenced to 50 years and 20 years imprisonment on 11-16-93.  
(See Peterson v. State, 653 N.E.2d 1022 (Ind.App. 1995) (45G04-9101-CF-00014)).

**Trial:** Information/PC for Murder filed (02-14-91); Amended Information for DP filed (03-01-91); Voir Dire (02-18-92, 02-19-92, 02-20-92, 02-21-92, 02-22-92, 02-24-92, 02-25-92, 02-26-92, 02-27-92); Jury Trial (02-27-92, 02-28-92, 02-29-92, 03-03-92, 03-04-92, 03-05-92, 03-06-92, 03-07-92, 03-09-92, 03-10-92, 03-11-92, 03-12-92, 03-13-92, 03-14-92, 03-16-92); Verdict (03-16-92); DP Trial (03-17-92); Verdict (03-17-92); Court Sentencing (05-15-92).

**Conviction:** Murder, Felony-Murder, Murder, Felony-Murder

**Sentencing:** May 15, 1992 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** None

**Direct Appeal:** Ben-Yisrayl v. State, 690 N.E.2d 1141 (Ind. December 31, 1997) (64S00-9103-DP-00229)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: Gary S. Germann, Portage, I. Alexander Woloshansky, Merrillville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Ben-Yisrayl v. Indiana, 119 S.Ct. 877 (1999) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition 08-07-98.  
PCR Petition filed 01-04-99. Amended PCR filed 08-18-99.  
State's Answer to PCR Petition filed 02-04-99, 09-01-99, 11-18-99.  
Porter County Superior Court Judge Thomas W. Webber  
For Defendant: Deputy State Public Defenders (Carpenter)  
For State: Joseph L. Chamption, Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)  
02-10-00 PCR Petition denied.

Ben-Yisrayl v. State, 753 N.E.2d 649 (Ind. August 28, 2001) (64S00-9808-PD-429)  
(Appeal of PCR denial by Porter County Superior Court Judge Thomas W. Webber)  
Affirmed 5-0; Shepard Opinion, Dickson, Sullivan, Boehm, and Rucker concur.  
For Defendant: Steven H. Schutte, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)  
Ben-Yisrayl v. Indiana, 122 S.Ct. 2382 (June 10, 2002) (Cert. denied)

**Habeas:** 12-07-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
11-05-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Obadyah Ben-Yisrayl v. Ron Anderson, Superintendent (3:01-CV-00871-AS)  
Judge Allen Sharp  
For Defendant: John H. Gallo, Denise D. Keliuotis, Kelly J. Cox, Sidney Austin Brown, Chicago, IL  
For State: James B. Martin, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

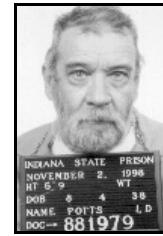
04-28-03 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-02-03 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-23-03 Writ of Habeas Corpus granted.  
08-14-03 Respondent Motion to Stay Judgment granted.

Ben-Yisrayl v. Davis, 277 F.Supp.2d 898 (N. D. Ind. July 23, 2003) (3:01-CV-0871-AS)  
(Writ of Habeas Corpus granted by Judge Allen Sharp, U.S. District Court for the Northern District of Indiana; Prosecutor's argument was comment on Defendant's failure to testify, and the error was not harmless; Inadequate state trial court record amounted to due process violation. State is to release or retry Petitioner within 120 days.)  
For Defendant: John H. Gallo, Denise D. Keliuotis, Kelly J. Cox, Sidney Austin Brown, Chicago, IL  
For State: James B. Martin, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

Ben-Yisrayl v. Davis, 431 F.3d 1043 (7th Cir. December 13, 2005) (03-3169)  
State's appeal of granting of habeas relief. Affirmed 3-0.  
Circuit Judge Anne Claire Williams Opinion; Joel M. Flaum, Daniel A. Manion concur.  
For Defendant: John H. Gallo, Kelly Huggins, Chicago, IL  
For State: Andrew K. Kobe, Deputy Attorney General (S. Carter)  
Davis v. Ben-Yisrayl, No. 03-3169 (7th Cir. Jan. 31, 2006) (Rehearing and en banc denied)

## POTTS, LARRY DALE # 58

OFF DEATH ROW SINCE 04-08-96  
DOB: 08-04-1938 DOC#: 881979 White Male



Lake County Superior Court Judge Richard J. Conroy

**Trial Cause #:** 3CR-170-1087-676

**Prosecutor:** Joseph L. Curosh

**Defense:** Kevin B. Relphorde, Scott L. King

**Date of Murder:** October 12, 1987

**Victim(s):** Sharon Oke W / F / 46 (girlfriend of Potts); Robert Davey W / M / 23 (no relationship)

**Method of Murder:** shooting with handgun

**Summary:** Sharon and Jerry Oke were separated from marriage, but continued their operation of Oke's Lounge. While separated, Sharon moved in with Potts. However, after Potts beat her and broke her jaw, Sharon moved back in with Jerry. One night, Potts came to the Lounge and got into an argument with Sharon. Potts attempted to pick a fight with Jerry, who declined. Potts drew a gun and shot him 3 times. As Sharon came towards him, Potts shot her in the heart and killed her. One patron of the bar, John Smith, was shot in the leg and another, Robert Pavey, was shot dead. Potts returned to Smith and despite his pleas shot him twice more. He shot another patron in the shoulder. As he shot, Potts ran out of ammunition, inserted a fresh clip, and continued to shoot. In all, Potts shot 14 times, each shot striking someone. He then walked behind the bar, called the police and waited for their arrival. When police asked him why he had shot these people, Potts asserted that they were all trying to jump him and were picking on him.

**Trial:** Information/PC for Murder and Death Penalty Filed (10-12-87); Death Sentence Request Filed (12-21-87); Jury Trial (08-23-88, 08-24-88, 08-25-88, 08-26-88); Verdict (08-26-88); DP Trial (08-27-88); DP Verdict (08-27-88); Court Sentencing (10-06-88).

**Conviction:** Murder, Murder, Attempted Murder (A Felony) (3 counts)

**Sentencing:** October 6, 1988 (Death Sentence, 30 years, 30 years, 30 years consecutive)

**Aggravating Circumstances:** b (8) 2 murders

**Mitigating Circumstances:** no prior criminal record  
kind, generous non-violent father  
on pain medication and alcohol on day of murders  
turned himself in  
constant and severe back pain  
addicted to prescription narcotics; alcoholic  
divorced a year before murders; 40 years old  
mental disease of depression  
sudden heat  
at the time of the murders

**Direct Appeal:** Potts v. State, 594 N.E.2d 438 (Ind. June 23, 1992) (45S00-8907-CR-536)

Conviction Affirmed 5-0 DP Affirmed 3-2

Givan Opinion; Shepard, Krahulik concur; Debruler, Dickson dissent.

For Defendant: Albert Marshall, Crown Point Public Defender

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

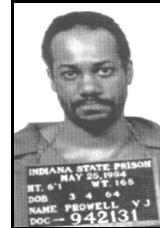
Potts v. Indiana, 113 S.Ct. 1869 (1993) (Cert. denied)

**PCR:** 12-02-93 PCR filed; Agreed disposition entered, resentenced by Special Judge James L. Clement on 04-08-96 to 210 years imprisonment.

- CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 210 YEARS IMPRISONMENT.

## **PROWELL, VINCENT JUAN # 80**

OFF DEATH ROW SINCE 01-11-01  
DOB: 03-04-1964 DOC#: 942131 Black Male



Vanderburgh County Circuit Court Judge Richard L. Young

**Trial Cause #:** 82CO1-9305-CF-00313

**Prosecutor:** Brett J. Niemeier, Jonathan J. Parkhurst

**Defense:** Dennis A. Vowels, Michael J. Danks

**Date of Murder:** May 27, 1993

**Victim(s):** Christopher Fillbright W / M / 22; Denise Powers W / F / 22 (neighbor and her friend)

**Method of Murder:** shooting with .38 handgun

**Summary:** Denise Powers was sitting in her car in the parking lot of Green River Manor Apartments in Evansville, waiting for her friend, Chris Fillbright. As Fillbright reached for the passenger door handle, Prowell approached him from behind and shot him in the head without any words or provocation. Prowell then shot twice more through the passenger window, striking Powers in the face and back. Both Powers and Fillbright died. Prowell fled, running over the body of Fillbright as he went. He was later arrested in Benton County, and the murder weapon and ammunition was recovered from his car. He later gave a statement admitting his involvement in the shootings, stating that he felt "threatened" by Fillbright, a Gulf War veteran, who looked at him with a "military look" in his eye earlier.

**Trial:** Information/PC for Murder filed (05-28-95); Amended Information for DP filed (07-07-93); Guilty Plea (01-18-94); Court Sentencing (05-05-94).

**Conviction:** Pled guilty to Murder (2 counts) without Plea Agreement

**Sentencing:** May 5, 1994 (Death Sentence)

**Aggravating Circumstances:** b (8) 2 murders

**Mitigating Circumstances:** no significant history of prior criminal conduct  
grew up in dysfunctional family  
may have been physically and emotionally abused  
extreme mental or emotional distress  
paranoid personality disorder

Guilty Plea

**Direct Appeal:** Powell v. State, 687 N.E.2d 563 (Ind. November 4, 1997) (82S00-9407-DP-666)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Dickson Opinion; Shepard, Selby, Boehm concur; Sullivan dissents against DP.  
For Defendant: Dennis A. Vowels, Michael C. Keating, Evansville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Powell v. Indiana, 119 S.Ct. 104 (1998) (Cert. denied)

**PCR:** PCR Petition filed 10-13-98. Amended PCR filed 02-12-99.

State's Answer to PCR Petition filed 01-13-99, 02-24-99

PCR Hearing 04-19-99, 04-20-99, 04-21-99.

Vanderburgh County Circuit Court Judge Carl A. Heldt

For Defendant: Steven H. Schutte, Laura K. Volk, Barbara Blackman, Deputy Public Defenders (Carpenter)

For State: Thomas D. Perkins, Gregory Ullrich, Deputy Attorneys General (Freeman-Wilson)

07-07-99 PCR Petition denied.

Prowell v. State, 741 N.E.2d 704 (Ind. January 11, 2001) (82S00-9803-PD-138)  
(Appeal of denial of PCR by Vanderburgh County Circuit Court Judge Carl A. Heldt)  
Conviction Reversed 5-0 DP Vacated 5-0  
Boehm Opinion; Shepard, Sullivan, Dickson, Rucker concur.  
(Ineffective assistance of counsel by failure to investigate/ develop expert testimony to support mental illness as defense/plea/mitigator, and knowing violation of caseload restrictions by trial attorney Vowels)  
For Defendant: Barbara S. Blackman, Laura L. Volk, Steven H. Schutte, Deputy Public Defenders  
For State: Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)

**On Remand:** State withdraws request for death sentence.

On February 27, 2002 Prowell entered a Guilty But Mentally Ill plea to two counts of Murder pursuant to a Plea Agreement calling for a sentence of up to 100 years imprisonment. On March 19, 2002 Vanderburgh County Circuit Court Judge Carl A. Heldt sentenced Prowell to consecutive terms of 50 years on each of two Murder counts, for a total of 100 years imprisonment.

Prowell v. State, 787 N.E.2d 997 (Ind. App. May 9, 2003) (82A04-0204-CR-160)  
(Direct appeal of 100 year sentence - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 100 YEARS IMPRISONMENT.

## PRUITT, TOMMY RAY # 100

OFF DEATH ROW SINCE 05-05-16  
DOB: 03-04-62 DOC#: 881037 White Male

Dearborn County Circuit Court  
Venued from Morgan County  
Judge James D. Humphrey



**Trial Cause #:** 15C01-0101-CF-54

**Prosecutor:** Steven P. Sonnega, Terry E. Iacoli

**Defense:** William Vanderpol, Jr., Douglas A. Garner

**Date of Murder:** June 14, 2001



**Victim(s):** Daniel Starnes W / M / 46 (Morgan County Warrant Officer and Reserve - No relationship to Pruitt.

**Method of Murder:** shooting with .45 handgun

**Summary:** Having information that Pruitt had been involved in a burglary a few days earlier in Bloomington and may have stolen guns in the vehicle, Morgan County Deputy Dan Starnes pulled Pruitt over on a rural county road. Pruitt had a scanner in his car, and it is believed that he overheard Deputy Starnes say that he was going to search the vehicle. Pruitt then got out and pulled a .45 caliber handgun. A gun battle ensued, with Deputy Starnes suffering five gunshot wounds to his chest and abdomen. He died from these injuries almost a month later on July 10, 2001. Pruitt was shot seven times, but recovered. Pruitt also shot at the 19 year old son of Deputy Starnes, Ryan, who was in the vehicle as part of a summer internship program.

Pruitt had prior felony convictions of Robbery (C Felony) in 1981, and Forgery (C Felony) in 1988, which served as a basis for the Habitual Offender adjudication.

**Trial:** Amended Information for DP filed (08-27-01); Amended Information filed (07-10-01, 08-16-01); Venued to Dearborn County (09-04-01); Hearing on Mental Retardation (08-12-03, 08-15-03); Voir Dire (10-06-03, 10-07-03, 10-08-03, 10-09-03, 10-10-03); Jury Trial (10-13-03, 10-14-03, 10-15-03, 10-16-03, 10-17-03, 10-21-03); Verdict (10-21-03); DP Trial (10-22-03, 10-23-03, 10-30-03); Verdict (10-30-03); Court Sentencing (11-21-03).

**Conviction:** Murder, Attempted Murder (A Felony), Possession of Firearm by Serious Violent Felon (B Felony), Receiving Stolen Property (D Felony) (4 Counts), Resisting Law Enforcement (D Felony), Habitual Offender.

**Sentencing:** November 21, 2003 (Death Sentence, 50 years, 20 years, 3 years, 3 years, 3 years, 3 years, 3 years, 30 years, consecutive for a total of 115 years imprisonment)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** Mental Retardation, IQ of 60  
Mental Illness, Repeated head injuries  
Traumatic childhood  
Medical malpractice caused death of Deputy Starnes

**Direct Appeal:** Pruitt v. State, 834 N.E.2d 90 (Ind. September 13, 2005) (15S00-0109-DP-393)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Boehm Opinion; Shepard, Dickson, Sullivan concur; Rucker Dissents against DP.  
For Defendant: William Van Der Pol Jr., Martinsville, Teresa D. Harper, Bloomington  
For State: Andrew A. Kobe, Deputy Attorney General (S. Carter)  
Pruitt v. Indiana, 126 S.Ct. 2936 (2006) (Cert. denied)

**PCR:** Notice of Intent to File PCR filed 12-21-06.  
PCR Petition filed 07-07-06. Amended PCR filed 12-27-06, 02-16-07.  
State's Answer to PCR Petition filed 08-31-06.  
PCR Hearing 02-26-07, 02-27-07, 02-28-07, 03-01-07.  
Special Judge James D. Humphrey  
For Defendant: William Van Der Pol, Jr., Martinsville, and Douglas A. Garner, Lawrenceburg.  
For State: Stephen Creason, Deputy Attorney General (S. Carter)  
05-25-07 PCR Petition denied.

Pruitt v. State, 903 N.E.2d 899 (Ind. March 31, 2009) (15S00-0512-PD-617)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Sullivan Opinion; Shepard, Dickson, Boehm concur; Rucker Dissents against DP.  
For Defendant: Thomas C. Hinesley, Laura L. Volk, Deputy Public Defenders (Carpenter)  
For State: Stephen Creason, James B. Martin, Deputy Attorneys General (G. Zoeller)

Pruitt v. State, 907 N.E.2d 973 (Ind. June 16, 2009) (15S00-0512-PD-617) (On Rehearing)  
DP Affirmed 4-1.  
Per Curiam Opinion; Shepard, Dickson, Sullivan, Boehm concur; Rucker Dissents against DP.  
For Defendant: Thomas C. Hinesley, Laura L. Volk, Deputy Public Defenders (Carpenter)  
For State: Stephen Creason, James B. Martin, Deputy Attorneys General (Zoeller)

**Habeas:** 11-18-09 Petition for Writ of Habeas Corpus filed.  
Tom R. Pruitt v. Superintendent (3:09-cv-00380-RLM)  
U.S. District Court, Northern District of Indiana, Judge Robert L. Miller  
07-15-10 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-19-11 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.  
10-02-12 Habeas denied by Judge Robert L. Miller

For Defendant: Marie F. Donnelly, Chicago, IL, Laurence E. Komp, Manchester, MO  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Pruitt v. Wilson, 2012 U.S. Dist. LEXIS 142162 (N.D. Ind. October 2, 2012) (3:09cv380RLM)  
United States District Court for the Northern District of Indiana, South Bend Division  
Habeas Denied by Judge Robert L. Miller, Jr.

For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, Mo.  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Pruitt v. Wilson, 2013 U.S. Dist. LEXIS 45955 (N.D. Ind. March 27, 2013) (3:09cv380RLM)  
United States District Court for the Northern District of Indiana, South Bend Division  
Judge Robert L. Miller, Jr.

(Expanded Certificate of Appealability Granted)

For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, Mo.  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Hill)

Pruitt v. Neal, 788 F.3d 248 (7th Cir. June 2, 2015) (No. 13-1880)  
Appeal from the United States District Court for the Northern District of Indiana, South Bend  
(No. 3:09-cv-00380-RLM)

Conviction Affirmed 3-0 DP Reversed 3-0

Opinion by Tinder; Bauer, Williams concur.

(We conclude that Pruitt has established that he is intellectually disabled and categorically ineligible for the death penalty and that trial counsel were ineffective in their investigation and presentation of evidence that Pruitt suffered from schizophrenia. We therefore reverse the district court's judgment and remand for further proceedings not inconsistent with this opinion.)

For Defendant: Marie F. Donnelly, Evanston, IL; Laurence E. Komp, Manchester, Mo.  
For State: James B. Martin, Deputy Attorney General (Hill)

Neal v. Pruitt, 136 S. Ct. 1161 (Feb. 29, 2016) (Cert. denied)

**On Remand:** On May 5, 2016 Dearborn County Circuit Court Judge James D. Humphrey resentenced Pruitt to a term of 65 years imprisonment for the murder, to run consecutive to his 115 year sentence previously imposed for the other related offenses, for an aggregate term of 180 years imprisonment.

Pruitt v. State, 78 N.E.3d 14 (Ind. App May 16, 2017) (15A05-1606-CR-1235)

Direct Appeal of Resentencing following 7th Circuit reversal.

Sentence Affirmed 3-0. Opinion by Kirsch; Robb and Barnes concur.

For Defendant: Leanna Weissmann, Lawrenceburg, Indiana.

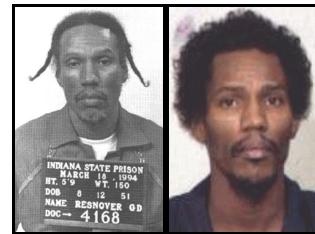
For State: James B. Martin, Deputy Attorney General (Hill)

Pruitt v. State, 2017 Ind. LEXIS 601 (Ind., Aug. 15, 2017) (Transfer denied)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 180 YEARS IMPRISONMENT.

## **RESNOVER, GREGORY # 9**

EXECUTED BY ELECTRIC CHAIR 12-08-94 12:13 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.



DOB: 08-12-1951 DOC#: 4168 Black Male

Marion County Superior Court Judge Jeffrey V. Boles  
(Originally venued to Hendricks County;  
by agreement, returned to Marion, with Hendricks Circuit Judge Jeffrey V. Boles presiding)

**Trial Cause #:** CR-80-442A

**Prosecutor:** J. Gregory Garrison / David E. Cook (Stephen Goldsmith)

**Defense:** Thomas E. Alsip

**Date of Murder:** December 11, 1980

**Victim(s):** Jack Ohrberg W / M / 44 (Indianapolis Police Officer - No relationship to Resnover)

**Method of Murder:** shooting with AR-15 rifle

**Summary:** On December 11, 1980 at 5:30 a.m., Indianapolis Police Sergeant Jack Ohrberg and other officers went to 3544 North Oxford in Indianapolis attempting to serve papers on persons believed to be at that location. Ohrberg banged on the door several times and identified himself as a police officer. Two other officers on the front porch were in uniform. After the next door neighbor told officers that there was noise from inside the apartment, Ohrberg crouched and pounded with his shoulder on the door, which began to open. Officers saw furniture blocking the door, and saw 2 or 3 muzzle flashes from two different locations inside. Ohrberg was shot and collapsed on the porch. Officers took cover and saw a man come out onto the porch, point a rifle, and fire at least 2 additional shots into Ohrberg. Officers took cover and returned fire. Shots continued to come from inside the house. After a few minutes, Gregory Resnover came out, threw down an AR-15 rifle and surrendered. Earl Resnover followed, laying down an AR-15 and a pistol. Ohrberg's business card was found in Earl's wallet. Two women then came out, leaving wounded Smith inside. An AR-15 which was recovered next to Smith was found to be the murder weapon. An arsenal of weapons and ammunition was recovered inside the apartment.

Tommie Smith, Gregory Resnover, and Earl Resnover were also convicted of the 1980 murder and robbery of Brink's guard William Sieg in Marion County, and were sentenced to consecutive terms of 60 years and 20 years imprisonment on 10-22-81. (See Smith v. State, 474 N.E.2d 973 (1985) (CR80-473A))

**Trial:** Information/PC for Murder and Death Penalty Filed (12-11-80); Death Sentence Request Filed (12-11-80); Jury Trial (06-23-81, 06-24-81, 06-25-81, 06-26-81, 06-29-81); Verdict (06-29-81); DP Trial (06-30-81); DP Verdict (06-30-81); Court Sentencing (07-23-81).

**Victim Webpage:** <http://www.odmp.org/officer/10144-detective-sergeant-jack-r-ohrberg>

**Conviction:** Murder, Conspiracy to Commit Murder (Class A Felony)

**Sentencing:** July 23, 1981 (Death Sentence, 50 years imprisonment)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

Joint Trial with Tommie J. Smith, who also received a Death Sentence and was executed on 07-18-96.

**Direct Appeal:** Resnover v. State, 460 N.E.2d 922 (Ind. March 19, 1984) (182-S-21)

Conviction Affirmed 5-0 DP Affirmed 5-0

Pivarnik Opinion; Givan, Hunter, Debruler, Prentice concur.

For Defendant: Dawn D. Duffy, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Resnover v. Indiana, 105 S.Ct. 231 (1984) (Cert. denied)

**PCR:** Resnover v. State, 507 N.E.2d 1382 (Ind. 1987) (1285-S-515)

(Appeal of PCR denial by Special Judge John Tranberg)

Affirmed 5-0; Givan Opinion; Shepard, Debruler, Pivarnik, Dickson concur.

For Defendant: Paul Levy, Deputy Public Defender (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Resnover v. Indiana, 108 S.Ct. 762 (1988) (Cert. denied)

Resnover v. State, 547 N.E.2d 814 (Ind. 1989) (49S00-8904-CR-261)

(Appeal of 2nd PCR denial by Special Judge Mary Lee Comer)

Affirmed 4-1; Pivarnik Opinion; Shepard, Givan, Dickson concur; Debruler dissents.

For Defendant: Brent L. Westerfeld, Kevin P. McGoff, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Resnover v. Indiana, 111 S.Ct. 216 (1990) (Cert. denied)

**Habeas:** Resnover v. Pearson, 754 F.Supp. 1374 (N.D.Ind. 1991) (S88-128)

(Habeas Writ denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

For Defendant: Charles A. Asher, South Bend

For State: David A. Arthur, Deputy Attorney General (Pearson)

Resnover v. Pearson, 965 F.2d 1453 (7th Cir. 1992) (91-1367)

Affirmed 3-0; Circuit Judge William J. Bauer, Richard A. Posner, Joel M. Flaum.

For Defendant: Charles A. Asher, South Bend, Kevin P. McGoff, Indianapolis

For State: David A. Arthur, Deputy Attorney General (Pearson)

Resnover v. Pearson, 9 F.3d 113 (1993) (Petition for Judgment Relief denied)

Resnover v. Carter, 113 S.Ct. 2935 (1993) (Cert. denied)

Resnover v. Carter, 114 S.Ct. 16 (1993) (Reh. denied)

Resnover v. Carter, 114 S.Ct. 2769 (1994) (Cert. denied)

Resnover v. Carter, 115 S.Ct. 29 (1994) (Reh. denied)

Resnover v. Indiana, 115 S.Ct. 658 (1994) (Application for stay denied)

RESNOVER WAS EXECUTED BY ELECTRIC CHAIR ON 12-08-94 AT 12:13 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 73RD CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 3RD SINCE THE DEATH PENALTY WAS REINSTATED IN 1977. RESNOVER WAS THE FIRST CONVICTED MURDERER TO BE EXECUTED AGAINST THEIR WILL IN INDIANA IN OVER 30 YEARS AND THE LAST TO BE EXECUTED BY ELECTRIC CHAIR.

## RITCHIE, BENJAMIN DONNIE # 98

ON DEATH ROW SINCE 10-15-02  
DOB: 05-30-80 DOC#: 967072 White Male

Marion County Superior Court Judge Patricia J. Gifford



Trial Cause #: 49G04-0010-CF-172900

Prosecutor: Scott C. Newman, Joel D. Hand

Defense: Kevin M. McShane, John F. Crawford, Jr.

Date of Murder: September 29, 2000

Victim(s): William Toney W / M / 32

(Beech Grove Police Officer - No relationship to Ritchie)



Method of Murder: Shooting with .9 mm handgun

Last Name RITCHIE First Name BENJAMIN

**Summary:** While on routine patrol, Beech Grove police officer Matthew Hickey noticed a white van matching the description of a van stolen earlier in the evening. Officer Hickey followed the white van, which accelerated at a high rate of speed. Officer Hickey gave chase and was joined by Officer William Toney and Sergeant Robert Mercuri, each driving separate marked police cars. The vehicular chase ended when the driver, Benjamin Ritchie, wrecked the van, then fled on foot. The passenger, Michael Greer fell from the van and also ran. Officer Hickey chased Greer on foot and caught up to him a short distance away. Officer Toney chased Ritchie on foot through several yards and into the backyard of 717 Fletcher Avenue, where he was shot five times with a .9 mm Glock handgun. One of the four bullets Ritchie fired missed Officer Toney's bulletproof vest by an inch, cut through an artery, punctured his lung and lodged itself in his vertebrae. Ritchie ditched a wig and the handgun in shrubbery nearby and eventually made his way to the home of a friend, where he was arrested the next morning. While in jail, Ritchie was interviewed by four local television reporters. During all four interviews, Ritchie both claimed to be very sorry for what he had done and for the death of Officer Toney, but that he had not fired the fatal shot. Rather, Ritchie claimed that he dropped his weapon and that he heard it go off as he ran away.

At sentencing, the victim's wife was reading her victim impact statement when Ritchie repeatedly interrupted her, laughed, and called her a "bitch" when she declared him a coward. The victim statement was given in the presence of Ritchie after sentencing in accordance with a new statute which was enacted in 2002 despite warnings that such outbursts would become commonplace from defendants with nothing to lose after being sentenced to death.

**Trial:** Information/PC for Murder filed (10-04-00); Gag Order entered (10-10-00); Amended Information for DP filed (11-01-00); Guilty Plea to Poss Firearm (07-31-02); Voir Dire (07-31-02, 08-01-02, 08-02-02, 08-05-02); Jury Trial (08-05-02, 08-06-02, 08-07-02, 08-08-02, 08-09-02, 08-10-02); Verdict (08-10-02); DP Trial (08-12-02, 08-13-02, 08-14-02); Verdict (08-14-02); Court Sentencing (10-15-02).

**Conviction:** Murder, Possession of a Firearm by a Serious Violent Felon, Auto Theft, Resisting Law Enforcement, Resisting Law Enforcement.

**Sentencing:** October 15, 2002 (Death Sentence, 20 years, 3 years, 3 years, 1 year - all concurrent)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer  
b (9) On probation or parole

**Mitigating Circumstances:** Defendant's youthful age  
Unstable family  
Diagnosis of Cognitive Disorder N.O.S. (Not Otherwise Specified)

Low I.Q.  
Abused, head injuries as a child  
Mother abused drugs and alcohol during pregnancy  
True natural father unknown  
Meager economic status

**Direct Appeal:** Ritchie v. State, 809 N.E.2d 258 (Ind. May 25, 2004) (49S00-0011-DP-638)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, and Rucker concur.  
(Rucker concurs and dissents noting that he would require aggravators to outweigh mitigators "beyond a reasonable doubt," but that here Ritchie did not object and there is no showing of fundamental error.)  
For Defendant: Mark Small, Kevin McShane, Marion County Public Defender  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Ritchie v. Indiana, 126 S.Ct. 42 (2005) (Cert. denied)

**PCR:** 09-20-04 Notice of Intent to File PCR  
04-26-05 PCR Petition filed; Amended 09-09-05.  
06-02-05 Answer filed; Amended 10-05-05.  
PCR Hearing 11-29-05, 11-30-05, 12-01-05, 12-02-05.  
For Defendant: Brent L. Westerfield, Joseph M. Cleary, Deputy Public Defender (Carpenter)  
For State: Stephen R. Creason, James B. Martin,, Deputy Attorneys General (S. Carter)  
Andrew A. Kobe, Joel D. Hand, Special Deputy Attorneys General (S. Carter)  
01-27-06 Marion Superior Court Judge Patricia J. Gifford denied postconviction relief on all conviction and sentencing issues, except one count of misdemeanor Resisting Law Enforcement.

Ritchie v. State, 875 N.E.2d 706 (Ind. November 8, 2007) (49S00-0409-PD-420)  
Appeal of PCR denial by Marion Superior Court Judge Patricia Gifford.  
Affirmed 5-0; Opinion by Rucker. Shepard, Dickson, Sullivan, Boehm concur.  
Joseph Cleary, Brent Westerfeld, Indianapolis, IN, Attorneys for Appellant.  
Stephen R. Creason, Deputy Attorney General (Scarter)

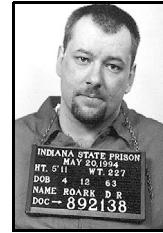
**Habeas:** 04-18-08 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
04-21-08 Order entered granting Stay of Execution for 90 days.  
Benjamin Ritchie v. Mark Levenhagen, Superintendent (1:08-CV-00503-RLY-MJD)  
U.S. District Court, Southern District of Indiana  
Judge Richard L. Young, Referred to Magistrate .  
For Defendant: Brent Westerfield, Joseph M. Cleary, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
07-21-08 Petition for Writ of Habeas Corpus filed.  
11-05-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-19-10 Authorization for payment of Attorney fees to Joseph McCleary \$14,530.00.  
01-19-10 Authorization for payment of Attorney fees to Brent Westerfeld \$24,303.00.  
06-16-10 Reassignment to Magistrate Tim A. Baker.  
12-17-10 Reassignment to Magistrate Judge Mark J. Dinsmore.  
05/23/14 Entry Denying Petition for Writ of Habeas Corpus by Judge Richard L. Young.  
03/30/15 Order denying Motion to Alter or Amend Judgment.  
12/22/15 Order denying Petitioner's Motion for Certificate of Appealability.

United States Court of Appeals for the Seventh Circuit (No. 15-1925)  
On appeal from U.S. District Court, Southern District of Indiana (1:08-CV-00503-RLY-MJD)  
February 24, 2016 - "We find no substantial showing of the denial of a constitutional right.  
Accordingly, the request for a certificate of appealability is DENIED."  
Richard A. Posner, Circuit Judge, Michael S. Kanne, Circuit Judge, Diane S. Sykes, Circuit Judge.  
Ritchie v. Neal, 137 S. Ct. 1580 (2017) (Cert. denied)

AWAITING EXECUTION.

## **ROARK, DENNIS RAY # 63 & # 76**

OFF DEATH ROW SINCE 12-19-94  
DOB: 04-12-1963 DOC#: 892138 White Male



Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45GO4-8902-CF-00017

**Prosecutor:** John J. Burke

**Defense:** I. Alexander Woloshansky

**Date of Murder:** February 3, 1989

**Method of Murder:** stabbing with knife (all); smoke inhalation (Dennis); burns (Elizabeth)

**Victim(s):** Mary Waggoner W / F / 19 (live-in girlfriend); Dennis Waggoner W / M / 20 months, Elizabeth Waggoner W / F / 4 months (children of Mary Waggoner and Roark), Betty Waggoner W / F / 61 (mother of Mary Waggoner)

**Summary:** Roark lived with his girlfriend, Mary Waggoner, at the home of her mother, Betty Waggoner, along with their two children aged 20 months (Elizabeth) and 4 months (Dennis). Roark returned to the home after a night of heavy drinking at 5:00 a.m. and was scolded by Betty Waggoner. Roark told Mary that he would rather leave the home than be yelled at by her mother. Betty decided to leave with him and take the kids. Betty grabbed the 20 month old son and told them she would kill herself if they left. She then lunged at Roark with a knife. Roark wrestled the knife away from her, then proceeded to stab Betty, Mary, and the two children multiple times, then fled. The house was later set on fire. (insanity defense)

**Trial:** PC Affidavit filed (02-03-89); Information/PC for Murder and DP filed (02-07-89); Gag Order entered (02-09-89); Voir Dire (09-25-89, 09-26-89); Jury Trial (09-26-89, 09-27-89, 09-28-89); Verdict (09-28-89); DP Trial (09-29-89) Verdict (09-29-89); Court Sentencing (10-17-89); Voir Dire on Remand (08-17-92); Jury Trial (08-18-92, 08-19-92, 08-20-92, 08-21-92); Verdict (08-21-92); DP Trial (08-21-92); Verdict (08-21-92); Court Sentencing (10-29-92).

**Conviction:** Murder (3 counts), Voluntary Manslaughter (Betty)

**Sentencing:** October 17, 1989 (Death Sentence)

**Aggravating Circumstances:** b (8) 4 murders  
b (12) 2 victims less than 12 years of age

**Mitigating Circumstances:** no prior criminal record  
drug and alcohol abuse, alcoholism  
extreme mental and emotional disturbance  
father was alcoholic who abused his mother  
model prisoner for 3 1/2 years awaiting trial  
murder weapon was introduced by victim

**Direct Appeal:** Roark v. State, 573 N.E.2d 881 (Ind. June 21, 1991) (45S00-9004-CR-260)  
Conviction Reversed 5-0 DP Vacated 5-0  
(Should have instructed on voluntary manslaughter)  
Shepard Opinion: Debruler, Givan, Dickson, Krahulik concur.  
For Defendant: Albert Marshall, Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** Voir Dire (08-17-92); Jury Trial (08-18-92, 08-19-92, 08-20-92, 08-21-92); Verdict (08-21-92), DP Trial (08-21-92); Verdict (08-21-92); Court DP Sentencing (10-29-92).

08-21-92 Roark was found guilty of Murder (3 counts) and Voluntary Manslaughter (Betty), and recommended against the death penalty.

10-29-92 Lake County Superior Court Judge James L. Clement sentences Roark to 50 years imprisonment for Voluntary Manslaughter (A Felony), and to death for Murder (3 counts).

Lake County Superior Court Judge James L. Clement

For Defendant: Kevin Relphorde, Noah L. Holcomb, Jr.

For State: John J. Burke

Judge Overrides Jury Recommendation against Death Sentence

**Direct Appeal:** Roark v. State, 644 N.E.2d 565 (Ind. December 19, 1994) (45S00-9302-DP-234)

Conviction Affirmed 5-0 DP Vacated 3-2

Sullivan Opinion; Debruler, Dickson concur; Shepard, Givan dissent.

(Judge findings overriding jury recommendation fails to meet Martinez test, due to "impressive" testimony of defense psychologist regarding defendant's IQ of 72 and poor impulse control;  $50+50+50+50 = 200$  year term of imprisonment imposed by Indiana Supreme Court)

For Defendant: Marce Gonzalez, Jr., Merrillville

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 200 YEARS IMPRISONMENT.

## ROCHE, CHARLES EDWARD, JR. # 66

OFF DEATH ROW SINCE SUICIDE 02-06-01  
DOB: 08-20-1963 DOC#: 902303 White Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45G04-9005-CF-00095

**Prosecutor:** Joseph L. Curosh, Jr.

**Defense:** Noah L. Holcomb, Jr.

**Date of Murder:** May 10, 1990

**Victim(s):** Ernest Graves W / M / 25; Daniel Brown W / M / 22  
(Acquaintances of Roche)



**Method of Murder:** shooting with .38 Derringer and .22 rifle

**Summary:** Edward Nicksich suspected Ernest Graves of stealing \$120 worth of food stamps from his girlfriend. He and Roche, Jr. arranged a phoney drug deal and lured Ernest Graves and his friend Daniel Brown to the basement of Roche, Jr.'s home. Roche, Jr. came upstairs and remarked to his girlfriend that there were two men downstairs that he was going to shoot because they owed someone \$120. He retrieved a .38 derringer and a .22 rifle and went back downstairs. Nine bullets were later recovered from the victim's bodies. Four of the bullets were found to have come from the derringer owned by Roche, Jr. This meant that he had to reload at least three times. After the shots, Roche, Jr., Roche, Sr., and Nicksich came upstairs and they shared a bag of cocaine taken from the victims. They used the car of Roche's girlfriend to remove and dispose of the bodies. Roche and Nicksich admitted to friends that each had shot one of the victims. Roche testified at trial that he shot both men while acting in self-defense.

**Trial:** Information/PC for Murder filed (05-16-90); Amended Information for DP filed (07-26-90); Voir Dire (10-29-90); Jury Trial (10-30-90, 10-31-90, 11-01-90, 11-02-90, 11-05-90, 11-06-90, 11-07-90); Deliberations 3 hours, 35 minutes; Verdict (11-07-90); DP Trial (11-08-90, 11-09-90) Deliberations 7 hours, 40 minutes; Verdict (11-09-90); Court Sentencing (11-30-90).

**Conviction:** Murder, Murder, Felony-Murder, Felony-Murder, Robbery.

Roche was tried jointly with John Nicksich. The jury returned a verdict against a Death Sentence for Nicksich, who was sentenced to two consecutive 40 year terms of imprisonment. The jury was hung on a Death Sentence for Roche. John Roche, Sr. was tried separately, convicted of Murder and sentenced to two consecutive 40 year terms of imprisonment.

**Sentencing:** November 30, 1990 Death Sentence (Roche)  
40 years, 40 years consecutive (Nicksich)

Hung Jury on Death Sentence

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no significant prior criminal record  
hung jury in death phase  
traumatic childhood  
psychiatric treatment during puberty  
drug and alcohol addiction  
accomplice was catalyst

**Direct Appeal:** Roche v. State, 596 N.E.2d 896 (Ind. July 20, 1992) (45S00-9012-DP-812)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Givan Opinion: Shepard, Dickson, Debruler, Krahulik concur.  
For Defendant: Charles E. Stewart, Jr., Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** Notice of Intent to File PCR Petition filed 05-21-93  
10-21-93 PCR filed; PCR denied 02-28-96.  
Roche v. State, 690 N.E.2d 1115 (Ind. December 30, 1997) (45S00-9305-PD-588)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Affirmed 5-0; Sullivan Opinion: Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Kenneth L. Bird, Marie F. Donnelly, John S. Sommer, Deputy Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

12-23-96 Pro Se Motion to Waive all appeals  
01-28-97 Competency Hearing held in PCR Court; Roche found competent to waive appeals.

**Habeas:** 07-07-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Josephine Brinkman-Roche, as Next Friend and Charles E. Roche Jr. v.  
Ron Anderson, Superintendent (3:98-CV-347-AS)  
Judge Allen Sharp  
For Defendant: Alan M. Freedman, Evanston, IL, Marie F. Donnelly, Charlottesville, VA  
For State: Geoffrey Slaughter, Deputy Attorney General (S. Carter)  
07-11-98 Evidentiary Hearing Held  
07-14-98 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
04-28-00 Amended Petition for Writ of Habeas Corpus filed.  
09-05-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
10-24-00 Death Penalty Oral Argument  
02-06-01 Writ of Habeas Corpus conditionally granted.

Roche v. Anderson, 132 F.Supp.2d 688 (N.D. Ind. Feb. 6, 2001) (3:98-CV-347-AS)  
(Order of United States District Court, Northern District of Indiana, Judge Allen Sharp, granting Petition for Writ of Habeas Corpus conditioned upon resentencing to Life Without Parole - Ineffective assistance of counsel for failure to object to shackling of defendant during trial)

Roche v. Davis, 291 F.3d 473 (7th Cir. May 28, 2002) (01-1664, 01-1665)  
(Cross appeals of granting of Habeas Writ as to death sentence, not as to conviction)  
Affirmed 3-0, except that case remanded for new sentencing hearing since Life Imprisonment Without Parole was not an option at original sentencing.  
Opinion by Judge Michael S. Kanne, Judge John L. Coffey and Judge Ilana Diamond Rovner.  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Chicago, IL  
Marie F. Donnelly, Virginia Capital Representation Resource Center  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Davis v. Roche, 123 S.Ct. 649 (December 2, 2002) (Motion to Allow Belated Writ denied)

**§ 1983:** Roche v. Adkins, 998 F.2d 1016 (7th Cir. May 14, 1993) (Unpublished)  
(Civil rights action against warden for requiring Roche to drink from only wax coated dixie cups. Dismissed - "The fact that he was required to drink beverages from a wax covered Dixie cup simply does not implicate the constitution.")

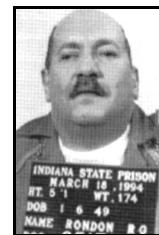
Roche v. State, 699 N.E.2d 752 (Ind. September 22, 1998)  
(Direct appeal of 45 year sentence for Attempted Murder of prison guard in LaPorte County, after Roche and 3 others attempted escape in 1994; REVERSED due to admission of prior bad acts as prisoner. On 06-18-99 Roche was convicted of Attempted Aggravated Battery and sentenced to 15 years imprisonment.)

- ▶ WHILE AWAITING RETRIAL, ROCHE COMMITTED SUICIDE (AT 42 YEARS OLD) BY HANGING AT INDIANA STATE PRISON, MICHIGAN CITY, INDIANA ON JANUARY 10, 2006 12:44 AM.

## RONDON, REYNALDO GORIA # 35

OFF DEATH ROW SINCE 05-25-99  
DOB: 01-06-1949 DOC#: 851769 Hispanic Male

Lake County Superior Court Judge James E. Letsinger



**Trial Cause #:** 45G02-8410-CR-00186

**Prosecutor:** John F. Crawford, Jr.

**Defense:** Eric O. Clark

**Date of Murder:** October 11, 1984

**Victim(s):** Francisco Alarcon H / M / 82 (Acquaintance of Rondon)

**Method of Murder:** stabbing with a knife 15 times

**Summary:** The body of 82 year old Francisco Alarcon was found in the bathroom of his home, stabbed 15 times. A trail of blood was noted from the living room to the bathroom. The evidence showed that Everette Amiotte drove Martinez Chavez and Reynaldo Rondon to a place near Alarcon's home on the night of the murder. As Amiotte stayed in the car, Martinez Chavez and Rondon walked around the corner and returned 20 minutes later. Both men were overheard earlier planning to rob Alarcon, and if caught, would kill him. Rondon was identified as driving Alarcon's stolen car on the night of the murder. The next day, Rondon gave his girlfriend 2 knives and told her to hide them. A search of Rondon's residence recovered blood-stained money and dog tags of Alarcon.

**Trial:** Information/PC for Murder (10-17-84); Amended Information for DP filed (10-19-84); Amiotte Guilty Plea (04-02-85); Amiotte Sentencing (05-21-85); Voir Dire (04-15-85); Jury Trial (04-16-85, 04-17-85, 04-18-85, 04-19-85); Verdict (04-18-85); DP Trial (04-20-85); Verdict (04-20-85); Court Sentencing (05-10-85).

**Conviction:** Murder, Felony-Murder

**Sentencing:** May 10, 1985 Death Sentence (Rondon); Death Sentence (Martinez)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

Joint Trial with Eladio Martinez-Chavez. Jury recommended a death sentence for Rondon, but recommended against a death sentence for Martinez-Chavez. The Trial Court nevertheless sentenced both to death. The death sentence of Martinez-Chavez was vacated on appeal and he was resentenced to 60 years imprisonment on remand. Amiotte pled guilty before trial to Assisting a Criminal (C Felony) and was sentenced to 7 years imprisonment.

**Direct Appeal:** Rondon v. State, 534 N.E.2d 719 (Ind. March 1, 1989) (1085-S-427)

Conviction Affirmed 5-0 DP Affirmed 3-2

Givan Opinion; Shepard, Pivarnik concur; Debruler, Dickson dissent.

For Defendant: Terrance W. Richmond, Milan

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Rondon v. Indiana, 110 S.Ct. 418 (1989) (Cert. denied)

Rondon v. Indiana, 110 S.Ct. 765 (1990) (Reh. denied)

**PCR:** State ex rel. Rondon v. Lake Superior Court, 569 N.E.2d 635 (Ind. 1991)

(Mandamus action for change of judge on PCR)

PCR Petition filed 06-29-90. Amended PCR filed 09-27-94, 02-13-95.

State's Answer to PCR Petition filed 07-31-90.

PCR Hearing 01-23-95, 01-24-95, 01-25-95, 01-26-95, 01-27-95, 01-31-95, 02-02-95.

Special Judge Richard J. Conroy

For Defendant: Judith G. Menadue, James N. Thiros

For State: Kathleen Sullivan, Natalie Bokota

06-20-94 Motion for Partial Summary Judgment

04-01-95 PCR Petition denied

Rondon v. State, 711 N.E.2d 506 (Ind. May 25, 1999) (45S00-9403-PD-229)

(Appeal of PCR denial by Special Judge Richard J. Conroy)

Conviction Affirmed 5-0 DP Vacated 5-0

Selby Opinion; Shepard, Dickson, Sullivan, Boehm concur.

For Defendant: Judith C. Menadue, Elkhart, Thomas M. Carusillo, Indianapolis

Amicus Curiae: Richard A. Waples, Indiana Civil Liberties Union , Lawrence A. Vanore, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

**On Remand:** On August 2, 2000 the State withdrew its request for a death sentence and Rondon was sentenced to 55 years imprisonment for Murder pursuant to a Sentencing Agreement.

For Defendant: Thomas W. Vanes, Lemuel Stigler

For State: Susan L. Collins

- ▶ CURRENTLY SERVING 55 YEAR TERM OF IMPRISONMENT.

**ROUSTER, GREGORY ANTHONY # 50  
(Gamba Mateen Rastafari)**

OFF DEATH ROW SINCE 06-16-03  
DOB: 02-07-1968 DOC#: 872038 Black Male

Lake County Superior Court Judge James E. Letsinger



**Trial Cause #:** 2CR-133-886-531

**Prosecutor:** Thomas W. Vanes, Kathleen Burns

**Defense:** Robert L. Lewis, Noah L. Holcomb

**Date of Murder:** August 12, 1986

**Victim(s):** John Rease B / M / 74; Henrietta Rease B / F / 59 (Ex-Foster Parents of Rouster)

**Method of Murder:** shooting with .32 and .22 handgun

**Summary:** John and Henrietta Rease were elderly foster parents, regularly taking into their home children who were often incorrigible and unwanted. One such child was Gregory Rouster, who was placed in the Rease home by the Welfare Dept. in November 1985 and stayed through February 1986. The Rease's operated a small candy store out of the first floor of their home in Gary. On August 12, 1986 both were shot to death in their home. John Rease was shot once in the shoulder area with a .32 handgun. Henrietta Rease was shot once in the abdomen with the same .32 handgun and twice in the head at close range with a .22 handgun. Ammunition and casings were found on the floor. Numerous witnesses placed Rouster and his companion, Darnell Williams, going into the home with guns on the day of the murder. A foster child of the Rease's, 17 year old Derrick Bryant, testified that he was hiding in the house as Rouster and Williams entered, heard Rouster arguing with Henrietta over money they owed him, heard Henrietta say "Greg, why are you doing this?", then heard two more shots as he ran out the back door. Bryant also testified that he heard the voice of Rouster or Williams say, "it's your turn to kill them." Other witnesses testified that Rouster was outside when the last shots were fired. Rouster had bumped into his Welfare caseworker at the drugstore earlier the same day and asked if the Rease's received a clothing allowance for him while he was in foster care. When he was told that they had received \$5-6 per month, Rouster declared that they owed him money and he was going to get it. Williams was later found in possession of the same .30 caliber ammunition found at the scene, as well as cash and a wristwatch that Bryant identified as the watch he had given to Henrietta as a gift. Rouster was arrested wearing a shirt/vest with blood drops matching both victims. Accomplice Edwin Garland Taylor pled guilty to Robbery (C Felony) and testified for the prosecution.

**Trial:** Information/PC for Murder filed (08-14-86); Amended Information for DP filed (09-16-86); Voir Dire (02-09-87, 02-10-87); Jury Trial (02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-16-87); Verdict (02-17-87); DP Trial (02-17-87, 02-18-87); Deliberations (02-18-87, 02-19-87); Verdict (02-19-87); Court Sentencing (03-20-87).

**Conviction:** Felony-Murder (John Rease), Felony-Murder (Henrietta Rease).  
(Rouster was tried jointly with Darnell Williams, and Teresa Newsome (Rouster's girlfriend and Williams' sister). Newsome was found not guilty.)

**Sentencing:** March 20, 1987 Death Sentence (Rouster); Death Sentence (Williams)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** 18 years old at the time of the murder  
a ward of the State at birth  
no family support  
mildly mentally ill, emotionally disturbed  
speech defect and stuttered  
excessive drug and alcohol intake

Joint Trial and Direct Appeal with Darnell Williams

**Direct Appeal:** Rouster v. State, 600 N.E.2d 1342 (Ind. October 16, 1992) (45S00-8710-CR-914)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Scott L. King, Daniel L. Bella, Nathaniel Ruff, Crown Point Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 08-27-93. Amended PCR filed 04-28-95, 06-05-95.  
State's Answer to PCR Petition filed.  
PCR Hearing 06-12-95, 06-26-95, 06-27-95, 06-28-95, 06-29-95, 06-30-95.  
Special Judge Richard J. Conroy  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Kathleen Sullivan, Natalie Bokota  
02-28-96 PCR Petition denied.

Rouster v. State, 705 N.E.2d 999 (Ind. February 19, 1999) (45S00-9304-PD-408)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: James N. Thiros, Merrillville, Alan M. Freedman, Carol R. Heise, Chicago, IL  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Rouster v. State, 718 N.E.2d 737 (Ind. September 28, 1999)  
(Petition for Rehearing denied, execution date set for November 17, 1999)

Successive PCR Petition filed 02-20-03. Amended PCR filed 04-28-95, 06-05-95.  
State's Answer to PCR Petition filed.  
PCR Hearing 05-20-03, 05-21-03, 05-22-03.  
Special Judge T. Edward Page  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Rhonda Long-Sharp, Alan M. Freedman, Carol R. Heise, Chicago, IL  
06-16-03 PCR Petition granted on grounds that Rouster is mentally retarded.  
12-03-03 State's Appeal Dismissed.

**Habeas:** 10-21-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-04-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Gamba M. Rastafari a/k/a Gregory Rouster v. Ron Anderson, Superintendent (3:99-CV-608-AS)  
Judge Allen Sharp  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

06-09-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-08-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
08-11-00 Oral Arguments  
10-24-00 Writ of Habeas Corpus denied.  
11-29-00 Certificate of Appealability granted.

Rastafari v. Anderson, 117 F.Supp2d 788 (N.D. Ind. October 24, 2000) (3:99-CV-608-AS)  
(Order of United States District Court, Judge Allen Sharp, denying Habeas Writ)

Rastafari v. Anderson, 278 F.3d 673 (7th Cir. January 22, 2002) (00-4063)  
(Appeal of denial of Habeas Writ; Affirmed 3-0)

Opinion by Judge Michael S. Kanne, Judge Frank H. Easterbrook and Judge William J. Bauer.

For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL

For State: Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)

Rastafari v. Indiana, 123 S.Ct. 294 (October 7, 2002) (Cert. denied)

**On Remand:** 03-11-05 Rouser was resentenced by Lake County Superior Court Judge Clarence D. Murray to 60 years imprisonment.

- ▶ ROUSTER (AT 48 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON APRIL 21, 2016, AFTER SERVING ± 29 YEARS IN CUSTODY.

## SAYLOR, BENNY LEE # 79

OFF DEATH ROW SINCE 05-21-04  
DOB: 11-14-1967 DOC#: 894793 White Male



Madison County Superior Court Judge Thomas Newman, Jr.

**Trial Cause #:** 48D03-9206-CF-185

**Prosecutor:** William F. Lawler, Jr.

**Defense:** Jeffrey A. Lockwood, Mitchell P. Chabraja

**Date of Murder:** June 18, 1992

**Victim(s):** Judy VanDuyn W / F / 41 (No relationship to Saylor)

**Method of Murder:** stabbing with knife 45 times

**Summary:** On an evening of a severe rainstorm, Judy VanDuyn went to the laundromat at 8th Street in Anderson. While taking clothes to her car, she was confronted by Saylor. Saylor forced her into her van at knifepoint, directing her to drive to a remote area of the county. A few hours later, a farmer went outside to check his livestock after the storm had subsided, and came upon a van which was parked in a muddy field. He approached the van and saw a female driving, and a man in the passenger seat. He later identified this man in a lineup as Saylor. He asked if they needed help and both said no. After checking his grounds, the farmer returned to the van. He could not see inside, and assumed that the couple had been "parking" and had abandoned the van when it was stuck in the mud. He returned inside his home. A neighbor would later come across the van, thinking there had been an accident. Upon looking inside, he discovered the body of Judy VanDuyn, cut or stabbed approximately 45 times in the chest and abdomen. Footprints inside the van, and away from the van in the muddy field, were discovered with a "Jordache" imprint. The husband of Judy VanDuyn went looking for his wife, and at the laundromat, he made note of an automobile parked nearby and wrote down the make and license number. This car was later found to be registered to Saylor. When questioned, Saylor was found to have scratches over his body and dried blood on his head. A search warrant recovered a pair of soaking wet Jordache tennis shoes from his home. At trial, a fellow inmate at the jail testified that Saylor had admitted the murder. Saylor had been released from IDOC in 1991 on Probation for 4 years following his 1989 conviction for Burglary in Madison County. A Petition to Revoke was pending.

**Trial:** Information filed/PC Hearing for Murder and DP (06-23-92); Voir Dire (01-05-93, 01-06-93, 01-07-93); Jury Trial (01-10-93, 01-11-93, 01-12-93, 01-13-93, 01-14-93, 01-17-93, 01-18-93); Verdict (01-18-93); DP Trial (01-19-93, 01-20-93, 01-21-93); Verdict (01-21-93); Court Sentencing (02-17-93, 02-23-93).

**Conviction:** Murder, Felony-Murder, Robbery (B Felony), Confinement (B Felony)

**Sentencing:** February 17, 1994 (Death Sentence)  
February 23, 1994 (20 years for Robbery and 20 years for Confinement, consecutive)

**Aggravating Circumstances:** b (1) Robbery; b (9) On Probation

**Mitigating Circumstances:** functioned well in correctional system  
he was a good employee  
non-nurturing background and upbringing  
worked to add veteran's name to memorial  
intoxication at the time of the murder

Judge Overrides Jury Recommendation Against Death Sentence.

**Direct Appeal:** Saylor v. State, 686 N.E.2d 80 (Ind. September 19, 1997) (48S00-9301-DP-6)  
Conviction Affirmed 5-0      DP Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Jeffrey A. Lockwood, Mitchell P. Chabraja, Anderson  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Saylor v. Indiana, 119 S.Ct. 847 (1998) (Cert. denied)

**PCR:** 01-02-98 Notice of Intent to File PCR Petition.  
07-01-98 PCR Petition filed.  
State's Answer to PCR Petition filed 08-05-98  
PCR Hearing 04-12-99, -04-13-99, 04-14-99, 04-15-99, 04-16-99.  
Special Judge Fredrick Spencer  
For Defendant: Thomas C. Hinesley, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)  
06-18-99 PCR Petition denied.

Saylor v. State, 765 N.E.2d 535 (Ind. March 20, 2002) (48S00-9712-PD-647)  
(Appeal of PCR denial by Special Judge Fredrick Spencer)  
Conviction Affirmed 5-0      DP Affirmed 4-1  
Rucker Opinion; Shepard, Dickson, Boehm concur.  
Sullivan dissents as to death sentence based upon Apprendi.  
For Defendant: Thomas C. Hinesley, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

Saylor v. State, 808 N.E.2d 646 (Ind. May 21, 2004) (48S00-9712-PD-647) (On Rehearing)  
Judgment denying PCR reversed 4-1.  
Opinion by Boehm; Dickson, Sullivan, Rucker concur; Shepard Dissents.  
(Judge override of jury recommendation against DP. 2002 amendments to IC 35-50-2-9 require Judge to sentence in accordance with jury verdict. It is "inappropriate" for Saylor to be executed today.)  
Remanded with instructions to impose sentence of 60 years for Murder, 20 years for Robbery (B Felony), and 20 years for Confinement (B Felony), consecutive, for a total sentence of 100 years.  
For Defendant: Thomas C. Hinesley, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Stephen R. Creason, Deputy Attorneys General (Freeman-Wilson)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 100 YEARS IMPRISONMENT.

## SCHIRO, THOMAS NICHOLAS # 12

OFF DEATH ROW SINCE 08-07-96  
DOB: 12-22-1960 DOC#: 13147 White Male

Brown County Circuit Court Judge Samuel R. Rosen  
Venued from Vanderburgh County



**Trial Cause #:** 81-CR-243 (Brown County)

**Prosecutor:** Jerry A. Atkinson

**Defense:** Michael C. Keating

**Date of Murder:** February 5, 1981

**Victim(s):** Laura Luebbehusen W / F / 28 (Schiro worked in neighborhood)

**Method of Murder:** manual strangulation

**Summary:** Schiro was an inmate at a halfway house in Evansville for those about to be released from prison. Schiro was serving a 3 year suspended sentence for Robbery (C Felony). Schiro went to the home of Laura Luebbehausen and gained entrance on the pretext that he had car trouble and needed to use the telephone. Once inside Schiro used the bathroom with permission, exposed himself, and assured her that she need not fear because he was "gay." During the conversation, Luebbehausen revealed that she had been sexually abused as a child and was a lesbian. Over the next few hours, Luebbehausen would be raped repeatedly. Schiro then took her to get more liquor and upon return raped her a third time, then passed out. When Schiro awoke, he found Luebbehausen headed out the door. He dragged her to the bedroom. When he thought she was asleep, he beat her with a vodka bottle, then an iron, then strangled her to death. He then dragged her body into another room, sexually assaulted the corpse, straightened up the house, and left. Her car was found abandoned near the Halfway House two days later. Schiro received the assistance of Halfway House employees in falsifying documents showing his whereabouts, but later confessed to a counselor, and to his girlfriend. An insanity defense was presented at trial. No less than 5 experts testified at trial, none of which gave an opinion that Schiro was insane at the time of the crime. The jury returned a verdict against a Death Sentence after less than 1 hour deliberations. Judge Samuel L. Rosen sentenced Schiro to death anyway, noting that Schiro had constantly rocked back and forth throughout the trial, but only in front of the jury.

**Trial:** Information/PC for Murder filed (02-10-81); Amended Information for DP filed (04-09-81); Venued to Brown County (04-21-81); Voir Dire (09-02-81, 09-03-81); Jury Trial 09-03-81, 09-04-81, 09-08-81, 09-09-81, 09-10-81, 09-11-81, 09-12-81); Deliberations 5 hours; Verdict (09-12-81); DP Trial (09-15-81); Deliberations 1 hour, 1 minute; Verdict (09-15-81); Court Sentencing (10-02-81).

**Conviction:** Felony-Murder; Murder verdict left blank by jury

Jury Recommendation against Death Sentence

**Sentencing:** October 2, 1981 (Death Sentence)

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** 20 years old at the time of the murder  
sick, rejected, tormented  
victim of forces beyond his control

Judge Overrides Jury Recommendation against a Death Sentence

**Also Serving Time For:** Battery, sentenced to 5 years imprisonment on 03-25-83. (Knox County)

**Direct Appeal:** Schiros v. State, 451 N.E.2d 1047 (Ind. August 5, 1983) (1181-S-329)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Hunter concur; Debruler, Prentice dissent.  
For Defendant: Michael C. Keating, John D. Clouse, Laurie A. Baiden, Evansville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Schiros v. Indiana, 104 S.Ct. 510 (1983) (Cert. denied)

**PCR:** PCR Petition filed 10-18-82. Amended PCR filed 05-10-84.  
State's Answer to PCR Petition filed 10-31-83, 05-14-84.  
11-22-83 State's Motion to Dismiss granted while appeal pending.  
PCR Hearing 05-17-84.  
Special Judge James M. Dixon  
For Defendant: Frances Watson Hardy, Angela D. Chapman, Deputy Public Defender (Carpenter)  
For State: Robert J. Pigman, Jerry A. Atkinson  
05-29-84 PCR Petition denied.

Schiros v. State, 479 N.E.2d 556 (Ind. June 28, 1985) (1084-S-423)  
(Appeal of PCR denial by Special Judge James M. Dixon)  
Affirmed 3-1; Givan Opinion; Prentice, Pivarnik concur; Debruler dissents; Hunter did not participate.  
For Defendant: Frances Watson Hardy, Deputy Public Defender (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Schiros v. Indiana, 106 S.Ct. 1247 (1986) (Cert. denied)

Schiros v. State, 533 N.E.2d 1201 (Ind. February 8, 1989) (07S00-8807-PC-656)  
(Appeal of 2nd PCR denial by Special Judge John Baker)  
Affirmed 3-2; Pivarnik Opinion; Shepard, Givan concur; Debruler, Dickson dissent.  
For Defendant: Alex R. Voils, Jr., Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Schiros v. Indiana, 110 S.Ct. 268 (1989) (Cert. denied) (Marshall, Brennan, Stevens dissent)

Schiros v. State, 669 N.E.2d 1357 (Ind. August 7, 1996) (07S00-9403-SD-273)  
(Appeal of 3d PCR denial by Judge Heather M. Mollo)  
DP REVERSED 4-1; Debruler Opinion; Dickson, Sullivan, Selby concur; Shepard dissents.  
Death Sentence vacated and remanded to impose 60 year term of imprisonment.  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
For State: Dana Childress-Jones, Deputy Attorney General (P. Carter)

**Habeas:** Schiros v. Clark, 754 F.Supp. 646 (N.D.Ind. December 26, 1990) (S83-588)  
(Habeas Writ denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)  
For Defendant: Alex R. Voils, Jr., Indianapolis  
For State: David A. Arthur, Deputy Attorney General (Pearson)

Schiros v. Clark, 963 F.2d 962 (7th Cir. May 8, 1992) (91-1509)  
Affirmed 3-0; Circuit Judges Frank H. Easterbrook, Harlington Wood, Jr., Judge Walter Cummings.  
For Defendant: Richard D. Gilroy, Alex R. Voils, Jr., Indianapolis  
For State: David A. Arthur, Deputy Attorney General (Pearson)

Schiros v. Farley, 114 S.Ct. 783 (January 19, 1994) (92-7549)  
(Affirmed 7-2; O'Connor Opinion, joined by Rehnquist, Scalia, Kennedy, Souter, Thomas;  
Blackmun, Stevens dissent.)  
First U.S. Supreme Court Opinion of a post-Furman Indiana death penalty case.  
For Defendant: Monica Foster, Indianapolis  
For State: Arend J. Abel, Deputy Attorney General (P. Carter)  
Schiros v. Farley, 114 S.Ct. 1341 (1994) (Rehearing denied)

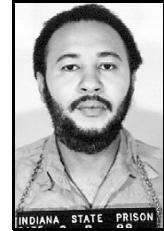
**On Remand:** Scheduled to be released on parole in 2007, Schiro was charged in Vanderburgh County with two counts of Rape (Class A Felony) and Criminal Deviate Conduct (Class A Felony), based upon sexual assaults committed in 1980. Jury Trial was venued to Clark County. Following a guilty verdict on one count of Rape and one count of Criminal Deviate Conduct, Schiro was sentenced by Judge Carl A. Heldt to 40 years imprisonment for Rape (Class A Felony) on November 29, 2006. (10C01-0508-FA-000065)

Schiro v. State, 888 N.E.2d 828 (Ind. App. June 19, 2008) (10A01-0701-CR-21)  
(Direct Appeal of Rape/CDC convictions and 40 year sentence - Affirmed)  
Schiro v. State, 898 N.E.2d 1223 (Ind. 2008) (Transfer denied)

- ▶ CURRENTLY SERVING A TERM OF 40 YEARS IMPRISONMENT FOR RAPE (CLASS A FELONY), AND A TERM OF 8 YEARS IMPRISONMENT FOR ROBBERY (CLASS C FELONY) (#2813).

## **SMITH, CHARLES # 23**

OFF DEATH ROW SINCE 12-13-89  
DOB: 10-10-1953 DOC#: 10440 Black Male



Allen County Superior Court Judge Alfred W. Moellering

**Trial Cause #:** CR-83-86

**Prosecutor:** Gregory L. Fumarolo, James P. Posey

**Defense:** Theodore D. Wilson

**Date of Murder:** December 10, 1982

**Victim(s):** Carmine Zink W / F / 20 (No relationship to Smith)

**Method of Murder:** shooting with .32 handgun

**Summary:** Smith allegedly left in a car one night accompanied by Phillip Lee and Briddie Johnson. They stopped to let Smith pick up a .32 handgun and agreed to stake out a local restaurant for likely robbery victims. They went to The Elegant Farmer in Ft. Wayne, parked the car in the lot, and waited. Brenda Chandler and Carmine Zink arrived to attend a Christmas party at the restaurant. Smith and Johnson left the car and with stockings over their heads confronted Chandler and Zink, intent on taking their purses. Smith seized Zink, put her in a headlock, and put the .32 handgun to her head. Johnson was struggling with Chandler, who heard a single gunshot. Smith and Johnson fled. Zink lay on the ground dead as a result of a single gunshot to the head. Lee testified at trial under an agreement with the State and confirmed the above scenario. (Alibi defense presented)

**Trial:** Information/PC for Murder filed (02-05-83); Amended Information for DP filed (02-22-83); Amended Information for Habitual filed (09-19-83); Voir Dire (09-19-83); Jury Trial (09-19-83, 09-20-83, 09-21-83); Deliberations 3 hours, 15 minutes; Verdict (09-21-83); DP Trial (09-22-83); Deliberations 1 hour, 10 minutes; Verdict (09-22-83); Habitual Offender Sentencing Hearing (09-22-83); Deliberations 15 minutes; Verdict (09-22-83); Court Sentencing (10-18-83).

**Conviction:** Murder, Felony-Murder, Habitual Offender (trifurcated trial)

**Sentencing:** October 18, 1983 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Smith v. State, 475 N.E.2d 1139 (Ind. March 25, 1985) (584-S-195)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Hunter, Pivarnik, Prentice concur; Debruler dissents.  
For Defendant: Barrie C. Tremper, Fort Wayne  
For State: Theodore E. Hansen, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 07-02-85. Amended PCR filed 02-27-86, 03-06-86.  
State's Answer to PCR Petition filed 07-29-85.  
PCR Hearing 03-18-86, 03-19-86, 03-21-86.  
Allen County Superior Court Judge Alfred W. Moellering  
For Defendant: Teresa D. Harper, Linda R. Torrent, Deputy Public Defenders (Carpenter)  
For State: Gregory L. Fumarolo, James P. Posey  
07-31-87PCR Petition denied.

Smith v. State, 547 N.E.2d 817 (Ind. December 13, 1989) (02S00-8805-PC-489)  
(Appeal of PCR denial by Allen County Superior Court Judge Alfred W. Moellering)  
Conviction Reversed 5-0 DP Vacated 5-0  
Givan Opinion; Shepard, Debruler, Pivarnik, Dickson concur.  
(Ineffective trial counsel in failing to investigate and pursue alibi defense, failing to pursue impeachment of key witness, failure to object to polygraph reference, and failure to investigate and present any mitigation.)  
For Defendant: Teresa D. Harper, Rhonda Long-Sharp, Linda R. Torrent, Deputy Public Defenders  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Smith v. State, 547 N.E.2d 822 (Ind. December 13, 1989) (On Rehearing; Habitual Offender finding reversed on sufficiency grounds due to no proof of proper sequence, Givan Opinion 5-0)

**On Remand:** Amended Information to Add Robbery (A Felony) (05-24-90); Application for Death Sentence Withdrawn (05-24-90); Jury Selection in Marion County (04-29-91, 04-30-91); Jury Trial in Allen County (5-01-91, 05-02-91, 05-03-91, 05-04-91, 05-06-91, 05-07-91, 05-08-91, 05-09-91); Deliberations 8 hours, 50 minutes; Verdict (05-09-91).

On remand, the State withdrew its Application for Death Sentence, and added a count of Robbery (Class A Felony). A jury was selected in Marion County for retrial in Allen County. The defense presented testimony from an alibi witness, as well as witnesses who testified that Lee had admitted to intentionally framing Smith. After 8 days of trial and 9 hours of deliberations, the jury found Charles Smith NOT GUILTY of all charges (Murder, Felony-Murder, Robbery).

Allen County Superior Court, Judge John F. Surbeck, Jr.

For Defendant: Richard Kammen

For State: Stephen M. Sims

- ▶ ON REMAND, SMITH WAS FOUND NOT GUILTY AFTER A JURY TRIAL.

## **SMITH, ROBERT ALLAN # 86**

EXECUTED BY LETHAL INJECTION 01-29-98 AT 12:27 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 03-03-1950 DOC#: 30636 White Male

Sullivan County Circuit Court Judge P. J. Pierson

**Trial Cause #:** 77CO1-9507-CF-0030



**Prosecutor:** Robert E. Springer

**Defense:** William G. Smock, Joseph K. Etling

**Date of Murder:** June 30, 1995

**Victim(s):** Michael Wedmore W / M / 33 (Fellow DOC inmate)

**Method of Murder:** stabbing with homemade knife 37 times

**Summary:** Smith, serving a 38 year sentence for Battery, was an inmate at the Indiana DOC, Wabash Correctional Institution in Sullivan County. Along with inmate Lunsford, Smith stabbed inmate Michael Wedmore 37 times with a sharpened putty knife. The attack was witnessed by correctional officers. Both Smith and Lunsford surrendered immediately, turning over the murder weapons. Smith proceeded pro-se, pled guilty, and agreed to a Death Sentence. The Court nevertheless appointed standby counsel who raised competency as an issue. At the guilty plea hearing, Smith stated, "I'm telling the court that the next person I go at won't be a baby killer, it will be a state employee and I will butcher him." (Wedmore was serving a 60 year sentence for the murder of his girlfriend's 2 year old child in Hamilton County) Smith continued pro-se on appeal, continuing to assert a desire to be executed. The Indiana Supreme Court appointed standby counsel as Amicus.

**Trial:** Information filed/PC Hearing for Murder (06-31-95); Amended Information for DP filed (07-28-95); Motion for speedy Trial (11-07-95); Plea Hearing (03-06-95); Competency Hearing (05-15-95); Defendant Demand to Proceed Pro Se (05-20-96, 06-04-96, 06-26-96); Plea Agreement filed (06-26-96); Defense Attorneys file Motion to Reject Plea (07-12-96); Plea Accepted/Sentencing (07-12-96).

**Conviction:** Pled guilty to Murder by a Plea Agreement requiring Death Sentence

**Sentencing:** July 12, 1996 (Death Sentence)

**Aggravating Circumstances:** b (9) In Custody of DOC

**Mitigating Circumstances:** None

Guilty Plea

**Also Serving Time For:** Battery, sentenced to 38 years imprisonment on 10-13-89. (Madison County)  
Robbery, sentenced to 20 years imprisonment on 04-09-84. (Elkhart County)

**Direct Appeal:** Smith v. State, 686 N.E.2d 1264 (Ind. October 23, 1997) (77S00-9508-DP-950)

Conviction Affirmed 5-0 DP Affirmed 5-0

Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: William G. Smock, Joseph K. Etling, Terre Haute, Amicus Curiae

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

SMITH PLED GUILTY, WAIVED ALL APPEALS, AND WAS EXECUTED BY LETHAL INJECTION ON 01-29-98 AT 12:27 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 77TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND THE 7TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## SMITH, TOMMIE JOE # 10

EXECUTED BY LETHAL INJECTION 07-18-96 1:23 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.



DOB: 02-06-1954 DOC#: 4330 Black Male

Marion County Superior Court Judge Jeffrey V. Boles  
(Originally venued to Hendricks County; by agreement, returned  
to Marion, with Hendricks Circuit Judge Jeffrey V. Boles presiding)

**Trail Cause #:** CR-80-442A

**Prosecutor:** J. Gregory Garrison, David E. Cook (Stephen Goldsmith)

**Defense:** Richard R. Plath

**Date of Murder:** December 11, 1980

**Victim(s):** Jack Ohrberg W / M / 44 (Indianapolis Police Officer - No relationship to Smith)

**Method of Murder:** shooting with AR-15 rifle

**Summary:** On December 11, 1980 at 5:30 a.m., Indianapolis Police Sergeant Jack Ohrberg and other officers went to 3544 North Oxford in Indianapolis attempting to serve papers on persons believed to be at that location. Ohrberg banged on the door several times and identified himself as a police officer. Two other officers on the front porch were in uniform. After the next door neighbor told officers that there was noise from inside the apartment, Ohrberg crouched and pounded with his shoulder on the door, which began to open. Officers saw furniture blocking the door, and saw 2 or 3 muzzle flashes from two different locations inside. Ohrberg was shot and collapsed on the porch. Officers took cover and saw a man come out onto the porch, point a rifle, and fire at least 2 additional shots into Ohrberg. Officers took cover and returned fire. Shots continued to come from inside the house. After a few minutes, Gregory Resnover came out, threw down an AR-15 rifle and surrendered. Earl Resnover followed, laying down an AR-15 and a pistol. Ohrberg's business card was found in Earl's wallet. Two women then came out, leaving wounded Smith inside. An AR-15 which was recovered next to Smith was found to be the murder weapon. An arsenal of weapons and ammunition was recovered inside the apartment.

Tommie Smith, Gregory Resnover, and Earl Resnover were also convicted of the 1980 murder and robbery of Brink's guard William Sieg in Marion County, and were sentenced to consecutive terms of 60 years and 20 years imprisonment on 10-22-81. (See Smith v. State, 474 N.E.2d 973 (1985) (CR80-473A))

**Trial:** Information/PC for Murder and Death Penalty Filed (12-11-80); Death Sentence Request Filed (12-11-80); Jury Trial (06-23-81, 06-24-81, 06-25-81, 06-26-81, 06-29-81); Verdict (06-29-81); DP Trial (06-30-81); DP Verdict (06-30-81); Court Sentencing (07-23-81).

**Conviction:** Murder, Conspiracy to Commit Murder (Class A Felony)

**Sentencing:** July 23, 1981 (Death Sentence, 50 years imprisonment)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Smith v. State, 465 N.E.2d 1105 (Ind. July 24, 1984) (182-S-19)

Conviction Affirmed 5-0 DP Affirmed 5-0

Pivarnik Opinion; Hunter, Debruler, Givan, Prentice concur.

For Defendant: Stephen P. Wolfe, Marion

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Smith v. Indiana, 116 S.Ct. 2581 (1996) (Cert. denied)

**PCR:** Smith v. State, 516 N.E.2d 1055 (Ind. December 16, 1987) (49S00-8610-PC918)  
(Appeal of PCR denial by Judge Patricia J. Gifford)  
Conviction and Sentence Affirmed 5-0  
Pivarnik Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: F. Thomas Schornhorst, Bloomington, Deputy Public Defender  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Smith v. State, 613 N.E.2d 412 (Ind. May 12, 1993) (49S00-9008-PD-538)  
(Appeal of 2nd PCR summary dismissal by Judge Patricia J. Gifford)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Krahulik Opinion; Shepard, Givan, Dickson, Debruler concur.  
For Defendant: Judith G. Menadue, Elkhart, Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Smith v. Indiana, 114 S.Ct. 1634 (1994) (Cert. denied)

**Habeas:** 11-25-88 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Tommie J. Smith v. Robert A. Farley, Superintendent (3:88-CV-00685-AS)  
Judge Allen Sharp  
For Defendant: Michael P. Rehak, South Bend, F. Thomas Schornhorst, Bloomington  
For State: David A. Arthur, Deputy Attorney General (P. Carter)

02-21-89 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-28-94 Amended Petition for Writ of Habeas Corpus filed.  
10-14-94 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
10-31-94 Writ of Habeas Corpus denied.  
11-30-94 Certificate of Probable Cause to Appeal granted.  
Smith v. Farley, 873 F.Supp. 1199 (N.D.Ind. October 31, 1994) (88-CV-685)  
(Habeas Writ denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

Smith v. Farley, 59 F.3d 659 (7th Cir. July 5, 1995) (94-3818)  
(Appeal of Denial of Habeas Writ)  
Affirmed 3-0; Judge Richard A. Posner, Judge William J. Bauer, Judge Joel M. Flaum.  
For Defendant: Michael P. Rehak, South Bend, F. Thomas Schornhorst, Bloomington  
For State: Arend J. Abel, Deputy Attorney General (P. Carter)  
Smith v. Indiana, 116 S.Ct. 935 (1995) (Cert. denied)

Smith v. Parke, 116 S.Ct. 2518 (1996) (Stay of execution granted until disposition of Writ of Certiorari)  
Smith v. Parke, 116 S.Ct. 2581 (1996) (Petition for Writ of Certiorari dismissed; Habeas Corpus denied)  
Smith v. Indiana, 117 S.Ct. 1 (1996) (Application for stay denied)

Smith v. Farley, 949 F.Supp. 680 (N.D.Ind. 1996) (Approval of \$32,316.91 claim at \$125 per hour for attorneys fees in habeas action to Professor F. Thomas Schornhorst of Indiana University School of Law.)

SMITH WAS EXECUTED BY LETHAL INJECTION ON 07-19-96 AT 1:23 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 74TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 4TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977. HE WAS THE FIRST CONVICTED MURDERER EXECUTED IN INDIANA BY LETHAL INJECTION.

## **SPRANGER, WILLIAM J. # 24**

OFF DEATH ROW SINCE 12-14-93  
DOB: 09-26-1964 DOC#: 13154 White Male

Wayne County Circuit Court Judge Wayne C. Puckett  
Venued from Noble County



**Trial Cause #:** SCR-83-23 (Noble County), C-83-1189-CR (Wayne County)

**Prosecutor:** G. David Laur

**Defense:** Terrance W. Richmond, Robert C. Way

**Date of Murder:** May 28, 1983

**Victim(s):** William Miner W/M/31 (Avila Town Marshall - No relationship to Spranger)

**Method of Murder:** shooting with handgun

**Summary:** Avila Town Marshall, William Miner, was called by a resident who reported that two men, later identified as Spranger and Allen Snyder, were vandalizing a car. Miner responded to the scene and arrested both men. A struggle ensued between Snyder and Miner, and Miner's service revolver was knocked away into the highway. Spranger crossed the highway, retrieved the gun, and shot Miner in the back from some distance away. Following his arrest, Spranger made several admissions to shooting the officer, and led police to a lake where the gun was recovered. Snyder was allowed to plead guilty to involuntary manslaughter, received a prison term, and testified at trial. Spranger claimed at trial that Snyder killed the officer.

**Trial:** Information/PC for Murder filed (05-31-83); Snyder Guilty Plea (09-29-83); Snyder Sentencing (12-08-83); Voir Dire/ Jury Trial (11-01-83, 11-02-83, 11-03-83, 11-04-83, 11-05-83, 11-08-83); Verdict (11-08-83); DP Trial (11-09-83, 11-10-83); Verdict (11-10-83); Court Sentencing (12-08-83).

**Conviction:** Murder

**Sentencing:** December 8, 1983 (Death Sentence)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:**

- no advance plan or scheme to murder
- 18 years old at the time of the murder
- capable of rehabilitation
- poor social controls
- impulsive and extremely susceptible to influence of others
- no prior criminal record
- intoxication and stress on day of murder
- accomplice received a disproportionate easy plea
- cooperation with law enforcement

**Direct Appeal:** Spranger v. State, 498 N.E.2d 931 (Ind. October 15, 1986) (684-S-216)

Conviction Affirmed 5-0 DP Affirmed 4-1

Dickson Opinion; Givan, Pivarnik, Shepard concur; Debruler dissents.

For Defendant: Terrance W. Richmond, Milan

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Spranger v. State, 500 N.E.2d 1170 (Ind. December 3, 1986) (Rehearing Denied 4-1)

Dickson Opinion; Givan, Pivarnik, Shepard concur; Debruler dissents.

Spranger v. Indiana, 107 S.Ct. 1965 (1987) (Cert. denied)

**PCR:** PCR Petition filed 10-07-87. Amended PCR Petition filed 04-01-91.  
State's Answer to PCR Petition filed 10-26-87, 02-26-90.  
PCR Hearing 09-20-93, 09-21-93, 09-22-93, 09-23-93.  
Special Judge Douglas H. Van Middlesworth  
For Defendant: Joseph M. Cleary, J. Jeffreys Merryman, Deputy Public Defenders (Carpenter)  
For State: G. David Laur  
12-14-93 PCR Petition granted as to death sentence, denied as to conviction.

**Spranger v. State**, 650 N.E.2d 1117 (Ind. May 22, 1995) (89S00-9008-PD-540)  
(Appeal by State of the granting of PCR as to death penalty)  
(Appeal by Spranger of the denial of PCR as to convictions)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Dickson Opinion; Shepard, Debruler, Sullivan, Selby concur.  
For Defendant: Terrance W. Richmond, Milan  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**On Remand:** 06-30-97 Joint Motion to Waive Jury Sentencing  
11-03-07, 11-04-97 Sentencing Hearing held without jury  
11-06-97 Spranger sentenced to 60 years imprisonment.  
Special Judge Douglas H. Van Middlesworth  
For Defendant: Jodie English, Terry Lockwood  
For State: G. David Laur, Robert L. Collins, Deputy Attorney General

- SPRANGER (AT 48 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JULY 29, 2013, AFTER SERVING ± 30 YEARS IN CUSTODY.

## STEPHENSON, JOHN MATTHEW # 88

OFF DEATH ROW SINCE 10-05-18  
DOB: 07-31-63 DOC#: White Male

Warrick County Superior Court  
Judge Edward A. Campbell



**Trial Cause #:** 87DO1-9604-CF-23

**Prosecutor:** Todd A. Corne, Keith A. Meyer  
**Defense:** S. Anthony Long, Dennis A. Vowels

**Date of Murder:** March 28, 1996

**Method of Murder:** shooting with SKS Assault rifle



**Victim(s):** Brandy Southard W / F / 21; John Jay Tyler W / M / 29;  
Kathy Tyler W / F / 29 (No relationship to Stephenson)

**Summary:** Jay and Kathy Tyler picked up Brandy Southard from her work in Evansville and were chased by Stephenson to an intersection in rural Warrick County, where he emptied a 30 round SKS Assault Rifle into the pickup truck and their bodies. Each were then stabbed repeatedly. Stephenson was also convicted of an earlier Burglary and Theft from Southard's residence.

(Believed to be the longest and most expensive trial in Indiana history. Jury selection began on September 23, 1996; Opening Statements began on December 30; Found Guilty on May 8; Jury recommended death on May 20; 140 total trial days. The defense was allowed 2 attorneys, 2 investigators, a paralegal, a professional photographer, a civil engineer, a forensic scientist, a jury consultant, a neuropsychologist, and a mitigation expert. Sister Helen Prejean was flown in to testify at the sentencing hearing. Claims paid for two attorneys fees were \$334,156, paralegal fees were \$57,788, expert fees were \$79,193, investigator fees were \$74,493, miscellaneous expenses were over \$10,000 (The Record on appeal totaled 132 volumes, 33,000 pages.)

**Trial:** Information/PC for Murder filed (04-02-96); Amended Information for DP filed (05-10-96); Defendant Motion for Speedy Trial (05-15-96); Amended Information filed (05-28-96, 06-11-96, 07-18-96); Voir Dire (09-23-96, 09-24-96, 09-25-96, 09-26-96, 09-27-96, 09-30-96, 10-01-96, 10-02-96, 10-03-96, 10-04-96, 10-07-96, 10-08-96, 10-09-96, 10-10-96, 10-11-96, 10-15-96, 10-16-96, 10-17-96, 10-18-96, 10-21-96, 10-22-96, 10-23-96, 10-24-96, 10-25-96, 10-28-96, 10-29-96, 10-30-96, 10-31-96, 11-01-96, 11-04-96, 11-06-96, 11-07-96, 11-08-96, 11-11-96, 11-12-96, 11-13-96, 11-14-96, 11-15-96, 11-18-96, 11-19-96, 11-20-96, 11-21-96, 11-22-96, 11-25-96, 11-26-96, 11-27-96, 12-02-96, 12-23-96); Motions to Suppress (12-03-96, 12-04-96, 12-05-96, 12-06-96, 12-09-96, 12-10-96, 12-11-96, 12-12-96, 12-13-96, 12-16-96, 12-17-96, 12-19-96, 12-20-96, 12-23-96); Jury Trial (12-30-96, 12-31-96, 01-02-97, 01-03-97, 01-06-97, 01-07-97, 01-08-97, 01-09-97, 01-10-97, 01-14-97, 01-15-97, 01-16-97, 01-17-97, 01-21-97, 01-22-97, 01-23-97, 01-24-97, 01-27-97, 01-28-97, 01-29-97, 01-30-97, 01-31-97, 02-02-97, 02-03-97, 02-04-97, 02-05-97, 02-06-97, 02-07-97, 02-10-97, 02-11-97, 02-12-97, 02-13-97, 02-14-97, 02-18-97, 02-19-97, 02-20-97, 02-21-97, 02-22-97, 02-24-97, 02-25-97, 02-26-97, 02-27-97, 02-28-97, 03-03-97, 03-04-97, 03-06-97, 03-07-97, 03-10-97, 03-11-97, 03-12-97, 03-13-97, 03-14-97, 03-17-97, 03-18-97, 03-19-97, 03-20-97, 03-24-97, 03-25-97, 03-26-97, 03-27-97, 03-31-97, 04-01-97, 04-02-97, 04-03-97, 04-07-97, 04-08-97, 04-10-97, 04-11-97) – Defense Case – (04-11-97, 04-14-97, 04-15-97, 04-10-97, 04-11-97, 04-14-97, 04-15-97, 04-10-97, 04-11-97, 04-14-97, 04-15-97, 04-16-97, 04-17-97, 04-18-97, 04-21-97, 04-22-97, 04-23-97, 04-24-97, 04-25-97 – Rebuttal – 04-25-97, 04-28-97, 04-29-97, 04-30-97) – Surrebuttal – (04-30-97, 05-01-97, 05-05-97, 05-06-97, 05-07-97); Verdict (05-08-97); DP Trial (05-19-97); Verdict (05-19-97); Court Sentencing (06-16-97, 06-17-97).

**Conviction:** Murder (3 counts), Burglary (B Felony), Theft (D Felony)

**Sentencing:** June 17, 1997

(Death Sentence, Death Sentence, Death Sentence, 10 years, 1 1/2 years concurrent)

**Aggravating Circumstances:** b (8) 3 murders, (lying in wait, drive-by shooting rejected)

**Mitigating Circumstances:** shown he could be safely imprisoned for LWOP  
some multiple murderers are in DOC and not on Death Row

**Direct Appeal:** Stephenson v. State, 742 N.E.2d 463 (Ind. January 25, 2001) (87S00-9605-DP-398)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Brent L. Westerfield, Indianapolis, Janet S. Dowling, Albuquerque, NM  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
Stephenson v. Indiana, 122 S.Ct. 905 (2002) (Cert. denied)

**PCR:** 06-15-01 Notice of Intent to file PCR Petition.

01-31-02 PCR Petition filed. Amended PCR filed 11-14-02.

State's Answer to PCR Petition filed 03-04-02, 12-06-02.

PCR Hearing 01-13-03, 01-14-03, 01-15-03, 01-16-03, 01-17-03

Warrick Superior Court Judge Robert R. Aylsworth

Cause # 87D02-0210-PC-118

For Defendant: Jenna Murphy, Thomas C. Hinesley, Steven Schutte,  
Deputy Public Defenders (Carpenter)

For State: Thomas D. Perkins, Stephen R. Creason, Scott A. Kreider, James B. Martin,  
Deputy Attorneys General (S. Carter)

05-12-03 PCR Petition denied.

Stephenson v. State, 864 N.E.2d 1022 (Ind. April 26, 2007) (87S00-0106-PD-285)

(Appeal of PCR denial by Warrick County Superior Court Judge Robert W. Aylsworth)

Conviction and Death Sentence Affirmed 5-0

Opinion by Boehm; Shepard; Dickson, Sullivan, Rucker concur.

For Defendant: Thomas C. Hinesley, Steven H. Shutte, Deputy Public Defenders (Carpenter)

For State: James B. Martin, Deputy Attorney General (S. Carter)

Stephenson v. Indiana, 128 S.Ct. 1871 (2008) (Cert. denied)

As expected, PCR counsel alleged ineffective assistance of trial counsel despite the extraordinary and unprecedented resources allowed. Chief Justice Shepard noted this irony in a concurring opinion affirming the denial of postconviction relief at Stephenson v. State, 864 N.E.2d 1022, 1057-1058 (Ind. April 26, 2007):

"A few words about the rhetoric of modern death penalty litigation as regards the most common single issue - effective assistance of trial counsel.

Stephenson's two lawyers at trial were practitioners well known to the bench and bar. Lead counsel Anthony Long had thirty-five years experience in civil and criminal trial work, including four terms as Prosecuting Attorney for Warrick County, one of Indiana's fastest-growing jurisdictions and the site of the murders at issue. Co-counsel Dennis Vowels of Evansville had more than a decade of criminal law experience at the time of Stephenson's trial and had built a respectable reputation in the field of criminal defense. Both had received specialized training in the defense of capital cases.

The defense team went well beyond the lawyers, eventually consisting of six or seven altogether, including a variety of experts, a fact investigator, a mitigation specialist, and paralegals. The year that this team spent defending Stephenson was an intensive one in which the defense enjoyed essentially unlimited resources: a third of a million dollars in lawyer time, \$65,000 worth of expert time, and mitigation and paralegal efforts that brought the defense bill to \$558,000. The post-conviction record has provided the details of this collective effort at some length.

The contention now before us is that the foregoing defense was 'perfunctory.' It is declared 'woefully short,' 'laughable,' a defense conducted by lawyers who were 'willfully uninformed.'

The facts establish otherwise: a seasoned defense team of respected practitioners, aided by a collection of experts and investigators, mounting a defense with the benefit of vast financial resources. Well beyond any notion of what the Sixth Amendment guarantees."

**Habeas:** 11-02-07 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-04-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
John M. Stephenson v. Ed Buss, Superintendent (3:07-CV-00539-TLS)  
Judge Theresa L. Springmann  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Marie F. Donnelly, Chicago, IL  
For State: Kelly A. Miklos, Deputy Attorney General (S. Carter)  
08-08-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-02-08 Petitioner's Motion for Summary Judgment filed.  
12-03-08 Response in Opposition to Motion for Summary Judgment filed.  
03-05-09 Oral Arguments on Summary Judgment Motion; Taken Under Advisement.  
07-01-09 Order granting Motion for Summary Judgment;  
Conditionally granting Writ of Habeas Corpus as to stun-belt issue.

Stephenson v. Levenhagen, 2009 WL 1886081 (N.D. Ind. July 01, 2009) (3:07-CV-539-TS)  
U.S. District Judge Theresa L. Springmann, Northern District of Indiana.

Writ of Habeas Corpus granted as to conviction and death sentence  
(Ineffective assistance of trial counsel by failing to object when Stephenson was required to wear stun belt under shirt during trial, which created bulge under shirt which four jurors thought to be a stun belt based upon their post appeal affidavits solicited by Habeas counsel. The State of Indiana is free to re-try John M. Stephenson, providing that it files appropriate documents in the State Trial Court seeking such relief within 120 days of this Order.)

For Defendant: Mary F. Donnelly, Chicago, IL and Alan M. Freedman, Evanston, IL  
For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Wilson, 619 F.3d 664 (7th Cir. August 26, 2010) (09-2924)

DP Affirmed 3-0; Reversed conditional granting of Writ of Habeas Corpus by U.S. District Court Judge Theresa L. Springmann, and remanded to U.S. District Court for consideration of all issues raised, including residual doubt and stun belt as to sentence.

Opinion by Circuit Judge Richard A. Posner; Judge William J. Bauer and Judge John D. Tinder.

For Defendant: Mary F. Donnelly, Chicago, IL and Alan M. Freedman, Evanston, IL

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Wilson, 629 F.3d 732 (7th Cir. January 14, 2011) (09-2924)

(Rehearing denied 3-0) William J. Bauer, Richard A. Posner, John Daniel Tinder.

(Rehearing *en banc* denied; Opinion by Judge Ilana Diamond Rovner dissenting, joined by Judge Ann Claire Williams and Judge David F. Hamilton)

For Defendant: Mary F. Donnelly, Chicago, IL and Alan M. Freedman, Evanston, IL

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Wilson, 132 S.Ct. 124 (October 3, 2011) (Cert. denied)

01-24-11 Remanded to U.S. District Court, Northern District of Indiana, for consideration of all remaining claims. John M. Stephenson v. Mark Levenhagen, Superintendent (3:07-CV-00539-TLS)

04-03-12 Petitioner's Traverse / Memorandum filed in support of Writ of Habeas Corpus.

07-06-12 Respondent's Brief in opposition to Writ of Habeas Corpus.

09-07-12 Petitioner's Surreply Brief filed in support of Writ of Habeas Corpus.

09-30-14 Order and Opinion; Petition for Writ of Habeas Corpus denied.

Stephenson v. Levenhagen, (N.D. Ind. September 30, 2014) ( 3:07-CV-539-TS)

United States District Court, Northern District of Indiana, Ft. Wayne Division

Judge Theresa L. Springmann

Petition for Writ of Habeas Corpus denied.

For Defendant: Alan M. Freedman, Evanston, IL; Marie F. Donnelly, Chicago, IL.

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Neal, 2016 U.S. Dist. LEXIS 5092 (N.D. Ind. January 14, 2016)

United States District Court for the Northern District of Indiana (3:07-CV-539-TLS)

Judge Theresa L. Springmann

Motion to Alter Judgment denied.

For Defendant: Alan M. Freedman, Evanston, IL; Marie F. Donnelly, Chicago, IL.

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Neal, 865 F.3d 956 (7th Cir. August 4, 2017) (No. 16-1312)

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

(No. 3:07-cv-00539-TLS) Judge Theresa L. Springmann.

Convictions Affirmed 3-0 DP Reversed 3-0

Opinion By: Posner; Bauer, Flaum concur.

(The possibility that the defendant's having to wear the stun belt—for no reason, given that he had no history of acting up in a courtroom—contaminated the penalty phase of the trial persuades us to reverse the district court's denial of Stephenson's petition for habeas corpus and to remand with directions to vacate his sentence. After the completion of these proceedings, Indiana may choose to seek the death penalty anew and hold a new penalty hearing before a jury without Stephenson wearing the stun belt, or to seek a lesser sentence and hold a penalty hearing before a judge. The court's refusal to vacate his conviction, however, is affirmed.)

For Defendant: Alan M. Freedman, Evanston, IL; Marie F. Donnelly, Chicago, IL.

For State: Kelly A. Loy, Deputy Attorney General (Hill)

**On Remand:** On October 5, 2018 the parties submitted a Sentencing Agreement calling for the State to withdraw Death Sentence request and for the Defendant to be sentenced to Count I: Murder (50 years imprisonment). Count II: Murder (50 years imprisonment), and Count III (60 years imprisonment), with Count I and Count II to run concurrent with each other but consecutive with Count III, for a total sentence of 110 years imprisonment. Warrick County Superior Court Judge Robert R. Aylsworth accepted the Sentencing Agreement and sentenced Stephenson accordingly. 8,220 days credit for time previously served.

State appears by Michael J. Perry and J. Parker Trulock, Warrick County Prosecuting Attorneys. Defendant appears by live video feed with counsel Jodie English; Mark Kamish in person.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 110 YEARS IMPRISONMENT.

## STEVENS, CHRISTOPHER M. # 81

OFF DEATH ROW SINCE 06-18-07  
DOB: 09/2/1972 DOC#: 952131 White Male

Tippecanoe County Superior Court  
Judge George J. Heid  
Venued from Putnam County

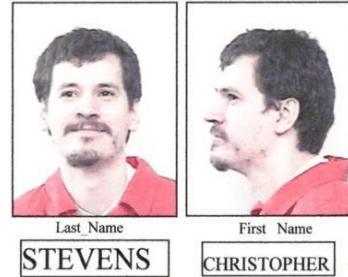
**Trial Cause #:** 67C01-9307-CF-52 (Putnam County)  
79DO2-9402-CF-24 (Tippecanoe County)

**Prosecutor:** Robert J. Lowe, Anne M. Flannelly, Delbert H. Brewer  
**Defense:** Robert V. Clutter, Jeffrey A. Baldwin

**Date of Murder:** July 15, 1993  
**Victim(s):** Zachary Snider W / M / 10 (Neighbor of Stevens)

**Method of Murder:** strangling, smothering

**Summary:** Stevens was convicted of Child Molesting in Marion County in February 1993 and received a 4 year sentence with 3 years suspended and probated. His probation was transferred to Cloverdale, where he returned to live with his father. Apparently, none of his new neighbors were aware of his criminal past. Zachary Snider, age 10, lived in the same subdivision and was often seen in the company of the 20 year old Stevens. Stevens attended and videotaped one of Zachary's little league baseball games. Zachary's father eventually warned Stevens to stay away from his son when he learned that Stevens had taken the boy fishing. A month later, Zachary turned up missing one afternoon. He was last seen at a young friend's home, who was told by Zachary that he was going to Stevens' home. In the midst of a massive local search for Zachary, Stevens' brother reported to police that Stevens had confessed to him that he murdered Zachary. He then directed police to a remote location near a bridge, where Zachary's body and bicycle were recovered. Stevens was arrested and gave a complete confession. He claimed that he had been having sex with Zachary for 2 or 3 months. When Zachary came over to his house, they performed oral sex in Stevens' room. Zachary threatened to tell his parents about having sex and Stevens decided he did not want to go through what he went through in Marion County. Stevens smothered Zachary with a pillow, then strangled him with an electrical cord around his neck. When Zachary continued to gasp, Stevens got a plastic garbage bag and wrapped it over his head. He then put Zachary and his bicycle in the car, drove to a bridge in a remote area, and threw them both over. He returned the next morning, fearing that police would connect him to the trash bag, removed it from Zachary's head, and threw it out along the highway on the way home. A similar bag was recovered by police in the area described by Stevens. Stevens later admitted to psychologists that he had molested 25-30 children, and had ejaculated on Zachary when he killed him. The psychologists concluded that he was a benign pedophile and was a serious danger to society. (This case later resulted in Zachary's Law, IC 5-2-12, establishing Indiana Sex Offender Registry)



**Trial:** Information/PC for Murder and Death Penalty Filed (07-22-93); Death Sentence Request Filed (07-30-93); Venued to Tippecanoe Superior Court II (02-14-94); Voir Dire (01-30-95, 01-31-95, 02-01-95, 02-03-95); Jury Trial (02-06-95, 02-07-95, 02-08-95, 02-09-95); Verdict (02-09-95); DP Trial (02-09-95, 02-10-95, 02-13-95, 02-14-95, 02-15-95); DP Verdict (02-15-95); Court Sentencing (03-14-95).

**Conviction:** Murder

**Sentencing:** March 14, 1995 (Death Sentence)

**Aggravating Circumstances:** b (1) Child Molesting  
b (12) Victim less than 12  
b (9) On Probation

**Mitigating Circumstances:** confession to Police  
20 years old at murder  
parents divorced when he was a child  
father jailed for molesting his stepsister  
mother jailed for drug dealing  
mental health treatment for depression in 1992  
average intelligence with good insight  
manipulative, shallow, poor impulse control

**Direct Appeal:** Stevens v. State, 691 N.E.2d 412 (Ind. December 31, 1997) (79S00-9507-DP-828)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Brent L. Westerfeld, Jeffrey A. Baldwin, Indianapolis  
For State: Geoff Davis, Deputy Attorney General (Modisett)  
Stevens v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

**PCR:** PCR Petition filed 12-02-98. Amended PCR Petition filed 04-16-99, 07-22-99)  
Answer filed 02-04-99.  
PCR Hearing held 08-30-99; PCR denied 09-14-99.  
Stevens v. State, 770 N.E.2d 739 (Ind. June 26, 2002) (79S00-9804-PD-00250)  
(Appeal of PCR denial by Tippecanoe County Superior Court Judge George J. Heid)  
Conviction and Sentence Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Thomas C. Hinesley, Barbara S. Blackman, Deputy Public Defender (Carpenter)  
For State: Andrew L. Hedges, Deputy Attorney General (Freeman-Wilson)  
Stevens v. Indiana, 124 S.Ct. 69 (2003) (Cert. denied)

**Habeas:** 01-17-03 Notice of Intent to File Petition for Writ of Habeas Corpus; Motion for Stay  
11-03-88 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Christopher M. Stevens v. Daniel McBride, Superintendent (4:03-CV-00005-AS)  
Judge Allen Sharp  
For Defendant: Alan Rossman, Cleveland, OH, Kathy Lea Stinton-Glen, Zionsville, IN  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

06-15-04 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-17-04 Motion to Dismiss by Stevens  
01-13-05 Writ of Habeas Corpus denied.  
02-18-05 Certificate of Appealability granted.  
Stevens v. McBride, \_\_\_ F.Supp.2d \_\_\_ (N.D. Ind. January 13, 2005)  
U.S. District Judge Allen Sharp, Northern District of Indiana, denied the Petition for Writ of Habeas Corpus, rejecting claims of ineffective assistance of trial and appellate counsel.

Stevens v. McBride, 489 F.3d 883 (7th Cir. June 18, 2007) (05-1442)

Opinion by Judge Kenneth F. Ripple Granting Writ of Habeas Corpus as to Death Sentence only, holding that investigation and presentation of expert psychological testimony at his penalty trial amounted to ineffective assistance of counsel; Judge Diane P. Wood concurs and would grant Writ as to both conviction and sentence; Judge Daniel A. Manion dissents and would grant Writ on neither.

For Defendant: Kathy Lea Stinton-Glen, Zionsville, IN

For State: James B. Martin, Deputy Attorney General (S.Carter)

("The case is remanded with instructions to issue a conditional writ of habeas corpus that sets aside the sentence of capital punishment unless, within 120 days, the State affords Stevens another penalty hearing.")

Stevens v. Buss, 128 S.Ct. 2423 (May 12, 2008) (Cert. Denied).

Buss v. Stevens, 128 S.Ct. 2429 (May 12, 2008) (Cert. Denied).

**On Remand:** On December 14, 2009, Stevens entered a guilty plea pursuant to a plea agreement and was sentenced by Tippecanoe County Superior Court #2 Judge Thomas H. Busch to Life Without Parole.

For State: Tim Bookwalter, For Defense: Jessie Cook.

- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **STROUD, PHILLIP A. # 97**

OFF DEATH ROW SINCE 05-25-04

DOB: 12-30-78 DOC#: 932249 Black Male

St. Joseph County Superior Court Judge William T. Means

**Trial Cause #:** 71D04-0009-CF-00434

**Prosecutor:** John M. Maciejczyk, Michael J. Tuszynski

**Defense:** Philip Skodinski, James F. Korpal



**Date of Murder:** September 14, 2000

**Victim(s):** Wayne Shumaker W / M / 59; Corby Myers W / M / 30;  
Lynn Ganger W / M / 54 (No relationship to Stroud)

**Method of Murder:** shooting with .9 mm handgun

**Summary:** Wayne Shumaker, Corby Myers, and Lynn Ganger were building a loft in a pole barn at an upscale home Lakeville, Indiana when Stroud and 3 men from Detroit (Wade, Carter and Seabrooks) came to burglarize the house. After one of the workers came out of the barn, Stroud decided they needed to be killed because he may have seen the license plate on their car. Instead of fleeing the scene, they went to the barn, where Stroud ordered the men tied up and robbed. Stroud then shot each victim in the head with a Tech .9 mm semiautomatic handgun. Stroud and accomplices then returned to the home to finish the burglary. In statements later given to police, Stroud claimed that his only role was as a lookout and that he was not involved in the killings. Another accomplice, Ronald Carter of Detroit, has testified that Stroud was the shooter, as did 2 friends of Stroud who said Stroud admitted to them he shot the workmen. The men were told about the house, the valuables in it, and how to bypass the burglar alarm in order to get in, by 18 year old Charity Lynn Payne, who had once dated a member of the family. Payne cooperated by testifying at trial and later received 151 years imprisonment. Wade received 55 years and Carter 45 years. DNA from dog feces found outside the house matched the DNA in feces on the Nike athletic shoes police took from the apartment of Stroud's girlfriend.

At the time of the murders, Stroud was released on bail for charges of Dealing in Cocaine, for which he was later convicted on 01-16-02 in the St. Joseph Superior Court and sentenced to terms of 50 years imprisonment in Cause # 71D08-9907-CF-0414, and 20 years imprisonment in Cause # 71D08-9907-CF-0410.

**Trial:** Information/PC for Murder filed (09-18-00); Motion for Speedy Trial (10-02-00); Amended Information for DP filed (11-09-00); Voir Dire (02-20-02, 02-21-02, 02-22-02, 02-26-02, 02-27-02, 02-28-02, 03-01-02, 06-24-02, 06-25-02, 06-26-02, 07-01-02, 07-02-02, 07-03-02, 07-05-02, 07-09-02, 07-10-02); Jury Trial (07-11-02, 07-12-02, 07-13-02, 07-15-02, 07-16-02, 07-17-02, 07-18-02, 07-19-02); Deliberations over 2 days; Verdict (07-20-02); DP Trial (07-22-02, 07-23-02, 07-24-02); Verdict (07-24-02); Court Sentencing (09-04-02).

**Conviction:** Murder (3 counts), Felony-Murder (3 counts) Burglary (A Felony), Robbery (A Felony) (2 counts), Attempted Robbery (A Felony)

**Sentencing:** September 4, 2002 (Death Sentence, Death Sentence, Death Sentence, 20 years, 20 years, 20 years, 20 years - Consecutive to each other and consecutive to sentences in other cases: Cause # 71D08-9907-CF-0414 (50 years), Cause # 71D08-9907-CF-0410 (20 years). Felony Murder counts merged. Class A Felony Burglary and Robbery counts reduced to Class B Felony.

In sentencing order, Judge Means stated that he believed Indiana's amended death penalty statute required him to follow the jury's recommendation. If he were not so constrained, however, he said he would "be inclined to judicially override the jury recommendation for death."

**Aggravating Circumstances:** b (1) Burglary, Robbery  
b (8) 3 Murders

**Mitigating Circumstances:** 21 years of age  
Disadvantaged childhood; Rarely saw father  
Mistreated by Mother's boyfriends  
Abandoned by Mother  
Caring towards younger half-brother  
Emotional hardship on family and friends

**Direct Appeal:** Stroud v. State, 809 N.E.2d 274 (Ind. May 25, 2004) (71S00-0011-DP-00642)  
Convictions Affirmed 5-0 DP Vacated 5-0  
Sullivan Opinion; Shepard, Dickson, Rucker and Boehm concur.  
For Defendant: Eric K. Kosalke, Brent L. Westerfeld, Indianapolis, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
(DP vacated on grounds that jury was improperly instructed that verdict was only a "recommendation." Remanded for new penalty and sentencing phases. Rucker and Boehm concurred with separate opinion, noting that "accordingly" in new statute does not compel Judge to follow jury recommendation for death)

**On Remand:** 05-24-05 Citing a severe breakdown in the attorney-client relationship, lead defense attorney James F. Korpak allowed to withdraw.  
For State: Frank Schaffer, James Fox, Deputy Prosecutors  
07-11-05 Stroud entered a guilty plea pursuant to a Plea Agreement and was sentenced by St. Joseph County Superior Court Judge William T. Means to Life Without Parole, and consecutive sentences of 20 years (Burglary), 20 years (Robbery), 20 years (Robbery), 20 years (Attempted Robbery).

- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE, AND 70 YEARS IMPRISONMENT.

## THACKER, LOIS ANN # 37

OFF DEATH ROW SINCE 07-23-90  
DOB: 01-27-1958 DOC#: 853651 White Female

Dubois County Circuit Court Judge Hugo C. Songer  
Venued from Orange County



**Trial Cause #:** 84-CR-15 (Orange County); CR-85-4(V) (Dubois County)

**Prosecutor:** Darrell F. Ellis

**Defense:** Alphonso Manns, Steven E. Ripstra

**Date of Murder:** November 2, 1984

**Victim(s):** John E. Thacker W / M / 31 (Husband to Thacker)

**Method of Murder:** shooting with shotgun

**Summary:** Lois Thacker was the beneficiary on the life insurance policy covering her husband, John Thacker. Lois solicited three men, Buchanan, Music and Hart to kill her husband, and formulated a plan for him to be shot on a certain isolated road where her husband drove. She insisted that a shotgun with deer slugs be used, and directed that his wallet be returned to her. One night the three men joined Lois in her trailer while her husband was gone and insisted that he be killed that night. The men left, assuring her that it would be done. The plan was executed by placing a log in the road which forced Mr. Thacker to stop. When he got out of his truck, he was shot by Music. Buchanan removed the wallet which was returned to Lois that night. During her efforts to induce the men to kill Mr. Thacker, Lois told them that she wanted him killed just like she and Mr. Thacker had killed her first husband, Phillip Huff. Buchanan, Music and Hart all testified against Lois at trial after entering into plea agreements.

**Trial:** Information filed/PC Hearing for Murder and DP (11-05-84); Venued to Dubois County (01-02-85); Voir Dire (05-01-85, 05-02-85, 05-03-85, 05-06-85, 05-07-85, 05-08-85, 05-09-85); Jury Trial (05-10-85, 05-11-85, 05-13-85, 05-14-85, 05-15-85, 05-16-85, 05-17-85); Verdict (05-17-85); DP Trial (05-18-85); Verdict (05-18-85); Court Sentencing (06-27-85).

**Conviction:** Murder

**Sentencing:** June 27, 1985 (Death Sentence)

**Aggravating Circumstances:** b (3) Lying In wait  
b (5) Hiring another to kill

**Mitigating Circumstances:** None

**Direct Appeal:** Thacker v. State, 556 N.E.2d 1315 (Ind. July 23, 1990) (1285-S-506)

Conviction Affirmed 5-0

DP Vacated 3-2 with instructions to impose a sentence of 60 years imprisonment  
(Proof of lying in wait insufficient since Thacker not at scene; proof of hiring to kill insufficient since no evidence that triggerman was offered or received compensation)  
Debruler Opinion; Shepard, Dickson concur; Givan, Pivarnik dissent.

For Defendant: Alphonso Manns, Bloomington

For State: Cheryl L. Greiner, Deputy Attorney General (Pearson)

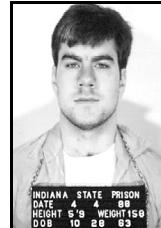
**On Remand:** On October 4, 1990 Dubois County Circuit Court Judge Hugo C. Songer resentenced Thacker to 60 years imprisonment in accordance with Indiana Supreme Court Opinion.

Thacker v. State, 578 N.E.2d 351 (Ind. September 19, 1991)  
(Direct Appeal of 60 year sentence - Affirmed)

- ▶ THACKER (AT 55 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON APRIL 5, 2013 , AFTER SERVING ± 28 YEARS IN CUSTODY.

## THOMPSON, JAY R. # 18

OFF DEATH ROW SINCE 04-25-86  
DOB: 10-28-1963 DOC#: 13149 White Male



Harrison County Circuit Court Judge Scott T. Miller  
Venued from Pike County

Trial Cause #: 81-CR-26 (Pike County) / 81-S-62 (Harrison County)

**Prosecutor:** Jerry J. McGaughey

**Defense:** Timothy R. Dodd

**Date of Murder:** March 8, 1981

**Victim(s):** William Hilborn W / M / 72; Mary Hilborn W / F / 65 (No relationship to Thompson)

**Method of Murder:** stabbing with knife

**Summary:** William and Mary Hilborn were found stabbed to death in their home in Petersburg. Richard Dillon was identified by a Deputy Sheriff as near the property at the time of the murders. When questioned, Dillon said he was not in Petersburg, but was in Princeton at the home of a friend, Jay R. Thompson. The murder weapon, a knife, was later found at Thompson's car. Dillon later gave a complete confession admitting that he and Thompson had committed the Burglary and that he (Dillon) stabbed both victims. They gained entry by requesting to use the telephone. Dillon was armed with a buck knife and stabbed both Hilborns. Both men then forced Mrs. Hilborn, by holding a knife under her chin, to obtain money for them. Dillon then stabbed her again and when she fell to the floor, cut her throat. Thompson then stabbed both victims with a folding knife to insure that both were dead. The pathologist testified that the fatal wound to both Hilborns was made with a knife similar to the folding knife. Dillon testified for the State. Thompson was waived from Juvenile Court to be tried as an adult.

**Trial:** Juvenile Jurisdiction Waiver filed (09-01-81); Information/PC for Murder Filed (09-02-81); Death Sentence Request Filed (09-21-81); Jury Trial (02-26-82, 02-27-82); Verdict (02-27-82); DP Trial (03-05-82); DP Verdict Against Death (03-05-82); Court Sentencing (03-18-82).

**Conviction:** Murder, Murder

**Sentencing:** March 18, 1982 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary, Robbery  
b (7) Prior Murder Conviction

**Mitigating Circumstances:** 17 years old at the time of the crime

Judge Overrides Jury Recommendation against death penalty  
Companion Case to Dillon

**Direct Appeal:** Thompson v. State, 492 N.E.2d 264 (Ind. April 25, 1986) (882-S-303)

65 ALR4th 805 Conviction Affirmed 5-0

DP Vacated 3-2 with instructions to conduct new DP hearing

(Prior murder conviction was improper aggravator relied on by Judge where it was not charged and did not accrue until after trial - aggravator of committing another murder was not charged or instructed upon)

Dickson Opinion; Debruler, Shepard concur; Givan, Pivarnik dissent.

For Defendant: Timothy R. Dodd, Evansville

For State: Michael Gene Worden, Deputy Attorney General (Pearson)

**On Remand:** Thompson was resentenced to 60 years imprisonment on each Count of Murder to run consecutively, and to a concurrent sentence of 20 years imprisonment for Conspiracy to Commit Burglary, for an aggregate sentence of 120 years imprisonment by Special Judge Henry N. Leist in Harrison County.

Thompson v. State, 552 N.E.2d 472 (Ind. 1990) (31S00-8902-PC-167)  
(Direct Appeal of 120 year sentence - Affirmed)

Thompson v. Superintendent, Wabash Valley Corr. Facility (S.D. Ind. May 4, 2017)  
United States District Court for the Southern District of Indiana (No: 2:16-cv-244-WTL-DKL)  
Judge William T. Lawrence  
(Procedural Default/Laches; Writ of Habeas Corpus and Certificate of Appealability denied.)  
For Defendant: Jay R. Thompson, Petitioner, Pro se.  
For State: Chandra Hein, Kelly A. Loy, Deputy Attorneys General (Zoeller)

Thompson v. Brown, 901 F.3d 851 (7th Cir. August 27, 2018) (No. 17-2085)  
Appeal from the United States District Court for the Southern District of Indiana, Terre Haute  
Opinion by Wood; Kane, Scudder concur.  
(The laches doctrine did not reflect a firmly established and regularly followed state practice at the time it was applied and Defendant's petition should not have been dismissed and it was remanded to allow the district court to assess the merits of defendant's petition before the appellate court reviewed them. Judgment vacated and remanded.)  
For Defendant: Joshua T. Buchman, Elizabeth M. Rowe, Chicago, IL.  
For State: Chandra Hein, Deputy Attorney General (Hill)

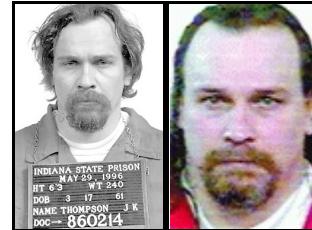
Thompson v. Vanihel, 998 F.3d 762 (7th Cir. May 25, 2021) (No. 20-2571)  
Appeal from the United States District Court for the Southern District of Indiana, Terre Haute  
Affirmed 3-0      Opinion by Kirsch; Wood, Hamilton concur.  
(On remand, the district court dismissed the petition because counsel's alleged errors did not prejudice Thompson. We agree with the district court, and thus affirm.)  
Counsel for Defendant: Todd G. Vare, Daniel Mikhail Thompson, Indianapolis, IN.  
For State: Andrew A. Kobe, Deputy Attorney General (Rokita)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## **THOMPSON, JERRY K. # 85 & # 95**

KILLED ON DEATH ROW 10-27-02  
DOB: 03-17-1961 DOC#: 860214 White Male

Marion County Superior Court Judge John R. Barney, Jr.



**Trial Cause #:** 49GO3-9204-CF-060651

**Prosecutor:** John V. Commons, Lawrence O. Sells  
**Defense:** Robert V. Clutter, Jeffrey A. Baldwin

**Date of Murder:** March 14, 1991

**Victim(s):** Melvin Hillis W / M / 68; Robert Beeler W / M / 47 (No relationship to Thompson)

**Method of Murder:** shooting with handgun

**Summary:** Melvin Hillis and his employee, Robert Beeler, were shot to death during a robbery at Hillis Auto Sales in Indianapolis. Three months later, Thompson and Douglas Percy were stopped in Illinois for a traffic violation and a .9 mm handgun was recovered from the vehicle. Ballistics tests later confirmed this gun to be the murder weapon. Percy came forward a year after the murder, and in exchange for dismissal of relatively minor charges, testified that he and Thompson had gone to Hillis Auto Sales and Thompson had shot and robbed Hillis and Beeler. Percy also testified that the gun used had been stolen from Wesley Crandall in New Castle one month earlier. Percy testified that he and Thompson had gone there to buy marijuana, and that Thompson had killed Crandall with a shotgun, then stole his guns, marijuana, and money. Thompson was later convicted of Crandall's murder. Details of the Crandall murder in New Castle, as well as the subsequent murder conviction, were admitted as evidence during the guilt phase here.

**Trial:** Information/PC for Murder filed (04-28-92); Amended Information for DP filed (03-02-94); Voir Dire (03-04-96, 03-05-96, 03-06-96); Jury Trial (03-07-96, 03-08-96, 03-09-96, 03-11-96); Verdict (03-12-96); DP Trial (03-12-96); Verdict (03-13-96); Court Sentencing (05-24-96).

**Conviction:** Murder (2 counts), Robbery (B Felony), (2 counts), Carrying Handgun Without License (A Misd)  
**Sentencing:** May 24, 1996 (Death Sentence, Death Sentence, 20 years, 20 years, 1 year)

**Aggravating Circumstances:**

- b (1) Robbery
- b (8) 2 murders
- b (7) Convicted of another murder

**Mitigating Circumstances:** dysfunctional family  
difficult family upbringing

**Direct Appeal:** Thompson v. State, 690 N.E.2d 224 (Ind. December 23, 1997) (49S00-9507-DP-869)  
Conviction Reversed 5-0 DP Vacated 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby, concur  
(Details of prior murder, and Thompson's conviction of that murder, should not have been admitted, even though murder weapon was stolen from prior murder victim)  
For Defendant: Joseph M. Cleary, Robert V. Clutter, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**On Remand:** Voir Dire (04-24-00, 04-25-00, 04-26-00; Jury Trial (04-26-00, 04-27-00, 04-28-00, 04-29-00); Verdict (04-29-00); DP Trial (05-01-00, 05-02-00, 05-03-00); DP Verdict (05-03-00; Court Sentencing (09-29-00).

A Marion Superior Court jury again found Thompson guilty of two counts of Murder, two counts of Felony-Murder, two counts of Robbery and Carrying a Handgun Without a License, and again recommended a death sentence on May 3, 2000. Thompson was again sentenced to death on September 29, 2000.

Marion County Superior Court Judge Tonya Walton Pratt  
For Defendant: David Hennessy, Joseph M. Cleary  
For State: Lawrence O. Sells, Mark S. Massa

Thompson v. State, 671 N.E.2d 1165 (Ind. 1996) (Direct appeal of 90 year sentence and conviction for unrelated murder/habitual offender in Henry County Cause #33D01-9207-CF-027; Affirmed)

ON OCTOBER 27, 2002, THOMPSON WAS FOUND DEAD IN THE RECREATION AREA OF A CELLBLOCK ON "X ROW" AT THE INDIANA STATE PRISON IN MICHIGAN CITY, INDIANA. THOMPSON SUFFERED SEVERAL FATAL STAB WOUNDS. AT THE TIME, THOMPSON WAS ON DIRECT APPEAL FROM HIS DEATH SENTENCE FOLLOWING A RETRIAL IN MARION COUNTY.

## TIMBERLAKE, NORMAN H. # 83

DIED OF NATURAL CAUSES ON DEATH ROW 11-10-07  
DOB: 08-14-1947 DOC#: 873051 White Male

Marion County Superior Court  
Special Judge Alfred W. Moellering

**Trial Cause #:** 49G02-9302-CF-014191  
**Prosecutor:** Scott C. Newman, John V. Commons  
**Defense:** Ellen O'Connor, Arnold P. Baratz

**Date of Murder:** February 5, 1993  
**Victim(s):** Michael Greene W / M / 43  
(Indiana State Police Officer - No relationship to Timberlake)



**Victim Website:** <http://www.in.gov/isp/2336.htm>  
<http://www.odmp.org/officer/reflections/452-master-trooper-michael-earl-green>

**Method of Murder:** shooting with .25 handgun

**Summary:** An ISP Dispatcher was requested via radio by Trooper Greene to run a records check on Tommy L. McElroy and Norman Timberlake. She responded that Timberlake was not wanted, but there was an outstanding warrant for McElroy. Trooper Greene advised that he would be outside the car securing the subject. Two minutes later a female voice came over the radio stating, "Help. An officer's been hurt." A number of passersby along I-65 gave various eyewitness accounts. Most had seen the officer attempting to put handcuffs on a heavyset man while a skinny man with stringy hair watched nearby. Two witnesses observed the skinny man lunge toward the officer, sticking his right hand up, and the officer fell. McElroy is a heavyset man, Timberlake is very thin. Officer Greene was found to have died from a single gunshot wound to the chest. A muzzle burn was noted on his chest. Later the same afternoon, an Ameritech operator received a call from a Norman Timberlake requesting to make a collect call from a pay phone. The operator was aware of the shooting, and aware that police were looking for Timberlake. She called the police, who responded to the scene of the pay phone. The man in the booth was asked his name. He responded that he had no name, and reached with his right arm. The officers grabbed him and recovered a .25 automatic handgun from his right pocket. This gun was tested and confirmed to be the murder weapon. The man was Timberlake. McElroy testified at trial that Timberlake shot the trooper while he was being taken into custody, then both of them jumped in the car and Timberlake said, "drive." Another man, who was earlier with Timberlake and McElroy for a few days, testified the gun was his and Timberlake had taken the gun from him.

**Trial:** Information/PC for Murder filed (02-08-93); Amended Information for DP filed (02-18-93); Voir Dire (07-10-95, 07-12-95); Jury Trial (07-13-95, 07-14-95, 07-15-95, 07-17-95, 07-18-95, 07-19-95, 07-20-95); Verdict (07-20-95); DP Trial (07-21-95); Verdict (07-21-95); Court Sentencing (08-11-95).

**Conviction:** Murder, Carrying a Handgun (A Misd); Escape (B Felony) dismissed on State's request at trial.

**Sentencing:** August 11, 1995 (Death Sentence; Carrying a Handgun (A Misd) merged; Carrying a Handgun enhancement dismissed on State's request at sentencing)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer  
**Mitigating Circumstances:** None

**Direct Appeal:** Timberlake v. State, 690 N.E.2d 243 (Ind. December 30, 1997) (49S00-9305-DP-577)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Selby Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Judith G. Menadue, Norman  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Timberlake v. Indiana, 119 S.Ct. 808 (1999) (Cert. denied)

**PCR:** PCR Petition filed 06-02-98. Amended PCR filed 12-07-98, 10-28-99.  
State's Answer to PCR Petition filed 07-02-98, 11-04-99.  
09-15-99, 10-04-99, 10-05-99 Hearings held to determine competency and/or whether Timberlake has had a mind-control device surreptitiously implanted by the U.S. Marines.  
11-04-99 Request for Interlocutory Appeal denied.  
PCR Hearing 11-08-99, 11-09-99, 11-10-99, 11-12-99, 11-15-99, 05-04-95.  
Special Judge Steven R. Nation  
For Defendant: Eric K. Koselke, Ann M. Skinner, Public Defenders (Carpenter)  
For State: Priscilla J. Fossum, John M. Chavis, James B. Martin, Deputy Attorneys General  
12-27-99 PCR Petition denied.

Timberlake v. State, 753 N.E.2d 591 (Ind. August 20, 2001) (49S00-9804-PD-252)  
(Appeal of PCR denial by Special Judge Steven R. Nation)  
Conviction and Death Sentence Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Rucker concur.  
For Defendant: Eric K. Koselke, Ann M. Sutton, Deputy Public Defenders (Carpenter)  
For State: Priscilla J. Fossum, James B. Martin, Deputy Attorneys General (Freeman-Wilson)  
Timberlake v. Indiana, 123 S.Ct. 162 (October 7, 2002) (Cert. denied)

Timberlake v. State, 858 N.E.2d 625 (Ind. December 15, 2006) (49S00-0606-SD-235)  
(Motion for Leave to file Successive PCR denied 3-2)  
(Shepard, Dickson, Sullivan concur; Boehm, Rucker dissent on grounds that Timberlake should have hearing on his competency to be executed)

**Habeas:** 01-08-02 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
11-18-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Norman Timberlake v. Cecil Davis, Superintendent (IP 02-C- 0036-Y/S)  
Judge Richard L. Young  
For Defendant: Brent L. Westerfield, Indianapolis, Linda Meier Youngcourt, Huron  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
  
02-14-03 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-25-03 Petition for Guardian Ad Litem denied.  
12-10-03 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
03-24-04 Writ of Habeas Corpus denied.  
06-18-04 Certificate of Appealability denied.

Timberlake v. Davis, 409 F.3d 819 (7th Cir. May 27, 2005) (04-2315).  
(Appeal of habeas denial; Affirmed 3-0)  
Frank H. Easterbrook Opinion; Kenneth F. Ripple, Daniel A. Manion concur.  
For Defendant: Brent L. Westerfield, Indianapolis, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Timberlake v. Davis, 418 F.3d 702 (7th Cir. August 1, 2005) (Reh. denied).  
Timberlake v. Buss, 126 S.Ct. 1910 (2006) (Cert. denied)

Timberlake v. Donahue, \_\_\_ F.Supp. \_\_\_, 2007 WL 141950 (1:06-CV-01859-RLY-WTL)  
(S.D. Ind. January 16, 2007) (Judge Richard L. Young memo on issues for trial on requested injunction challenging lethal injection method of execution)

For Timberlake: Brent L. Westerfield, Richard A. Waples, Indianapolis, Lorinda Meier Youngcourt, Huron  
For Donahue: Thomas D. Quigley, Betsy M. Isenberg, Deputy Attorneys General (S.Carter)  
Timberlake v. Buss, \_\_\_ F.Supp. \_\_\_ (S.D. Ind. May 1, 2007) (1:06-CV-01859-RLY-WTL)  
(Judge Richard L. Young denying State's Motion for Summary Judgment)  
Timberlake v. Buss, \_\_\_ F.Supp. \_\_\_ (S.D. Ind. May 1, 2007) (1:06-CV-01859-RLY-WTL)  
(Judge Richard L. Young denying Stay / Injunction)

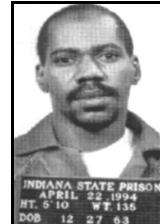
**Stay:** Timberlake v. State, 859 N.E.2d 1209 (Ind. January 17, 2007) (49S00-0606-SD-235)  
(Stay of Execution granted until U.S. Supreme Court decision in Panetti v. Quarterman, relating to competency for execution, is handed down 3-2; (Dickson, Boehm, Rucker concur; Shepard, Sullivan dissent on grounds that it is very unlikely Panetti will have any affect on this case)

Timberlake v. State, 679 N.E.2d 1337 (Ind. May 15, 1997) (Direct appeal of 111 year sentence and convictions for unrelated Robbery, Confinement, Carrying a Handgun and Habitual Offender finding, committed the day before murder. - Convictions affirmed, but remanded for resentencing.)

WHILE AWAITING THE SETTING OF AN EXECUTION DATE, TIMBERLAKE (AT 59 YEARS OLD) DIED OF NATURAL CAUSES ON DEATH ROW, INDIANA STATE PRISON, MICHIGAN CITY, INDIANA ON NOVEMBER 10, 2007.

## TOWNSEND, JOHNNY, JR. # 32

OFF DEATH ROW SINCE 04-29-99  
DOB: 12-27-1963 DOC#: 850551 Black Male



Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-227-1283-898  
**Prosecutor:** Thomas L. Jackson, Kathleen M. O'Halloran  
**Defense:** Cornell Collins, Daniel L. Toomey, Hamilton Carmouche

**Date of Murder:** November 28, 1983

**Victim(s):** Hal Fuller B / M / 65; Margaret Fuller B / F / 63 (Acquaintances of Townsend)

**Method of Murder:** stabbing with a steak knife 10 times (Hal) and 9 times (Margaret)

**Summary:** The bodies of Hal and Margaret Fuller were discovered in their home with multiple stab wounds. Mr. Fuller's open wallet was found at his feet and a serrated steak knife with blood was found in the driveway. The Fuller's car was found abandoned two days later. The girlfriends of Townsend and Phillip McCollum gave statements that they had driven in a similar car with McCollum and Townsend, picked up a radio to sell, and that Townsend had a cut hand. Bloody clothing was later recovered from their residence. Both Townsend and McCollum gave remarkably similar statements to police. They said they went to the Fuller home and talked for awhile. When Mr. Fuller started to use the phone, Townsend stabbed him in the back. McCollum then started stabbing Mrs. Fuller, who cried out "Please don't kill me." McCollum told her to shut up and kept on stabbing her. McCollum stabbed Mr. Fuller in the chest to finish him off. They found no money, took a radio, stole the Fuller's car, and fled.

**Conviction:** Murder, Felony-Murder

**Sentencing:** March 8, 1985 Death Sentence (McCollum); Death Sentence (Townsend)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** 18 years old and single at the time of the murder  
no prior criminal record

Joint Trial and Appeal (Both McCollum and Townsend received death sentences)

**Direct Appeal:** Townsend v. State, 533 N.E.2d 1215 (Ind. February 14, 1989) (885-S-339)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: Ellen S. Podgor, David H. Nicholls, Crown Point Public Defenders  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Townsend v. Indiana, 110 S.Ct. 1327 (1990) (Cert. denied)  
McCollum v. Indiana, 110 S.Ct. 2633 (1990) (Cert. denied)  
McCollum v. Indiana, 111 S.Ct. 9 (1990) (Rehearing denied)

**PCR:** 11-13-90 Townsend PCR filed; Denied by Special Judge Richard Conroy 04-10-95.  
07-08-91 McCollum PCR filed; Denied by Special Judge Richard Conroy 04-10-95.

(04-29-99 While appeal pending, parties entered into agreement. Judge Richard W. Maroc modified sentence of both McCollum and Townsend to 60 years consecutive on each count, for a total sentence of 120 years imprisonment for each.)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## TRUEBLOOD, JOSEPH L. # 64

EXECUTED BY LETHAL INJECTION 06-13-03 12:24 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.



DOB: 12-26-1956 DOC#: 902302 White Male

Tippecanoe County Circuit Court Judge Ronald E. Melichar

**Trial Cause #:** 79C01-8904-CF-12

**Prosecutor:** Jerry J. Bean, John H. Meyers, IV

**Defense:** George G. Wilder, Thomas J. O'Brien, Michael J. O'Reilly

**Date of Murder:** August 15, 1988

**Victim(s):** Susan Bowsher W / F / 23 (ex-girlfriend);

Ashlyn Bowsher W / F / 2 and William Bowsher W / M / 17 months (children of Susan)

**Method of Murder:** shooting with handgun

**Summary:** Trueblood was upset with his former girlfriend, Susan Bowsher, because she expressed her intention of going back with her ex-husband. Trueblood picked up Susan and her two small children one day and while they were in the car he shot Susan 3 times in the head, and shot each child once in the head. He then drove to the home of his twin brother, admitted to him what he had done, borrowed a shovel, then drove to a secluded area and buried all three in a shallow grave. After 4 witnesses had testified at trial, Trueblood indicated a desire to plead guilty and did so. When interviewed by the Probation Officer for the Presentence Report, Trueblood claimed that Susan had shot the kids, then killed herself. He then sought to withdraw his guilty plea, which was denied.

**Trial:** Information/PC for Murder Filed (08-22-88); Death Sentence Request Filed (09-02-88); Guilty Plea Count III (10-04-88); Judgment Entered (10-06-88); Voir dire (02-13-90, 02-14-90, 02-15-90, 02-16-90, 02-20-90); Jury Trial (02-21-90, 02-22-90, 02-23-90); Guilty Plea Count I & II (02-23-90); Judgment Entered (03-02-90); Defense Counsel Motion to Withdraw denied (03-02-90); Defendant Motion to Withdraw Guilty Plea denied (03-02-90); DP Sentencing Hearing (03-02-90, 03-06-90, 03-07-90, 03-08-90); Court Sentencing (04-12-90).

**Conviction:** Pled Guilty during trial without a Plea Agreement to Murder (3 counts)  
Motion to withdraw guilty plea before sentencing was denied

**Sentencing:** April 12, 1990 (Death Sentence)

**Aggravating Circumstances:** b (12) 2 victims less than 12 years of age; b (8) 3 murders

**Mitigating Circumstances:** extreme emotional disturbance  
good conduct while in jail awaiting trial  
mixed personality disorder  
he was kind to children  
he was hero for pulling woman from burning building

Guilty Plea

**Direct Appeal:** Trueblood v. State, 587 N.E.2d 105 (Ind. February 28, 1992) (79S00-9004-DP-00304)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Debruler, Givan, Dickson, Krahulik concur.  
For Defendant: Thomas J. O'Brien, Michael J. O'Reilly, Lafayette Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Trueblood v. Indiana, 113 S.Ct. 278 (1992) (Cert. denied)

**PCR:** 10-28-92 Notice of Intent to file PCR.  
05-09-94 PCR filed; Amended PCR filed 01-16-96, 04-15-96.  
06-09-94 Answer filed.  
01-19-96 Trial Court certifies for Interlocutory Appeal, denied by Indiana Supreme Court 02-13-96.  
06-11-96 Defense Motion for Summary Judgment denied.  
06-11-96 State's Motion for Summary Judgment granted in part.  
06-25-96, 06-26-96, 07-16-96, 07-17-96, 07-19-96 PCR Hearing  
For Defendant: John S. Sommer, Kathleen Littell, Chris Hitz-Bradley, Deputy Public Defenders  
For State: Jerry J. Bean, John H. Meyers IV  
Special Judge Thomas K. Milligan  
08-12-96 PCR Denied.

Trueblood v. State, 715 N.E. 2d 1242 (Ind. September 9, 1999) (79S00-9211-PD-887)  
(Appeal of PCR denial by Special Judge Thomas K. Milligan)  
Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: John S. Sommer, Kathleen Cleary, Chris Hitz-Bradley, Deputy Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Trueblood v. Indiana, 121 S.Ct. 143 (2000) (Cert. denied)

**Habeas:** 02-28-00 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-28-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Joseph L. Trueblood v. Rondle Anderson, Superintendent (3:00-CV-125-AS)  
Judge Allen Sharp  
For Defendant: F. Thomas Schornhorst, Orange Beach, AL  
For State: Suzannah B. Wilson, Thomas D. Perkins, Michael A. Hurst, Deputy Attys. Gen. (S. Carter)

01-23-01 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
03-23-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-07-02 Writ of Habeas Corpus granted.

09-13-01 Certificate of Appealability granted.

Trueblood v. Anderson, 156 F.Supp.2d 1056 (N.D. Ind. July 30, 2001) (3:00-CV-125-AS)  
(Order of U.S. District Court Judge Allen Sharp, Northern District of Indiana, granting habeas relief as to the murder of Susan Bowsher in that the guilty plea was involuntary because the trial court failed to advise Trueblood that by pleading guilty, he would be admitting an aggravator on child murders; also granting habeas relief because the trial court found as an aggravating circumstance that the murders were "cold blooded, premeditated killings of three helpless and defenseless persons." Order of release or retrial within 120 days.)

For Defendant: F. Thomas Schornhorst, Orange Beach, AL

For State: Suzannah B. Wilson, Thomas D. Perkins, Michael A. Hurst, Deputy Attys. Gen. (S. Carter)

Trueblood v. Davis, 301 F.3d 784 (7th Cir. August 20, 2002) (01-3281, 3282)

(The United States Court of Appeals, Seventh Circuit, reversed the judgment of Judge Allen Sharp of the U.S. District Court, Northern District of Indiana, which granted habeas corpus. In reinstating the death sentences against Trueblood, the Seventh Circuit summarily dismissed the grounds used by Judge Sharp to grant habeas, including the characterizations by the trial Judge describing the murders as "cold-blooded" and "premeditated.")

Opinion by Circuit Judge Richard A. Posner, Judge Kenneth F. Ripple, Judge Terrance T. Evans.

For Defendant: F. Thomas Schornhorst, Orange Beach, AL

For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Trueblood v. Davis, 123 S.Ct. 1650 (March 31, 2003) (Cert. denied)

Trueblood v. Indiana Parole Bd., 123 S.Ct. 2295 (June 12, 2003) (Application for stay denied)

Trueblood v. Indiana, 123 S.Ct. 2295 (June 10, 2003) (Application for stay denied)

Trueblood v. State, 790 N.E.2d 97 (Ind. June 12, 2003) (79S00-0304-SD-172)

(Successive motion for stay of execution of death sentence)

Denied 5-0; Opinion by Shepard; Dickson, Sullivan Boehm, Rucker concur.

Governor's decision concerning clemency petition was not subject to judicial review.

TRUEBLOOD WAS EXECUTED BY LETHAL INJECTION 06-13-03 12:24 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 81ST CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 11TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## UNDERWOOD, HERBERT A. # 38

OFF DEATH ROW SINCE 04-21-95

DOB: 07-11-1960 DOC#: 853860 White Male

Marion County Superior Court Judge Thomas E. Alsip

Trial Cause #: CR84-106C



**Prosecutor:** Robert P. Thomas, David E. Cook

**Defense:** Craig O. Wellnitz, Eugene C. Hollander

**Date of Murder:** June 5, 1984

**Victim(s):** Kerry Golden W / M / 29 (Acquaintance of Huffman, met on night of murder)

**Method of Murder:** beating with tire iron; stomping; manual strangulation

**Summary:** Kerry Golden was introduced to Huffman while at the 50 Yard Line Bar in Indianapolis. They sat together and Golden displayed a large amount of money and marijuana. They met Huffman's longtime friends, Herb Underwood and Rick Asbury and closed down the bar. They smoked marijuana in the parking lot together and left in a car with Huffman driving, Underwood in the front, and Asbury and Golden in the back. The car was stopped in a remote area. Underwood got out and pulled Golden from the car. Huffman and Underwood told Golden to "give up the pot," then attacked him, both punching and kicking him. They stripped off his clothing and Underwood grabbed his penis and lifted him off the ground as Golden screamed. Underwood then took money from Golden's pants. Asbury got out and kicked Golden and gave his knife to Huffman. Huffman threatened to kill Golden if he told. Underwood stated that he had to kill him because he did not want to go to prison. Huffman got a tire iron from the trunk and both he and Underwood beat Golden. Underwood then told Asbury he had to hit Golden. Asbury "tapped" Golden twice with the tire iron. Asbury testified for the State at trial, pled guilty, and received a 25 year sentence for his role in the killing.

**Trial:** Information/PC for Murder and Death Penalty Filed (06-07-84); Death Sentence Request Filed (07-30-84); Jury Trial (07-15-85 through 07-24-85); Verdict (07-25-85); DP Trial (07-25-85); DP Verdict (07-25-85); Court Sentencing (08-23-85).

**Conviction:** Murder, Felony-Murder, Conspiracy to Commit Murder (A Felony), Robbery (A Felony), Conspiracy to Commit Robbery (A Felony)

**Sentencing:** August 23, 1985  
(Death Sentence, 50 years, 50 years, 50 years; Murder and Felony-Murder merged)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** intoxication

Joint Trial with Richard Huffman

**Direct Appeal:** Underwood v. State, 535 N.E.2d 507 (Ind. March 10, 1989) (49S00-8602-CR-206)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Shepard, Debruler, Pivarnik concur; Dickson dissents.  
For Defendant: Allen N. Smith, Jr., Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Underwood v. Indiana, 110 S.Ct. 257 (1989)(Cert. denied)  
Underwood v. Indiana, 110 S.Ct. 524 (1989)(Rehearing denied)

**PCR:** PCR Petition filed 06-01-90. Amended PCR filed 07-02-92.  
State's Answer to PCR Petition filed 06-28-90.  
07-10-92 Defendant's Motion for Summary Judgment, denied 12-04-92.  
02-01-93 Order granting Certification for Interlocutory Appeal.  
02-27-95 Renewed Motion for Summary Judgment  
Special Judge Ora A. Kincaid, III  
For Defendant: Jeffrey Evans, Lorinda Youngcourt  
For State: John V. Commons, Marc E. Lundy, Frank A. Gleaves  
04-24-95 Defendant's Motion for Summary Judgment granted, vacating conviction and sentence.

**On Remand:** Motion for Speedy Trial (06-22-95); Voir dire (08-19-96, 08-20-96, 08-21-96); Jury Trial (08-22-96, 08-23-96, 08-24-96, 08-25-96, 08-26-96, 08-27-96); Deliberations over 4 days; Verdict (08-30-96).  
Retrial on 08-19-96 to 08-27-96.  
Marion Superior Court Special Judge Paula E. Lopossa  
For Defendant: Brent L. Westerfield, Lorinda Youngcourt

For State: Barbara Crawford, James Nave  
Verdict: Hung Jury on Murder, Conspiracy to Murder;  
Found Not Guilty of Felony-Murder, Robbery, and Conspiracy to Robbery.

State's Motion to Dismiss Death Sentence due to jury verdict of not guilty on Robbery (10-11-96); Voir Dire (02-03-97); Jury Trial (02-03-97, 02-04-97, 02-05-97, 02-06-97, 02-07-97); Verdict (02-07-97); Court Sentencing (02-21-97).

Second Retrial on 02-03-97 to 02-07-97.

Marion Superior Court Special Judge Paula E. Lopossa  
For Defendant: Brent L. Westerfield, Lorinda Youngcourt  
For State: Barbara Crawford  
Verdict: Guilty of Murder and Conspiracy to Murder.  
Sentence: 60 years imprisonment for Murder. (Conspiracy to Murder vacated)

Underwood v. State, 722 N.E.2d 828 (Ind. January 31, 2000) (Affirmed 5-0) (49S00-9707-CR-419)  
Underwood v. Indiana, 122 S.Ct. 560 (2001)(Cert. denied)

- ▶ UNDERWOOD (AT 50 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JUNE 6, 2011, AFTER SERVING ± 27 YEARS IN CUSTODY.

## VAN CLEAVE, GREGORY # 20

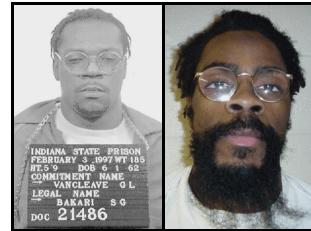
OFF DEATH ROW SINCE 11-22-94  
DOB: 06-01-1962 DOC#: 21486 Black Male

Marion County Superior Court Judge Patricia J. Gifford

**Trial Cause #:** CR82-153D

**Prosecutor:** David E. Cook

**Defense:** Grant Hawkins



**Date of Murder:** October 19, 1982

**Victim(s):** Robert Falkner W / M / 41 (No relationship to Van Cleave)

**Method of Murder:** shooting with shotgun

**Summary:** Robert Falkner was outside his home one night working by floodlight caulking a window while watching the World Series on television. He was shot in the chest with a shotgun. Van Cleave, Brazleton, Coleman and Sims were driving around getting high with liquor and marijuana looking for someone to rob when they came upon Falkner. Sims and Van Cleave got out, with Van Cleave carrying a shotgun. Van Cleave confronted Falkner and a neighbor overhead Falkner say "What do you mean, 'shut up.'" Van Cleave then shot Falkner in the chest and fled. Van Cleave admitted shooting Falkner, but claimed that "the gun just went off," and that the shooting was accidental. Brazleton and Coleman testified after reaching plea agreements with the State. Ballistics experts confirmed that the shot was fired from 6-8 feet.

**Trial:** Information/PC for Murder Filed (10-23-82); Death Sentence Request Filed (10-26-82); Guilty Plea (04-13-83); DP Sentencing Hearing (05-12-83); Court Sentencing (05-27-83).

**Conviction:** Pled Guilty to Felony-Murder (Conspiracy to Commit Robbery dismissed as part of Plea agreement. The agreement allowed both sides to present evidence and arguments on a death sentence and intent, but commanded 60 years imprisonment if death sentence not imposed)

**Sentencing:** May 27, 1983 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** 20 years old at the time of the murder  
intoxication  
bad home life  
failed stint in the Army, Honorable Discharge  
could not find a job after Army

Guilty Plea

**Direct Appeal:** Van Cleave v. State, 517 N.E.2d 356 (Ind. December 30, 1987) (384-S-109)

Conviction Affirmed 5-0 DP Affirmed 5-0

Shepard Opinion; Debruler, Givan, Pivarnik, Dickson concur.

For Defendant: Richard Kammen, Indianapolis, Daniel Dovenbarger, IU School of Law

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Van Cleave v. Indiana, 109 S.Ct. 819 (1989) (Cert. denied)

Van Cleave v. Indiana, 110 S.Ct. 271 (1989) (Rehearing denied)

**PCR:** PCR Petition filed 08-24-89. Amended PCR filed 03-01-90, 05-07-90, 05-24-90, 11-21-90, 04-15-91.

State's Answer to PCR Petition filed 09-22-89.

PCR Hearing 05-13-91, 05-14-91, 05-15-91, 05-16-91, 05-17-91, 05-23-91, 05-24-91, 08-26-91, 08-28-91.  
Summary Judgment Hearing 10-13-92.

Marion County Superior Court Special Judge John W. Tranberg

Marion County Superior Court Special Judge Paula E. Lopoosa

For Defendant: John V. Commons, Frank Gleaves

For State: Thomas C. Hinesley, Joseph M. Cleary, Kenneth L. Bird, Deputy Public Defenders  
11-23-94 PCR Petition granted.

State v. Van Cleave, 674 N.E.2d 1293 (Ind. December 19, 1996) (49S00-9008-PD-541)

(State's appeal of Judge Paula E. Lopoosa granting PCR vacating guilty plea, conviction and death sentence on grounds of ineffective assistance of counsel)

Reversed and remanded 5-0 for new sentencing hearing only and conviction reinstated;

Vacating death sentence not challenged by State on appeal.

Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.

For Defendant: Thomas C. Hinesley, Joseph M. Cleary, Kenneth L. Bird, Deputy Public Defenders

For State: Geoff Davis, Deputy Attorney General (P. Carter)

State v. Van Cleave, 681 N.E.2d 181 (Ind. May 28, 1997) (On Rehearing) (49S00-9008-PD-541)

Remanded 5-0, Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.

(Ordering PCR court to determine if any additional evidence is necessary on remaining PCR issues, and if denied, then to conduct resentencing before appeal. Supreme Court strongly disapproves of PCR court severing ineffective assistance claims and entering a ruling only on that claim, causing unnecessary additional proceedings.)

Van Cleave v. Indiana, 118 S.Ct. 1060 (1998) (Cert. denied)

**On Remand:** 02-23-95 G. Thomas Gray appointed Special Judge

07-25-97 Amended PCR Petition filed

08-25-97 State's Answer filed

06-01-98 PCR Hearing

06-05-98 Guilty Plea/Sentencing

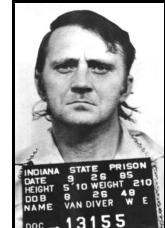
Special Judge Thomas Gray denied PCR relief.

Following a new sentencing hearing, on 06-05-98 Special Judge Thomas Gray ruled that State has not satisfied burden of proof and a death sentence was removed from consideration. Van Cleave sentenced to 60 years imprisonment.

VANCLEAVE WAS RELEASED FROM THE INDIANA DEPARTMENT OF CORRECTIONS, BUT RECOMMITTED FOLLOWING HIS ARREST ON OCTOBER 28, 2010 AND CONVICTION OF POSSESSION OF COCAINE. ON AUGUST 16, 2011 HE WAS SENTENCED PURSUANT TO A PLEA AGREEMENT TO 20 YEARS IMPRISONMENT WITH 5 YEARS SUSPENDED AND PROBATED IN MARION COUNTY SUPERIOR COURT 21 (49G21-1011-FA-082523). HE WAS RELEASED FROM IDOC BACK TO COURT AUTHORITY ON JUNE 2, 2017.

## **VANDIVER, WILLIAM C. # 26**

EXECUTED BY ELECTRIC CHAIR 10-16-85 12:20 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.



DOB: 08-26-1948 DOC#: 13155 White Male

Lake County Superior Court Judge James E. Letsinger

**Trial Cause #:** 45G02-8306-CR-00117

**Prosecutor:** Thomas W. Vanes

**Defense:** Herbert I. Shaps

**Date of Murder:** March 20, 1983

**Victim(s):** Paul Komyatti, Sr. W / M / 62 (Father-In-Law of Vandiver)

**Method of Murder:** stabbed with fish filet knife over 100 times

**Summary:** Paul Komyatti, Sr. on occasion drank to excess and became loud and violent. He was disliked by members of his immediate family, which included his wife, Rosemary, his son Paul Jr., and his daughter, Mariann. Paul Sr. had demanded that Mariann divorce Vandiver because of his criminal past., and threatened to inform the police on him. Vandiver joined with the family in a conspiracy to kill Paul Sr. Pursuant to their agreement, several attempts to poison him were made without success. Finally, they decided to put him under with ether and inject air into his veins. One evening, Vandiver and Mariann waited outside the home for a signal from Paul Jr. that Paul Sr. was asleep. Upon seeing the signal, they entered the house and changed the plan at the last moment for lack of ether. Instead they entered the bedroom intending to smother Paul Sr., and sprang on him in his bed. Paul Sr. fought hard for his life and yet another attempt at murder was bungled. Vandiver, however, terminated the resistance by stabbing him in the back with a fish filet knife "at least 100 times." 34 deep knife wounds were later discovered on the body. He hit him in the head 5 or 6 times with his gun, but he was still breathing. By Vandiver's own admission, decapitation was the immediate cause of death. Vandiver and the other family members then sectioned up the body while making jokes. Evidence was also presented that Vandiver had gotten a "loan" of \$5000 from Paul Jr., as well as \$1700 and Paul Sr.'s truck from Rosemary. At trial, Vandiver recanted his prior confessions and placed the entire blame on Paul Jr. for the murder and dissection.

**Trial:** Indictment for Murder filed (06-24-83); Amended Indictment for DP filed (06-30-83); Notice of Insanity Defense filed (07-29-83); Motion to Change Venue (08-08-83); Motion for Change of Judge (11-04-83); Insanity Plea Withdrawn (12-05-83); Voir Dire (12-12-83, 12-13-83, 12-14-83); Jury Trial (12-14-83, 12-15-83, 12-16-83, 12-17-83, 12-18-83, 12-19-83); Habitual Offender filed (12-19-83); Verdict (12-19-83); DP Trial (12-19-83, 12-20-83); Verdict (12-21-83); Court Sentencing (01-20-84). Habitual Offender Dismissed (04-13-84).

**Conviction:** Murder

**Sentencing:** January 20, 1984 (Death Sentence)

Accomplice Paul Komyatti, Jr. was convicted of Murder and Conspiracy and sentenced to 55/45 years imprisonment on 12/28/83 in 2CR-118-683-466, and was discharged from IDOC in 2010.

Accomplice Rosemary Komyatti was convicted of Murder and Conspiracy and sentenced to 55/45 years imprisonment on 12/28/83 in 2CR-118-683-466, and died on 02/16/12.

**Aggravating Circumstances:** b (3) Lying in wait  
b (4) Hired to kill

**Mitigating Circumstances:** None

**Direct Appeal:** Vandiver v. State, 480 N.E.2d 910 (Ind. July 29, 1985) (984-S-341)

Conviction Affirmed 4-0 DP Affirmed 4-0

Pivarnik Opinion; Givan, Debruler, Prentice concur. Hunter did not participate.

For Defendant: David P. Freund, Deputy Public Defender (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

VANDIVER WAIVED APPEALS AND WAS EXECUTED BY ELECTRIC CHAIR ON 10-16-85 AT 12:20 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 72ND CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE SECOND SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **WALLACE, DONALD RAY, JR. # 16**

EXECUTED BY LETHAL INJECTION 03-10-05 12:23 AM  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 09-03-1957 DOC#: 7114 White Male

Vigo County Circuit Court Judge Hugh D. McQuillan  
Venued from Vanderburgh County

**Trial Cause #:** C-CR80-9 (Vigo County)

**Prosecutor:** Stanley M. Levco, Robert J. Pigman

**Defense:** William G. Smock

**Date of Murder:** January 14, 1980



**Victim(s):** Patrick Gilligan W / M / 30; Teresa Gilligan W / F / 30; Lisa Gilligan W/F/5;  
Gregory Gilligan W / M / 4 (No relationship to Wallace)

**Method of Murder:** shooting with handgun

**Summary:** As attested by the admission of Wallace to friends after the fact, after burglarizing the home of Ralph Hendricks, he "got greedy" and decided to break into the house next door. However, when he did so, he was surprised to find the family inside. Patrick and Teresa Gilligan and their two children, aged 4 and 5, were confronted by Wallace with a gun. All four were tied up and shot in the head. Wallace would say to friends later that he shot Mr. Gilligan because he was "giving him trouble"; he shot Mrs. Gilligan because she was screaming and he "had to shut her up"; and he shot the children because he "could not let the children grow up with the trauma of not having parents." Wallace then took guns, a CB, a scanner, and other property, all of which was later recovered from or traced to Wallace.

**Trial:** Venued to Vigo County (01-24-80); Found Incompetent (05-19-80); Found Competent (09-02-80); Found Incompetent (01-16-81); Competency Hearing (06-10-82, 06-11-82, 06-14-82, 06-16-82, 06-18-82); Found Competent (06-28-82); Insanity Defense filed (07-02-82); Insanity Defense Withdrawn (08-12-82); Voir dire (08-31-82, 09-01-82, 09-02-82, 09-03-82, 09-07-82, 09-08-82, 09-09-82); Jury Trial (09-09-82, 09-10-82, 09-11-82, 09-13-82, 09-14-82, 09-15-82, 09-16-82, 09-17-82, 09-18-82, 09-20-82, 09-21-82, 09-22-82); Verdict (09-22-82); DP Trial (09-23-82); Verdict (09-23-82); Court Sentencing (10-21-82).

**Conviction:** Murder (4 counts)

**Sentencing:** October 21, 1982 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (8) 4 murders

**Mitigating Circumstances:** extreme emotional disturbance  
loveless childhood  
insecure childhood

**Direct Appeal:** Wallace v. State, 486 N.E.2d 445 (Ind. December 6, 1985) (583-S-190)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Shepard concur; Debruler and Prentice dissent.  
For Defendant: William G. Smock, Terre Haute  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Wallace v. Indiana, 106 S.Ct. 3311 (1986) (Cert. denied)

**PCR:** PCR Petition filed 12-03-86. Amended PCR filed 03-18-87.  
State's Answer to PCR Petition filed 12-18-86, 03-23-87.  
PCR Hearing 04-08-87.  
Special Judge Robert Brown  
For Defendant: Pro Se, JoAnn Farnsworth, Margaret Hills, Deputy Public Defenders (Carpenter)  
For State: Stanley M. Levco, Robert J. Pigman  
09-04-87 PCR Petition denied.

Wallace v. State, 553 N.E.2d 456 (Ind. April 17, 1990) (84S00-8803-PC-00298)  
(Appeal of PCR denial by Judge Robert Brown)  
Affirmed 3-2; Pivarnik Opinion; Givan, Shepard concur; Debruler, Dickson dissent.  
For Defendant: Margaret Hills, Deputy Public Defender (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Wallace v. Indiana, 111 S.Ct. 2250 (1991) (Cert. denied)

09-01-92 2nd PCR Petition filed.  
09-21-92 State's Answer to PCR Petition filed.  
09-24-92 State files Motion for Summary Judgment.  
01-04-93 State's Motion for Summary Judgment granted, PCR dismissed.

Wallace v. State, 640 N.E.2d 374 (Ind. September 28, 1994) (84S00-9305-DP-527)  
(Appeal of 2nd PCR denial by Judge Dexter Bolin, Jr., summary judgment to State)  
Affirmed 5-0; Givan Opinion; Shepard, Dickson, Debruler, Sullivan concur.  
For Defendant: Judith G. Menadue, Elkhart, John J. Ray, Indianapolis, Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Wallace v. Indiana, 115 S.Ct. 1972 (1995) (Cert. denied)

Wallace v. State, 820 N.E.2d 1261 (Ind., Jan 13, 2005) (84S00-0412-SD-502)  
Leave to file Successive Petition for Postconviction Relief denied.  
(Claims barred by res judicata.)  
(All justices concur - Dickson, Shepard, Sullivan, Boehm Rucker)

**Habeas:** 02-21-95 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
09-06-95 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Donald Ray Wallace, Jr. v. Cecil Davis, Superintendent (IP 95-0215-C-B/S)  
Judge Sarah Evans Barker  
For Defendant: Sarah L. Nagy, Indianapolis  
For State: Michael A. Hurst, Thomas D. Perkins, Deputy Attorneys General (S. Carter)

11-02-95 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
12-14-95 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-14-02 Writ of Habeas Corpus denied.  
03-26-03 Certificate of Appealability granted in part.

Wallace v. Davis, WL 31572002 (S.D. Ind. November 14, 2002) (Not Reported in F.Supp)  
(IP 95-0215-C-B/S) (Order of Judge Sarah Evans Barker of the U.S. District Court for the Southern  
District of Indiana denying the Habeas Corpus Petition of Donald Ray Wallace, which had been  
pending for more than 7 years, an unconscionable delay that is left unexplained by the Court.)  
For Defendant: Ann M. Pfarr, Juliet M. Yackel, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Wallace v. Davis, 362 F.3d 914 (7th Cir. March 26, 2004) (02-4262)  
(Appeal of denial of Habeas Writ by Judge Sarah Evans Barker)  
Affirmed 3-0; Circuit Judge Frank H. Easterbrook, Judge Joel M. Flaum, Judge Anne Claire Williams.  
For Defendant: Alan M. Freedman, Evanston, IL  
For State: Stephen R. Creason Deputy Attorney General (S. Carter)  
Wallace v. Davis, 125 S.Ct. 617 (November 29, 2004) (Cert. denied)

Wallace v. Davis, 373 F.3d 844 (7th Cir. June 28, 2004) (02-4262).  
Petition for Rehearing and Rehearing En Banc denied by 8-3 majority of active Judges of 7th Circuit.  
For Defendant: Alan M. Freedman, Evanston, IL  
For State: Stephen R. Creason Deputy Attorney General (S. Carter)

WALLACE WAS EXECUTED BY LETHAL INJECTION 03-10-05 12:23 AM EST. AT THE INDIANA STATE  
PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 82ND CONVICTED MURDERER EXECUTED IN  
INDIANA SINCE 1900, AND THE 12TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## WARD, ROY LEE # 99 & # 103

ON DEATH ROW SINCE 06-08-07  
DOB: 07-20-1972 DOC#: 914976 White Male

Spencer County Circuit Court Judge Wayne Roell

**Trial Cause #:** 74C01-0107-CF-0158



**Prosecutor:** Jon A. Dartt, Jack R. Robinson  
**Defense:** Barbara Coyle Williams, Scott A. Blazey

**Date of Murder:** July 11, 2001



**Victim(s):** Stacy Payne W / F / 15 (No relationship to Ward)

Last Name **WARD** First Name **ROY**

**Method of Murder:** stabbing with knife

**Summary:** 15-year old Stacy Payne and her 14-year old sister, Melissa, were home alone in their rural Dale, Indiana home after their parents and older sister left for work. Pretending he was searching for a lost dog, Ward convinced Stacy to let him into the house. When Ward entered he attacked Stacy with a knife. Melissa had taken a nap upstairs and was awakened by Stacy's screams. From the top of the stairs Melissa saw Ward on top of Stacy. She called 9-1-1 and heard Stacy pleading, "Stop!", while Ward said, "You better be quiet." Ward was still at the scene, covered with blood and pocket knife in hand, when police arrived 10 minutes later and took him into custody. Stacy Payne's torso was nearly sliced in two, disemboweled with her spine exposed from the front; her throat was cut to the back of her windpipe; and her wrist was slashed to the bone. She was nevertheless alive for several hours, and conscious most of that time, communicating by squeezing the hand of medical personnel. Vaginal bruising and Stacy's DNA on Ward's genitals supported the Rape and Criminal Deviate Conduct charges. Ward was on probation for a Burglary in Missouri at the time of the crime and had a dozen prior convictions for Public Indecency/Indecent Exposure.

**Trial:** Information/PC for Murder and Death Sentence filed (07-16-01); Motion to Change Venue (02-08-02); Motion to Change Venue Withdrawn (03-01-02); Amended PC and DP Request filed (03-01-02); Motion to Change Venue (04-11-02); Voir Dire (10-07-02, 10-08-02, 10-09-02, 10-10-02, 10-11-02); Jury Trial (10-14-02, 10-15-02, 10-16-02, 10-17-02, 10-18-02, 10-19-02); Deliberations and Verdict (10-19-02); DP Trial (10-21-02, 10-22-02, 10-23-02); (Deliberations and Verdict (10-23-02); Court Sentencing (12-18-02).

**Conviction:** Murder, Rape and Criminal Deviate Conduct

**Sentencing:** December 18, 2002 (Death Sentence, 50 years, 50 years)

**Aggravating Circumstances:**

- b (1) Rape/Criminal Deviate Conduct
- b (9) On probation or parole
- b (11) Mutilation / Torture

**Mitigating Circumstances:**

- dysfunctional family, education, and social environment
- parents separated and divorced
- mental retardation, low intelligence, mental illness and instability
- exhibitionism disorder

**Direct Appeal:** Ward v. State, 810 N.E.2d 1042 (Ind. June 30, 2004) (74S00-0108-DP-00361)  
Convictions Reversed 5-0 DP Vacated 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan and Boehm concur.  
For Defendant: Steven E. Ripstra, Jasper, IN, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
(Reversal on the grounds of failure to change venue or to obtain jurors from another county pursuant to IC 35-36-6-11, in the face of extensive pretrial publicity and community bias in a small county. It is thought to be the only such reversal in the state's history.)  
Indiana v. Ward, 126 S.Ct. 395 (2005) (Cert. denied)

**On Remand:** Venued to Clay County.

05-03-07 Entered Guilty Plea to Murder, Rape.  
Charge of Criminal Deviate Conduct dismissed by State; Aggravating Circumstance alleging intentional murder during course of Criminal Deviate Conduct dismissed by State.  
06-08-07 Sentenced to death, based upon Aggravating Circumstances of b (1) Rape; b (9) On probation or parole; b (11) Mutilation / Torture.  
Special Judge Robert J. Pigman, Vanderburgh County Circuit Court  
Prosecutor: Jon A. Darrt  
Defense: Steven Ripstra, Lorinda Meier Youngcourt

Retrial: Jury Selection in Clay County (05-09-07); DP Sentencing Hearing in Vanderburgh County, State's Case (05-14-07, 05-15-07); Defendant's Case (05-16-07, 05-17-07); Jury Verdict after 45 minutes deliberations (05-18-07); Court Sentencing (06-08-07).

**Direct Appeal:** Ward v. State, 903 N.E.2d 946 (Ind. April 07, 2009) (74S00-0707-DP-263)  
DP Affirmed 5-0

Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven E. Ripstra, Jasper, IN, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (G. Zoeller)

Ward v. State, 908 N.E.2d 595 (Ind. June 26, 2009) (74S00-0707-DP-263) (On Rehearing)  
DP Affirmed 5-0

Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven E. Ripstra, Jasper, IN, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Ward v. Indiana, 130 S.Ct. 2060 (March 29, 2010) (Cert. denied)

**PCR:** 01/21/10 Petition for Post-Conviction Relief filed.

03/02/10 State's Answer to Petition for Post-Conviction Relief filed.  
07/07/10 Amendment to Petition for Post-Conviction Relief.  
08/26/10 Second Amendment to Ward's Petition for Post-Conviction Relief.  
08/26/10 Hearing on Petition for Post Conviction Relief commences.  
11/22/10 Findings of Fact / Conclusions of Law denying Amended Petition for Post-Conviction Relief.  
State v. Roy Lee Ward (74C01-0107-CF-000158)  
Special Judge Robert J. Pigman  
For Defendant: Thomas Hinesley, Laura Volk. State Public Defenders  
For State: James Martin, Kelly Miklos, Deputy Attorneys Generals. (Zoeller)

Ward v. State, 969 N.E.2d 46 (June 21, 2012) (74S00-0907-PD-320)  
(Appeal of PCR denial by Special Judge Robert J. Pigman, Spencer County)  
Affirmed 5-0; Sullivan Opinion; Dickson, Rucker, David, Massa concur.  
For Defendant: Thomas C. Hinesley, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: James B. Martin, Deputy Attorney General (Zoeller)

**Habeas:** 12-03-12 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
03-04-13 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
08-16-13 Respondent's Return with exhibits filed in opposition to Writ of Habeas Corpus.  
09-22-15 Entry Denying Petition for Writ of Habeas Corpus, with prejudice.

Roy Lee Ward v. Bill Wilson, Superintendent  
Ward v. Wilson, 2015 U.S. Dist. 126406 (S.D. Ind. Sept. 22, 2015) (3:12-cv-00192-RLY-WGH)  
Chief Judge Richard L. Young  
Conviction Affirmed DP Affirmed  
For Defendant: Marie F. Donnelly, Chicago, IL, Laurence E. Komp, Manchester, MO  
For State: Andrew A. Kobe, James B. Martin, Deputy Attorneys General (Zoeller)

Ward v. Neal, 835 F.3d 698 (7th Cir. August 26, 2016)  
United States Court of Appeals for the Seventh Circuit (No. 16-1001)  
Conviction Affirmed 3-0 DP Affirmed 3-0  
Opinion By Wood; Easterbrook and Rovner concur.  
For Defendant: Marie F. Donnelly, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: Andrew A. Kobe, James Blaine Martin, Deputy Attorneys General (Hill)  
Ward v. Neal, 2017 U.S. LEXIS 3269 (U.S., May 22, 2017) (Cert. denied)

**Civil Suit:** Roy Ward v. Eric Holcomb, Robert Carter, Jr. (46D02-1901-PL-000069)  
(Civil suit for declaratory and injunctive relief from prisoner under a death sentence, seeking to declare Indiana Capital Punishment unconstitutional.)  
LaPorte Circuit Court #2, Judge Richard R. Stalbrink, Jr.  
01-08-19 Complaint filed.  
04-01-19 Defendants' Motion to Dismiss For Lack of Jurisdiction and Failure to State Claim filed.  
05-28-19 / 05/27/21 Order of Dismissal entered.  
For Plaintiff: Christopher C. Myers, Fort Wayne  
For State: Ryan J. Guillory , Archer Rose, Jr., Deputy Attorneys General (Hill)

**Civil Suit:** Roy Ward v. Bruce Lemmon, Ron Neal (46C01-1512-PL-002154)  
LaPorte Circuit Court, Judge Thomas J. Alevizos  
(Civil Suit seeking to declare change of drugs used in the Indiana lethal injection protocol violated Ward's rights under Administrative Rules and Procedures Act (ARPA) violating due process. In May 2014, the Department announced it would alter the three-drug combination used for executions, replacing Sodium Thiopental with Brevital—a barbiturate anesthetic in the same class. Following that announcement, Indiana's three-drug execution protocol included Brevital, followed by Pancuronium Bromide and then Potassium Chloride.)  
01-07-16 Petition filed.  
03-31-16 Motion to Dismiss filed  
06-08-16 Response to Motion to Dismiss filed.  
06-24-16 Hearing on Motion to Dismiss.  
07-13-16 Motion to Dismiss granted.

Ward v. Carter, 79 N.E.3d 383 (Ind. App. June 1, 2017) (46A03-1607-PL-1685)  
Appeal of Dismissal Order entered by LaPorte Circuit Court in 46C01-1512-PL-002154.  
For Defendant: David W. Frank, Christopher C. Myers & Associates, Fort Wayne, Indiana.  
For State: Stephen R. Creason, Deputy Attorney General (Hill)  
(IDOC is not exempted from ARPA; Because the statutory definition of "rule" clearly includes the DOC's execution protocols, we reverse)  
Reversed 3-0 - Opinion by Baker; Barnes and Crone concur.  
Ward v. Carter, 92 N.E.3d 1089 (Ind. Sept. 7, 2017) (Transfer granted)  
Opinion vacated by Ward v. Carter, 90 N.E.3d 660 (Ind. February 13, 2018).

Ward v. Carter, 90 N.E.3d 660 (Ind. February 13, 2018) (No. 46S03-1709-PL-00569)  
On transfer, Affirming judgment of dismissal by LaPorte Circuit Court (46C01-1512-PL-2154)  
5-0 Opinion by Goff; Rush, David, Massa, and Slaughter concur.  
For Defendant: David W. Frank, Christopher C. Myers & Associates, Fort Wayne, Indiana.  
For State: Stephen R. Creason, Deputy Attorney General (Hill)  
Ward v. Carter, 2018 Ind. LEXIS 295 (Ind., Apr. 23, 2018) (Rehearing denied)  
Ward v. Carter, 2018 U.S. LEXIS 4413 (Oct. 1, 2018) (Cert. denied).

AWAITING EXECUTION.

## WEISHEIT, JEFFREY ALAN # 106

ON DEATH ROW SINCE 07-11-13  
DOB: 03-28-76 DOC#: 108004 White Male

Clark County Circuit Court Judge Daniel E. Moore  
Venued from Vanderburgh County (82C01-1004-MR-00449)

**Trial Cause #:** 10C01-1008-MR-000601  
**Prosecutor:** Gary J. Schutte, Charles L. Berger  
**Defense:** Michael J. McDaniel, Stephen H. Owens

**Date of Murder:** April 10, 2010  
**Victim(s):** Caleb Lynch W / M / 5 (son of girlfriend)  
Alyssa Lynch W / F / 8 (daughter of girlfriend)



**Method of Murder:** Arson fire

**Summary:** Weisheit lived with Lisa Lynch and her two children, 5 year old Caleb, and 8 year old Alyssa. While Lisa worked a 12 hour shift, Weisheit babysat the children. A fire engulfed the Evansville home, killing both children. Alyssa was found curled up in a closet and Caleb was found with a flare stuffed into his underwear, with a dishcloth in his throat. Weisheit was arrested a few hours later after a high speed chase, driving his car near Cincinnati, 200 miles away. He did not answer his cell phone and refused a call from Lisa via OnStar. When arrested, he pulled a knife and threw it at officers, saying "kill me, I want to die." At trial, Weisheit testified that Caleb was argumentative when he told him to go to bed and that he responded by binding the child's hands with duct tape, stuffed his mouth with a dish cloth and placed tape over his mouth, then left the home in his Chevrolet Camaro. He said there was no fire in the home when he left. He explained that he wanted to get away for only a day or two to escape the stressful situation at home. Weisheit said he had brought the flares into the home, but had not given them to the child or come into contact with them at the time of the fire. Instead, he speculated that the flares were possibly placed near the boy's body by first responders in an effort to "stage" the scene. Weisheit had quit his job the previous day and withdrawn all money in his bank account. He had told co-workers that he wanted to go out in a "blaze of glory."

**Trial:** Information/Affidavit filed (04-12-10), DP Notice filed (04-26-10), Agreed Change of Venue to Clark County (08-06-10), Voir Dire (06-03-13, 06-04-13, 06-05-13, 06-06-13, 06-07-13), Jury Trial (06-10-13, 06-11-13, 06-12-13, 06-13-13, 06-14-13, 06-17-13, 06-18-13, 06-19-13, 06-20-13, 06-21-13), Deliberations (2 hours), Verdict (06-18-13), DP Trial (06-19-13, 06-20-13, 06-21-13), Deliberations (5 hours), DP Verdict 06-21-13, DP Sentencing (07-11-13).

**Conviction:** Murder, Murder, Arson (Class A Felony)

**Sentencing:** July 11, 2013 (Death Sentence, Death Sentence, 20 Years)

**Aggravating Circumstances:** b (8) Multiple Murders  
b (12) 2 victims less than 12 years of age

**Mitigating Circumstances Raised:** Extreme emotional disturbance  
Mental Illness  
Bi-Polar Disorder, Depression  
Organic Brain Injury  
Attention Deficit Hyperactivity Disorder

**Interlocutory Appeal:** Weisheit v. State, 969 N.E.2d 1082 (Ind. App. June 29, 2012) (10A01-1202-CR-58)  
Interlocutory Appeal (Bail) from the Clark County Circuit Court.  
Judge Daniel E. Moore. (910C01-1008-MR-000601)  
No Bail Affirmed 3-0  
Vaidik Opinion; Crone, Bradford concur.  
For Defendant: Michael J. McDaniel, New Albany, Indiana.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Weisheit v. State, 2012 Ind. App. LEXIS 421 (Ind. Ct. App. 2012) (Reh. denied)  
Weisheit v. State, 989 N.E.2d 782 (Ind. 2013) (Transfer denied)

**Direct Appeal:** Weisheit v. State, 26 N.E.3d 3 (Ind. February 18, 2015) (10S00-1307-DP-492)  
Conviction Affirmed 5-0 DP Affirmed 5-0.  
Opinion by: David; Rush, Dickson, Rucker, and Massa concur.  
For Defendant: Steven E. Ripstra, Jasper, Indiana; Thomas A. Dysert, Petersburg, Indiana.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Weisheit v. State, 2015 Ind. LEXIS 511 (Ind., June 9, 2015) (Reh. denied)  
Weisheit v. Indiana, 136 S. Ct. 901 (Jan. 19, 2016) (Cert. denied)

**PCR:** 01/05/16 PCR Petition Filed.  
01/21/16 State's Answer filed.  
07/06/16 State's Request for Production, Interrogatories filed.  
07/15/16 Amended PCR Petition filed.  
09/26/16 Letter from Weisheit filed.  
09/26-28/16 Evidentiary hearing held.  
11/18/16 Petition for Writ of Habeas Corpus denied.  
Clark County Circuit Court #1 Judge Andrew Adams (10C01-1601-PC-000001)  
For Defendant: John Pinnow, Kathleen Cleary, and Anne Burgess, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy and Tyler G. Banks, Deputy Attorneys General (Hill)

Weisheit v. State, 109 N.E.3d 978 (Ind. November 7, 2018) (10S00-1507-PD-413)  
Conviction Affirmed 5-0, DP Affirmed 4-1.  
Massa Opinion; David, Goff concur; Slaughter concurring in part and in judgment.  
Rush dissents. (Counsel's penalty-phase performance suffered multiple deficiencies: failure to call Dr. Philip Harvey, an expert on bipolar disorder who personally observed Weisheit exhibit signs of a manic episode during an in-person evaluation, to testify; failure to pursue the Boys School records; and failure to lay foundation for testimony of former IDOC Commissioner Aiken who opined that IDOC could securely house Weisheit safely. The cumulative effect requires a new DP sentencing hearing)  
For Defendant: Kathleen Cleary, John Pinnow, Anne Murray Burgess, Deputy Public Defenders (Owen)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Hill)  
Weisheit v. State, 2019 Ind. LEXIS 8 (Ind., Jan. 17, 2019) (Reh. denied).  
Weisheit v. Indiana, 139 S.Ct. 2749 (June 24, 2019) (Cert. denied).

**Habeas:** 02-25-19 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
01-17-20 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana with 55 Exhibits.  
Multiple extensions of time allowed.  
06/29/21 Petitioner shall have through August 31, 2021, to file an amended petition. The respondent shall have 90 days to answer any amended petition, and the petitioner shall have 60 days to reply. Absent extraordinary circumstances, the Court does not anticipate granting any further extensions of time.  
07/19/2021 Motion for Confidential Legal Visits with Petitioner.  
07/27/2021 Order allowing Neuropsychological Examination Without Handcuffs .  
09/04/2021 First Amended Petition for Writ of Habeas Corpus filed.  
Jeffrey Alan Weisheit v. Ron Neal, Superintendent, Indiana State Prison (4:19-cv-00036-SEB-DML)  
U.S. District Court for the Southern District of Indiana (New Albany)  
Judge Sarah Evans Barker, Magistrate Judge Debra McVicker Lynch  
For Defendant: David Paul Voisin, Jackson, MS, Joseph J. Perkovich, New York, NY  
For State: Andrew A. Kobe, Caryn Nieman Szyper, Tyler G. Banks, Deputy Attorneys General (Rokita)

- ▶ PETITION FOR WRIT OF HABEAS CORPUS PENDING IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA. (4:19-cv-36-SEB-DML)

## DANIEL RAY WILKES # 104

OFF DEATH ROW SINCE 08-12-11  
DOB: 07-30-1968 DOC#: 108002 White Male

Clark County Circuit Court  
Venued from Vanderburgh Circuit Court

Vanderburgh Circuit Court Judge Carl A. Heldt

**Trial Cause #:** 82C01-0605-MR-438 (Vanderburgh);  
10C01-0705-MR-158 (Clark)

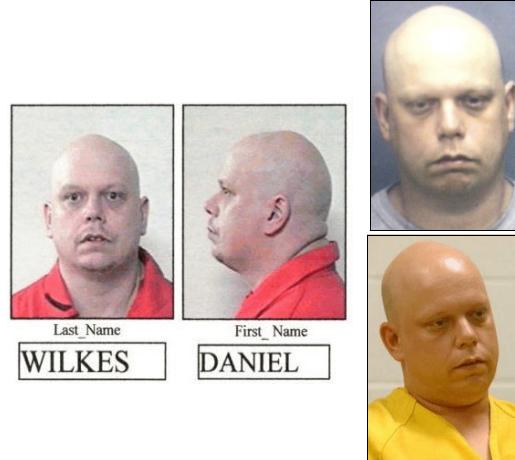
**Prosecutors:** Stanley M. Levco, Donita F.M. Farr  
**Defense:** Barbara Williams, Kurt Schnepper

**Date of Murder:** April 23, 2006

**Victim(s):** Donna Lee Joy Claspell, W/F/38 (Friend and roommate); Avery Pike, W/F/13 (Donna's daughter); Sydne Claspell W/F/8 (Donna's daughter).

**Method of Murder:** Beaten with a hammer and level, knife to cut throat (Donna); Beaten with a hammer and level (Sydne); Strangulation with a sports bra (Avery).

**Summary:** Wilkes met and befriended Donna Claspell while they were enrolled in an in-patient drug rehabilitation facility in Evansville. After completing treatment, Wilkes moved in with Donna and her two daughters, Avery (13) and Sydne (8). Shortly thereafter, Wilkes began molesting Avery. While intoxicated, Wilkes murdered Donna in her bed, beating her with a hammer and wooden level which resulted in multiple skull fractures. He also cut her throat with a knife. Wilkes also attacked Sydne in Donna's bedroom, beating her with the hammer and level, causing massive skull fractures. Wilkes then went to Avery's bedroom, strangling her with a sports bra and leaving her naked on her bed with her hands tied behind her back and one of her legs tied to the footboard of the bed. Wilkes confessed to the crimes, but claimed at trial with the aid of an expert, that it was a false confession.



**Trial:** PC Affidavit for Murder filed (04-27-06); Information for Murder filed (05-01-06); Initial Hearing (05-03-06); DP Request filed (06-19-06); Change of Venue Ordered (04-17-07); Voir Dire (12-04-07, 12-05-07); Jury Trial (12-06-07, 12-07-07, 12-10-07, 12-11-07, 12-12-07); Verdict (02-12-07) (2 Hour deliberation); DP Trial (12-13-07, 12-14-07); Hung Jury 11-1 Verdict (12-14-07); Court Sentencing (01-25-08).

Hung Jury on Death Sentence. (But found existence of Aggravating Circumstances in special verdict)

**Conviction:** Murder, Murder, Murder

**Sentencing:** January 25, 2008 (Death Sentence)

**Aggravating Circumstances:** b (12) 2 victims less than 12 years of age  
b (8) 3 murders

**Mitigating Circumstances:** no significant history of prior criminal conduct  
alcohol/Drug intoxication and dependence  
mixed personality disorder and psychosocial stressors  
under influence of extreme mental or emotional disturbance  
depression  
victim was a participant in or consented to conduct  
defendant was merely an accomplice  
acted under the substantial domination of another person  
mental disease or defect  
childhood was unstable, abusive and neglectful  
defendant can be safely incarcerated at DOC.

**Direct Appeal:** Wilkes v. State, 917 N.E.2d 675 (Ind. December 10, 2009) (10S00-0808-DP-453)  
Clark Circuit Court Cause #10C01-0705-MR-158 (Venued from Vanderburgh County)  
Conviction 5-0 DP Affirmed 5-0  
Boehm Opinion; Dickson, Shepard, Sullivan, Rucker concur.  
For Defendant: John Andrew Goodridge (Evansville), William Wayne Gooden (Mt. Vernon)  
For State: Stephen R. Creason, Deputy Attorney General (Zoeller)  
Wilkes v. State, 2010 Ind. LEXIS 199 (March 16, 2010) (Reh. denied)  
Wilkes v. Indiana, 131 S.Ct. 414 October 18, 2010 (Cert. denied)

**PCR:** 04/15/10 Notice Of Intent To File Petition For Post-Conviction Relief.  
10/13/10 States Answer to Petition for Post-Conviction Relief filed.  
04/08/11 Amendment To Petition For Post-Conviction Relief filed.  
05/05/11 States Answer to Amended Petition for Post-Conviction Relief filed.  
08/12/11 PCR granted as to death sentence.  
State of Indiana vs. Daniel Ray Wilkes (10C01-0705-MR-000158)  
Special Judge Carl D. Heldt  
(Post Conviction Relief granted, Death Sentence vacated and sentence reduced to Life Without Parole.  
Judge Heldt based his ruling upon consideration of the jury's indecision in failing to reach a verdict. The Court did not do so in the original sentencing. The State did not appeal this ruling.)

Wilkes v. State, 984 N.E.2d 1236 (Ind. April 4, 2013) (10S00-1004-PD-185)  
Appeal of denial of PCR as to conviction. Conviction Affirmed 5-0  
Dickson Opinion; Rucker, David, Massa, and Rush concur.  
(Affirming denial of all PCR claims relating to conviction, and affirming LWOP sentence)  
For State: Stephen R. Creason, Kelly A. Miklos, Deputy Attorneys General (Zoeller)  
For Defendant: Joanna Green, Steven H. Shutte, Kathleen Cleary, Deputy Public Defenders (Owens)

- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **WILLIAMS, DARNELL # 51**

OFF DEATH ROW SINCE 07-02-04  
DOB: 07-31-1966 DOC#: 872037 Black Male

Lake County Superior Court  
Judge James E. Letsinger



**Trial Cause #:** 2CR-133-886-531

**Prosecutor:** Thomas W. Vanes, Kathleen Burns  
**Defense:** Nathaniel Ruff

**Date of Murder:** August 12, 1986

**Victim(s):** John Rease B / M / 74; Henrietta Rease B / F / 59 (Ex-Foster Parents of Rouster)

**Method of Murder:** shooting with .32 and .22 handgun

**Summary:** John and Henrietta Rease were elderly foster parents, regularly taking into their home children who were often incorrigible and unwanted. One such child was Gregory Rouster, who was placed in the Rease home by the Welfare Dept. in November 1985 and stayed through February 1986. The Rease's operated a small candy store out of the first floor of their home in Gary. On August 12, 1986 both were shot to death in their home. John Rease was shot once in the shoulder area with a .32 handgun. Henrietta Rease was shot once in the back with the same .32 handgun and twice in the head at close range with a .22 handgun. .30 caliber ammunition was found on the floor. Numerous witnesses placed Rouster and his companion, Darnell Williams, going into the home with guns on the day of the murder. A foster child of the Rease's, 17 year old Derrick Bryant, testified that he was hiding in the house as Rouster and Williams entered, heard Rouster arguing with Henrietta over money they owed him, heard Henrietta say "Greg, why are you doing this?", then heard two more shots as he ran out the back door. Other witnesses testified that Rouster was outside when the last shots were fired. Rouster had bumped into his Welfare caseworker at the drugstore earlier the same day and asked if the Rease's received a clothing allowance for him while he was in foster care. When he was told that they did, Rouster declared that they owed him money and he was going to get it. Williams was later in possession of the same .30 caliber ammunition found at the scene, as well as cash and a wristwatch that Bryant identified as a gift to Henrietta. Accomplice Edwin Garland Taylor pled guilty to Robbery (C Felony) and testified for the prosecution.

**Trial:** Information/PC for Murder filed (08-14-86); Amended Information for DP filed (09-16-86); Voir Dire (02-09-87, 02-10-87); Jury Trial ( 02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-16-87); Verdict (02-17-87); DP Trial (02-17-87, 02-18-87); Verdict (02-19-87); Court Sentencing (03-23-87).

**Conviction:** Felony-Murder (John Rease), Felony-Murder (Henrietta Rease).  
(Williams was tried jointly with Gregory Rouster and Teresa Newsome, Rouster's girlfriend and Williams' sister, who was found not guilty.)

**Sentencing:** March 23, 1987 Death Sentence (Rouster); Death Sentence (Williams)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no prior criminal conduct  
aid and kindness to members of his family  
regular employment  
high school graduate

Joint Trial and Direct Appeal with Gregory Rouser

**Direct Appeal:** Rouser v. State, 600 N.E.2d 1342 (Ind. October 16, 1992) (45S00-8710-CR-914)

Conviction Affirmed 5-0 DP Affirmed 4-1

Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.

For Defendant: Scott L. King, Daniel L. Bella, Crown Point Public Defenders

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 08-26-93. Amended PCR filed 04-28-95, 06-05-95.

State's Answer to PCR Petition filed 02-17-94.

PCR Hearing 09-18-95, 09-25-95, 09-26-95, 09-27-95, 09-28-95, 09-29-95, 10-02-95, 10-04-95.

Special Judge Richard J. Conroy

For Defendant: Ann M. Pfarr, Juliet M. Yackel, Jeffreys Merryman, Deputy Public Defenders (Carpenter)

For State: Natalie Bokota, Taylor

02-28-96 PCR Petition denied.

Williams v. State, 706 N.E.2d 149 (Ind. 1999) (45S00-9303-PD-397)

(Appeal of PCR denial by Special Judge Richard J. Conroy)

Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Ann M. Pfarr, Juliet M. Yackel, Deputy Public Defenders (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Williams v. Indiana, 120 S.Ct. 1970 (2000) (Cert. denied)

Williams v. State, 718 N.E.2d 737 (Ind. September 28, 1999)

(Petition for Rehearing denied, execution date set for November 17, 1999)

Williams v. State, 791 N.E.2d 193 (Ind. June 27, 2003) (45S00-0306-SD-248)

(Successive PCR in the form of DNA testing of blood on his shorts and co-defendant's pants)

Authorization Declined 5-0; Opinion by Shepard; Dickson, Sullivan Boehm, Rucker concur.

(The testing would not be probative of the perpetrator or exculpatory, would not indicate an unlawful or inappropriate death sentence.)

Williams v. Indiana, 124 N.E.2d 300 (October 6, 2003) (Cert. denied)

Williams v. State, 792 N.E.2d 22 (Ind. July 22, 2003) (45S00-0306-SD-248)

Order directing State to respond to Defendant's "Petition For The Consideration Of New Evidence Pursuant To Indiana Code 35-50-2-9(k)."

Williams v. State, 793 N.E.2d 1019 (Ind. July 25, 2003) (45S00-0306-SD-248)

(Successive PCR for consideration of new evidence pursuant to IC 35-50-2-9(k)).

Authorization Declined 3-2; Opinion by Sullivan, Shepard, Dickson concur. Boehm and Rucker dissent, concluding that execution should be delayed while new DNA testing is performed.

Williams v. State, 808 N.E.2d 652 (Ind. May 21, 2004) (45S00-0306-SD-248)

(Rehearing denied. Opinion by Shepard; Dickson, Sullivan, Rucker, Boehm concur.)

**Habeas:** 10-04-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

05-12-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Darnell Williams v. Ron Anderson, Superintendent (3:99-CV-0570-AS)

Judge Allen Sharp

For Defendant: Juliet Marie Yackel, Chicago, IL, Stephen E. Eberhardt, Crestwood, IL

For State: Michael A. Hurst, Deputy Attorney General (S. Carter)

11-03-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

04-02-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

11-19-01 Writ of Habeas Corpus denied.

12-20-01 Certificate of Appealability granted.

Williams v. Anderson, 174 F.Supp. 843 (N.D. Ind. November 19, 2001) (3:99-CV-0570-AS)  
(Habeas Corpus denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

Williams v. Davis, 301 F.3d 625 (7th Cir. August 29, (2002) (01-4225)  
(Appeal of denial of Habeas Corpus)

Affirmed 3-0; Opinion by Judge Michael S. Kanne, Judge John L. Coffey Judge Harlington Wood, Jr.  
For Defendant: Juliet M. Yackel, Chicago, IL, Stephen E. Eberhardt, Crestwood, IL  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Williams v. Indiana, 123 S.Ct. 1904 (April 28, 2003) (Cert. denied)

**Clemency:** In July 2003 Governor Frank O'Bannon granted a stay of execution for Darnell Williams in order that DNA testing could be performed on clothing he was wearing when arrested. However, the testing proved inconclusive at best, and the Indiana Supreme Court set a July 9, 2004 execution date. State v. Williams, 2004 Ind. LEXIS 474 (May 21, 2004).

On July 2, 2004 Governor Joe Kernan issued an Executive Order commuting the death sentence of Darnell Williams to Life Imprisonment Without Parole. Noting that Gregory Rouster was more culpable in the murders, but had been spared the death penalty after he was declared mentally retarded, Governor Kernan said "Because Rouster cannot be executed for the crime, it is unjust for Williams to be executed." The commutation followed a recommendation for commutation from the State Parole Board. This was the first time since the reinstatement of the Death Penalty in Indiana in 1977 that the Parole Board recommended commutation of a death sentence, or that the Governor commuted a death sentence.

<https://secure.in.gov/ipdc/files/Darnell-Williams-Kernan.pdf>

► CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

**WILLIAMS, EDWARD EARL # 77**  
**(Akeem Aki-Khuam)**

OFF DEATH ROW SINCE 03-25-02  
DOB: 12-09-1967 DOC#: 932131 Black Male

Lake County Superior Court Judge James E. Letsinger



**Trial Cause #:** 45G02-9207-CF-00182

**Prosecutor:** John J. Burke

**Defense:** David R. Schneider, Darnail Lyles

**Date of Murder:** June 19, 1992

**Victim(s):** Robert Hollins B / M / 26; Debra Rice B / F / 42; Michael Richardson B / M / 41  
(No relationship to Williams)

**Method of Murder:** shooting with handgun

**Summary:** Williams, Jemelle Joshua and three others went to the home of school teacher Michael Richardson, intent on stealing the audio and video equipment from his basement. Williams and Joshua were admitted to the home and let the three accomplices in. Williams held a handgun to Richardson's head and Joshua held a shotgun on Richardson's sister, Debra Rice, while the other three men went to the basement. Robert Hollins, a guest in the home, struggled with one of the men and was shot in the back by Williams. Debra Rice tried to escape and Joshua shot her in the chest. The equipment proved too difficult to remove from the basement, and as the invaders were leaving the home, Williams shot Richardson, Rice, and Hollins once in the head. A few hours later, he would tell his sister that he did so in order not to leave any witnesses.

**Trial:** Information/PC for Murder filed (07-18-92); Jury Trial (01-25-93, 01-26-93, 01-27-93, 01-28-93, 01-29-93); Verdict (01-29-93); DP Trial (01-30-93); Jury Hung (01-31-93); Court Sentencing (03-02-93).

**Conviction:** Murder (3 counts), Felony-Murder (3 counts)

**Sentencing:** March 2, 1993 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery (3 counts)  
b (8) 3 murders

**Mitigating Circumstances:** low IQ  
father convicted of abusing Williams as a child

Hung Jury on Death Sentence

**Direct Appeal:** Edward Williams v. State, 669 N.E.2d 1372 (Ind. August 7, 1996) (45S00-9210-DP-770)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Debruler, Dickson, Selby concur.  
For Defendant: Charles E. Stewart, Jr., Darnail Lyles, Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Williams v. Indiana, 117 S.Ct. 1828 (1997) (Cert. denied)

**PCR:** 01-22-97 Notice of Intent to file PCR Petition.

PCR Hearing 12-16-97, 12-17-97, 12-18-97, 12-19-97, 12-22-97, 01-26-98.

Special Judge Richard W. Maroc

For Defendant: Ann M. Pfarr, Robert E. Lancaster, Danielle L. Gregory, Deputy Public Defenders.

For State: Natalie Bokota, Robert L. Collins, Christopher L. Lafuse, Deputy Attorneys General  
02-19-97 PCR Petition denied.

Edward Williams v. State, 724 N.E.2d 1070 (Ind. February 23, 2000) (45S00-9701-PD-45)  
(Appeal of PCR denial by Special Judge Richard W. Maroc)  
Affirmed 5-0; Shepard Opinion, Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Danielle L. Gregory, Ann M. Skinner, Robert E. Lancaster, Public Defenders  
For State: Rosemary L. Borek, Deputy Attorney General (Modisett)  
Williams v. Indiana, 121 S.Ct. 886 (2001) (Cert. denied)

**Habeas:** 06-23-00 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

12-14-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Akeem Aki-Khuam a/k/a Edward Earl Williams v. Rondle Anderson, Superintendent (IP 01-C- 864-M/S)  
Judge Allen Sharp

For Defendant: Brent L. Westerfield, Eric Koselke, Indianapolis

For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General (S. Carter)

02-12-01 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

08-16-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

11-07-02 Writ of Habeas Corpus granted.

Aki-Khuam v. Davis, 203 F. Supp.2d 1001 (N.D. Ind. March 25, 2002) (3:00-CV-386-AS)  
(Order of U.S. District Court Judge Allen Sharp, Northern District of Indiana, granting Writ of Habeas  
Corpus as to conviction and sentence on grounds that the trial judge improperly denied peremptory  
challenges of white jurors by the defense.)

For Defendant: Brent L. Westerfield, Eric Koselke, Indianapolis

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Aki-Khuam v. Davis, 328 F.3d 366 (7th Cir. May 8, 2003) (02-1945)  
(This opinion vacated and replaced by opinion dated August 5, 2003)

Aki-Khuam v. Davis, 339 F.3d 521 (7th Cir. August 5, 2003) (02-1945)  
(Appeal of grant of Habeas Corpus by Judge Allen Sharp)

Affirmed 3-0, Conviction Reversed, DP Vacated.

Opinion by Circuit Judge William J. Bauer, Judge Ilana Diamond Rovner, Judge Diane P. Wood.  
Vacating Opinion dated May 8, 2003.

(Trial court's modification of Batson procedure, by not requiring initial challenge by prosecution and  
by rejecting race-neutral reasons at step two of Batson analysis, was contrary to clearly established  
federal law.)

For Defendant: Eric Kosalke, Brent L. Westerfeld, Indianapolis

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

**On Remand:** Aki-Khuam pled guilty pursuant to a plea agreement to three counts of murder in exchange for  
(1) dismissal of felony murder counts, (2) withdrawal of the death penalty request, and (3)  
recommendation that the sentence for one of the murder convictions run concurrently with the  
others. On May 16, 2007, Lake Superior Court, Criminal Division Judge Clarence Murray  
accepted the agreement and sentenced Aki-Khuam to 50 years for each count of murder, with  
two of the sentences to run consecutively, for a total sentence of 100 years imprisonment.  
(45G02-9207-CF-00182)

For Defendant: Karen Coulis, Teresa Hollandsworth and Mark Bates.

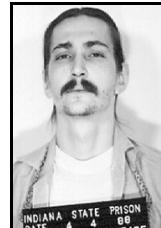
For State: John Evon and Jacqueline Jacobs

Aki-Khuam v. State, 883 N.E.2d 228 (Ind. App. March 20, 2008) (45A05-0706-CR-348)  
(Direct Appeal of 100 year sentence - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## WILLIAMS, LARRY C. # 6

OFF DEATH ROW SINCE 07-08-88  
DOB: 03-28-1958 DOC#: 10213 White Male



LaPorte County Circuit Court Judge Robert S. Gettinger  
Venued from Marshall County

**Trial Cause #:** 7515 (Marshall Circuit)  
SCR80-9 (Marshall County), 4807-C (LaPorte County)

**Prosecutor:** Ralph R. Huff, James P. Hayes, Fred R. Jones

**Defense:** Jere L. Humphrey

**Date of Murder:** April 12, 1979

**Victim(s):** Jesse Hubbard W / M / 45 (Acquaintance of Williams)

**Method of Murder:** stabbing with butcher knife

**Summary:** Williams and Larry Perkins agreed on a scheme to blackmail Jesse Hubbard and went to his house for that purpose. They drank beer, smoked pot, and watched TV for awhile, when they decided to rob him instead. Perkins hit Hubbard on the head with his pistol and Williams stabbed him several times in the chest with a butcher knife. He then hit him with a whiskey bottle and a piece of pipe. The men attempted to wipe off their fingerprints, took Hubbard's billfold, and went

to Williams' mother's house to split the money. Accomplice Redman pled guilty to Assisting a Criminal and was sentenced to 8 years imprisonment on June 17, 1980. Accomplice Perkins testified for the State at trial, then entered a guilty plea to Felony Murder and Conspiracy to Robbery, and was sentenced to 54 years and 20 years concurrent on September 19, 1980.

Williams was also convicted of the 1979 murder and robbery of Claude Yarian in Fulton County on 05-28-80. A jury recommended against death and Williams was sentenced to 130 years imprisonment. (See Williams v. State, 426 N.E.2d 662 (1981) (S-79-53)

**Trial:** Indictment for Murder and Death Sentence transferred from Circuit to Superior Court in Marshall County (02-04-80); Motion for Change of Venue (02-12-80); Arraignment in LaPorte County (04-21-80); Motion for Speedy Trial (04-21-80); Amended DP Information (06-06-80); Voir Dire (07-08-80, 07-09-80, 07-10-80); Jury Trial (07-14-80, 07-15-80, 07-16-80, 07-17-80); Verdict 07-17-80); DP Trial (07-17-80); Verdict 07-17-80); Habitual Offender Sentencing Hearing (07-17-80); Verdict (07-17-80); Court Sentencing (08-25-80).

**Conviction:** Murder, Felony-Murder, Robbery (A Felony), Conspiracy to Commit Robbery (A Felony), Habitual Offender (Trifurcated Trial)

**Sentencing:** August 25, 1980 (Death Sentence, 90 years, 30 years 30 years, consecutive)

**Aggravating Circumstances:** b (1) Robbery  
b (7) Convicted of another murder on 05-09-80.

**Mitigating Circumstances:** 21 years old at the time of the murder  
beer and marijuana intoxication  
stealing, dealing drugs all his life  
abandoned by his father at age 11  
lived in poverty  
his younger brothers are also in trouble with the law

**Direct Appeal:** Larry Williams v. State, 430 N.E.2d 759 (Ind. January 19, 1982) (1280-S-443)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.  
For Defendant: Jere I. Humphrey, Plymouth  
For State: Palmer K. Ward, Deputy Attorney General (Pearson)  
Williams v. Indiana, 103 S.Ct. 33 (1982) (Appeal dismissed)  
Williams v. Indiana, 103 S.Ct. 479 (1982) (Rehearing denied)

**PCR:** PCR Petition filed 03-25-83.  
State's Answer to PCR Petition filed.  
PCR Hearing 09-12-84.  
Special Judge Donald D. Martin  
For Defendant: Paul Levy, Deputy Public Defender (Carpenter)  
For State: Ralph R. Huff  
04-08-85 PCR Petition denied.

Williams v. State, 525 N.E.2d 1238 (Ind. July 8, 1988) (985-S-372)  
(Appeal of PCR denial by Special Judge Donald D. Martin)  
Conviction Affirmed 5-0 DP Vacated 4-1  
(Remanded due to jury instructions using "should" instead of "may" recommend death; Habitual Offender sentence also vacated)  
Shepard Opinion; Debruler, Givan, Dickson concur; Pivarnik dissents.  
For Defendant: Paul Levy, Deputy Public Defender (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**On Remand:** DP Jury Sentencing Hearing - Voir Dire (08-19-91, 08-20-91, 08-21-91, 08-22-91)  
Jury Trial (08-22-91) Mistrial declared by agreement based on juror "misconduct."  
01-27-92 State withdraws DP request  
02-28-92 Guilty Plea, Sentencing.  
New DP Sentencing Hearing conducted and aborted by mistrial on grounds of juror misconduct.  
State withdrew request for death sentence. LaPorte County Circuit Court Judge Robert S. Gettinger sentenced Williams to consecutive terms of 60 years (Murder), 30 years (Robbery), and 30 years (Conspiracy to Robbery) totaling 120 years imprisonment.  
For Defendant: Donald W. Pagos  
For State: Ralph R. Huff, Fred R. Jones

Williams v. State, 619 N.E.2d 569 (Ind. 1993) (46S00-9206-CR-503)  
(Appeal after remand and imposition of 120 year sentence; Affirmed)

WILLIAMS DIED (AT 53 YEARS OF AGE) IN THE INDIANA DEPARTMENT OF CORRECTIONS ON AUGUST 27, 2011 WHILE SERVING 120 YEAR TERM OF IMPRISONMENT.

## WISEHART, MARK ALLEN # 21

OFF DEATH ROW SINCE 05-10-05  
DOB: 11-21-1962 DOC#: 22622 White Male

Madison County Superior Court  
Judge Thomas Newman, Jr.

**Trial Cause #:** 3SCR-82-204

**Prosecutor:** William F. Lawler, Jr.  
**Defense:** Garry Miracle

**Date of Murder:** October 9, 1982

**Victim(s):** Marjorie Johnson W / F / 61 (No relationship to Wisehart)

**Method of Murder:** stabbing with butter knife



**Summary:** Anderson Police received an anonymous call to go to a certain apartment where they would find a body. Police did so and found the body of 61 year old Marjorie Johnson. Her clothing was torn and wrapped around her mid-section, her head was beaten and bloody, and there were 13 stab wounds in her chest area. Johnson was a regular visitor to the Christian Center, where Wisehart resided. Another resident testified that Wisehart had sent a letter to Johnson before the murder, talking about going to old people's houses and robbing them. Upon his arrest, Wisehart gave a confession, admitting that he had stabbed Johnson several times with several weapons, punching her with his fist, and striking her in the head with a whiskey bottle. He stated he took \$14 and admitted he was the one who tipped off police.

**Trial:** Information/PC for Murder and DP filed (10-18-82); Insanity Defense filed (11-12-82); Competency Hearing (04-11-83); Motion for Speedy Trial (06-14-83); Voir Dire (08-16-83, 08-17-83, 08-18-83); Jury Trial (08-18-83, 08-19-83, 08-23-83, 08-24-83, 08-25-83, 08-26-83, 08-27-83); Verdict (08-27-83); DP Trial (10-16-98, 10-19-98, 10-20-98); Verdict (10-20-98); Court Sentencing (09-29-83).

**Conviction:** Murder, Robbery (A Felony), Burglary (B Felony), Theft (D Felony)

**Sentencing:** September 26, 1983 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary, Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Wisehart v. State, 484 N.E.2d 949 (Ind. October 31, 1985) (384-S-89)

Conviction Affirmed 4-1 DP Affirmed 4-1

Pivarnik Opinion; Givan, Prentice, Shepard concur; Debruler dissents.

For Defendant: Garry W. Miracle, Anderson

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Wisehart v. Indiana, 106 S.Ct. 2929 (1986) (Cert. denied)

**PCR:** PCR Petition filed 05-25-90. Amended PCR filed 02-17-94, 05-12-94.

State's Answer to PCR Petition filed 04-13-94.

PCR Hearing 04-13-94, 04-14-94, 04-15-94, 04-18-94, 04-21-94, 04-22-94, 5-05-94.

Special Judge Thomas G. Wright

For Defendant: Thomas C. Hinesley, Janet S. Downling, J. Jeffreys Merryman, Jr.,  
Deputy Public Defenders (Carpenter)

For State: William F. Lawler, Jr.

06-27-94 PCR Petition denied.

Wisehart v. State, 693 N.E.2d 23 (Ind. 1998) (48S00-9005-PD-378)

(Appeal of PCR denial by Special Judge Thomas G. Wright)

Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.

For Defendant: Thomas C. Hinesley, Janet S. Downling, J. Jeffreys Merryman, Jr.,  
Deputy Public Defenders (Carpenter)

For State: James A. Joven, Deputy Attorney General (P. Carter)

Wisehart v. Indiana, 119 S.Ct. 1338 (1999) (Cert. denied)

**Habeas:** 07-28-98 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

10-06-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Mark A. Wisehart v. Cecil Davis, Superintendent (IP 01-C- 864-M/S)

Judge Larry J. McKinney

For Defendant: Alan M. Freedman, Evanston, IL, Rhonda Long-Sharp, Indianapolis

For State: Michael A. Hurst, Thomas D. Perkins, Deputy Attorneys General (S. Carter)

04-27-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

10-15-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

12-12-04 Writ of Habeas Corpus denied.

04-08-04 Certificate of Appealability granted in part.

Wisehart v. Davis, 408 F.3d 321 (7th Cir. May 10, 2005) (04-1632).

(Appeal of Habeas Denial; Reversed 3-0)

Judgment vacated by Seventh Circuit "with directions that the State release Wisehart, retry him, or conduct a further postconviction hearing addressed to the issue of jury bias." (10 years after trial, juror gave defense an affidavit stating that during trial he "heard" that trial was delayed so Wisehart could take polygraph. Juror did not know from whom he "heard" it, and did not know results of polygraph).

Opinion by Richard A. Posner; Joel M. Flaum, Diane P. Wood concur.

For Defendant: Alan M. Freedman, Evanston, IL

For State: Steve Carter, Indiana Attorney General

Buss v. Wisehart, 126 S.Ct. 1617 (2006) (Cert. denied)

**On Remand:** Following granting of Habeas Corpus relief by the Seventh Circuit U.S. Court of Appeals in 2005 remanding the case back for further PCR proceedings on the issue of jury bias relating to polygraph evidence - On September 1, 2010, in the Madison County Superior Court Wisehart plead guilty pursuant to a Plea Agreement and was sentenced by Judge Dennis Carroll as follows: Ct I: Murder - 60 years; Ct II: Robbery (Class B Felony) - 15 years; Ct III: Burglary (Class B Felony) - 15 years; and Ct IV: Theft (Class D Felony) - 3 years; Counts II, III, and IV to run concurrently with each other but consecutive to Count I for a total sentence of 75 years executed at the Indiana Department of Correction. Credit from 10/16/1982.

For State: Madison County Prosecutor Tom Broderick

For Defense: Jeff Lockwood and Eric Kosalke

- ▶ WISEHART (AT 58 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JULY 19, 2020, AFTER SERVING ± 37 YEARS IN CUSTODY.

## WOODS, DAVID LEON # 34

EXECUTED BY LETHAL INJECTION 05-05-07 AT 1:35 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 08-07-1964 DOC#: 851765 White Male

Boone County Superior Court Judge Donald R. Peyton  
Venued from DeKalb County

**Trial Cause #:** SCR-84-160 (DeKalb County)  
S-7007 (Boone County)

**Prosecutor:** Paul R. Cherry, Ora A. Kincaid, III

**Defense:** Allen F. Wharry, Douglas E. Johnston, Charles C. Rhetts

**Date of Murder:** April 7, 1984

**Victim(s):** Juan Placencia H / M / 77 (Neighbor of Woods)

**Method of Murder:** stabbing with knife 21 times



**Summary:** Woods, Greg Sloan, and Pat Sweet went to the home of Juan Placencia in Garrett, Indiana to steal a television. Woods was armed with a knife. Sweet stayed in the yard, while Woods and Sloan rang the doorbell. When Placencia answered Woods immediately jumped in and stabbed him with the knife. When he fell back and asked for help, Woods then stabbed him again repeatedly and took money from his wallet. Woods and Sloan then carried out the television, hid it, and later sold it. They washed their clothes and threw the knife in the creek. When police arrived the next morning in response to a call of a man needing help, Woods was on the porch of Placencia's apartment complex crying and saying that he had gone there to use the telephone and found the body. While questioning Woods, his mother came to the scene and told police that she thought her son was involved in the murder. She consented to a search of her residence, which revealed a knife sheath and a stained towel. Woods was taken to the station and while preparations were being made for a polygraph, Woods broke down and gave a complete confession. Sloan testified at trial after entering a guilty plea to Aiding in Murder and was awaiting sentencing.

**Trial:** Information/PC for Murder filed (04-09-84); Amended Information for DP filed (04-12-84); Amended DP Information (04-26-84); Motion for Change of Venue (05-09-84, 05-31-84, 07-31-84); Change of Venue Granted (08-06-84); Amended Information filed (08-15-84); Voir Dire (02-19-85, 02-21-85, 02-22-85); Jury Trial (02-22-85, 02-23-85, 02-25-85, 02-26-85, 02-28-85, 03-01-85, 03-02-85); Verdict (03-02-85); DP Trial (03-04-85); Verdict (03-04-85); Court Sentencing (03-28-85).

**Conviction:** Murder, Robbery (A Felony)

**Sentencing:** March 28, 1985 (Death Sentence, 50 years)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** no prior criminal record  
19 years old at the time of the murder  
mistreated as a child  
raised in foster homes  
personality disorder

**Direct Appeal:** Woods v. State, 547 N.E.2d 772 (Ind. November 28, 1989) (88S-343)

Conviction Affirmed 5-0 DP Affirmed 5-0

Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.

For Defendant: David P. Freund, Deputy Public Defender (Carpenter)

For State: Cheryl L. Greiner, Deputy Attorney General (Pearson)

Woods v. State, 557 N.E.2d 1325 (Ind. November 23, 1990) (On Rehearing)

Affirmed 5-0; Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.

For Defendant: David P. Freund, Deputy Public Defender (Carpenter)

For State: Cheryl L. Greiner, Deputy Attorney General (Pearson)

Woods v. Indiana, 111 S.Ct. 2911 (1991) (Cert. denied)

**PCR:** PCR Petition filed 05-06-94. Amended PCR filed 06-21-94.

State's Answer to PCR Petition filed 07-25-94.

PCR Hearing 01-06-96, 01-17-96, 01-18-96, 01-19-96.

Special Judge David Ault

For Defendant: David C. Stebbins, Columbus, OH, Joe Keith Lewis, Marion

For State: Eugene Bosworth

04-15-96 PCR Petition denied.

Woods v. State, 701 N.E.2d 1208 (Ind. November 3, 1998) (06S00-9403-PD-224)

(Appeal of PCR denial by Special Judge David Ault)

Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.

For Defendant: David C. Stebbins, Columbus, OH, Joe Keith Lewis, Marion

For State: James D. Dimitri, Deputy Attorney General (Modisett)

Woods v. Indiana, 120 S.Ct. 150 (1999) (Cert. denied)

Woods v. State, 863 N.E.2d 301 (Ind. March 26, 2007) (06S00-0612-SD-544)

(Motion for Leave to file Successive PCR on issues of mental retardation and conflict of interest with PCR attorneys)

Denied 5-0; Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.

Woods v. Indiana, 127 S.Ct. 2159 (2007) (Cert. / Stay denied)

**Habeas:** 04-14-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

12-02-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

David Leon Woods v. Rondale Anderson, Superintendent (IP 99-C- 0520-M/S)

Judge Larry J. McKinney

For Defendant: William Van Der Pol, Jr., Martinsville, Teresa Harper, Bloomington

For State: Michael A. Hurst, Stephen R. Creason, Deputy Attorneys General (S. Carter)

04-27-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
03-31-03 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
02-02-04 Writ of Habeas Corpus denied.

Woods v. Anderson, 302 F.Supp.2d 915 (S.D. Ind. February 2, 2004) (IP99-0520-C-M/S)  
(Order of U.S. District Court Judge Larry J. McKinney, Southern District of Indiana, denying Writ of Habeas Corpus.)  
For Defendant: William Van Der Pol, Jr., Martinsville, Teresa Harper, Bloomington  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Woods v. McBride, 430 F.3d 813 (7th Cir. November 30, 2005) (04-1776)  
(Appeal of denial of Writ of Habeas Corpus)  
Affirmed 3-0; Opinion by Circuit Judge Michael S. Kanne .  
Judge William J. Bauer and Judge Terence T. Evans concur.  
For Defendant: William Van Der Pol, Jr., Martinsville, Teresa Harper, Bloomington  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)  
Woods v. Buss, 127 S.Ct. 2160 (2007) (Cert. / Stay denied)

Woods v. Buss, \_\_\_ F.3d \_\_\_, 2007 WL 1302114 (7th Cir. May 2, 2007) (07-1951)  
(Stay / Certificate of Appealability denied)  
Woods v. Buss, \_\_\_ F.3d \_\_\_, 2007 WL 1302119 (7th Cir. May 3, 2007) (07-2001)  
(Stay / Injunction denied; Challenge to lethal injection method of execution)

WOODS WAS EXECUTED BY LETHAL INJECTION 05-05-07 AT 1:35 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 88TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 18TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## WRINKLES, MATTHEW E. # 82

EXECUTED BY LETHAL INJECTION 12-11-09 AT 12:39 AM CST  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 01-03-1960 DOC#: 952132 White Male

Vanderburgh County Circuit Court  
Judge Richard L. Young

**Trial Cause #:** 82CO1-9407-CF00447

**Date of Murder:** July 21, 1994

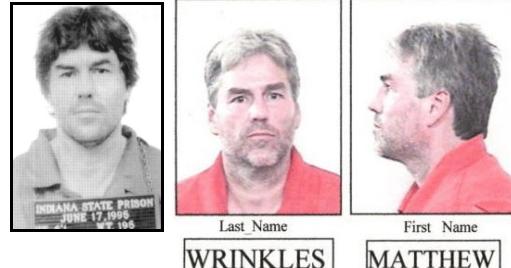
**Method of Murder:** shooting with .357 handgun

**Defense:** Michael J. Danks, Dennis A. Vowels

**Prosecutor:** Stanley M. Levco, Mary Margaret Lloyd

**Victim(s):** Debbie Wrinkles W / F / 31 (Wife)  
Tony Fulkerson W / M / 28 (Brother of Debbie);  
Natalie Fulkerson W / F / 26 (Wife of Tony)

**Summary:** After continuous marital problems with her husband Matthew Wrinkles, Debbie moved out of the house with their two children, going to live with Debbie's brother, Tony, and his wife, Natalie, on Tremont Drive in Evansville. Twice in the past Wrinkles had threatened Debbie with a gun. Soon after, Wrinkles filed for divorce. His mother was concerned about his behavior and had him committed. After three days of evaluation, he was released. In the next two weeks, despite a



Protective Order in effect, Wrinkles went looking for Debbie. He showed up at her place of employment, and at the homes of two of her friends, dressed up in camouflage demanding to see her. He was unsuccessful each time. On July 20, 1994 Wrinkles, Debbie and their attorneys met for a provisional hearing in their divorce proceeding. They reached an agreement to set aside the Protective Order, and for Wrinkles to have visitation. They also agreed for Debbie to meet Wrinkles with the kids at a restaurant later that day. Debbie decided not to show up for the meeting. Later that night, Wrinkles again dressed up in camouflage and drove to the home of Tony Fulkerson, where Debbie and the kids were staying. He parked a block away, cut the telephone wires, and kicked in the back door. He was armed with a .357 handgun and a knife. When he was finished, Natalie was dead on the front porch with a gunshot wound to her face; Tony was dead in the bedroom with four gunshot wounds; Debbie was dead in the hallway with a gunshot wound to her chest/shoulder area. One of the children (Lindsay) saw her father shoot her mother, then attempt CPR. Lindsay told him she was going to call police, and he fled from the house. Wrinkles was later arrested at the home of his cousin, where the .357 murder weapon was recovered.

**Trial:** Information/PC for Murder filed (07-21-94); Amended Information for DP filed (07-28-94); Voir Dire (05-11-95, 05-12-95, 05-13-95); Jury Trial (05-15-95, 05-17-95, 05-18-95, 05-19-95); Verdict (05-19-95); DP Trial (05-20-95); Verdict (05-20-95); Court Sentencing (06-14-95).

**Conviction:** Murder, Murder, Murder

**Sentencing:** June 14, 1995 (Death Sentence)

**Aggravating Circumstances:** b (8) 3 murders

**Mitigating Circumstances:** no significant history of criminal conduct  
methamphetamine intoxication at time of murders  
extreme emotional disturbance  
grew up in dysfunctional family causing emotional instability

**Direct Appeal:** Wrinkles v. State, 690 N.E.2d 1156 (Ind. December 31, 1997) (82S00-9408-DP-741)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Michael C. Keating, Michael J. Danks, Evansville  
For State: James D. Dimitri, Deputy Attorney General (P. Carter)  
Wrinkles v. Indiana, 119 S.Ct. 148 (1998) (Cert. denied)

**PCR:** PCR Petition filed 12-01-98. Amended PCR filed 04-01-99, 07-01-99.  
State's Answer to PCR Petition filed 02-26-99, 05-03-99; PCR Hearing 08-09-99, 08-10-99, 08-11-99.  
Vanderburgh Circuit Court Judge Carl A. Heldt  
For Defendant: Joanna Green, Laura L. Volk, Linda Hughes, Deputy Public Defenders (Carpenter)  
For State: Rosemary Boreck, Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)  
09-03-99 PCR Petition denied.

Wrinkles v. State, 749 N.E.2d 1179 (Ind. June 29, 2001) (82S00-9803-PD-170)  
(Appeal of denial of PCR by Vanderburgh Circuit Court Judge Carl A. Heldt)  
Affirmed 5-0; Rucker Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Joanna Green, Laura L. Volk, Linda Hughes, Deputy Public Defenders (Carpenter)  
For State: Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)  
Wrinkles v. Indiana, 122 S.Ct. 1610 (2002) (Cert. denied)

Wrinkles v. State, 776 N.E.2d 905 (Ind. October 15, 2002) (82S00-0207-SD-407)  
(Indiana Supreme Court Order denying successive PCR)  
5-0 Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.

Wrinkles v. State, 915 N.E.2d 963 (Ind. November 03, 2009) (82S00-0905-SD-249)  
Vanderburgh Circuit Court 82C01-94-7-CF-447.  
(Indiana Supreme Court Order denying successive PCR regarding stun belt 4-1)  
Shepard Opinion; Dickson, Sullivan, Rucker concur; Boehm Dissents to authorize a Successive PCR  
hearing on the stun belt issue.

**§ 1983:** Wrinkles, et al. v. Davis, 311 F.Supp.2d 735 (N.D. Ind. March 17, 2004)  
§ 1983 action by Wrinkles, Lambert, Saylor, and Rastafari challenging 79 day lockdown of death row  
at Michigan City after inmate was killed, seeking damages and injunction for depriving them of access  
to telephones, hygiene services, hot meals, exercise, visitors. - Held; All claims dismissed except for  
possible 8th Amendment violation for confinement without exercise.

**Habeas:** 11-02-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
07-25-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Matthew Eric Wrinkles v. Rondle Anderson, Superintendent (IP 01-C- 1668-T/K)  
Judge John D. Tinder  
For Defendant: Joseph M. Cleary, Rhonda Long-Sharp, Indianapolis  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)  
05-18-05 Writ of Habeas Corpus denied by Judge John D. Tinder.

Wrinkles v. Buss, 537 F.3d 804 (7th Cir. August 12, 2008) (05-2747)  
(Appeal of denial of Writ of Habeas Corpus)  
Affirmed 3-0; Opinion by Judge Michael S. Kanne .  
Judge Ilana Diamond Rovner and Judge Joel M. Flaum concur.  
For Defendant: Joseph M. Cleary, Rhonda Long-Sharp, Indianapolis  
For State: Andrew K. Kobe, Deputy Attorney General (S. Carter)  
Wrinkles v. Levenhagen, 129 S.Ct. 2382 (May 18, 2009) (Cert. Denied)

WRINKLES WAS EXECUTED BY LETHAL INJECTION 12-11-09 AT 12:39 AM CST AT THE INDIANA STATE  
PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 90TH CONVICTED MURDERER EXECUTED IN  
INDIANA SINCE 1900 AND 20TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

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Ward v. Carter, LEXIS 295 (Ind., 2018) (Rehearing denied)  
Ward v. Carter, LEXIS 4413 (Ind 2018) (Cert. denied).

#### **DANIEL RAY WILKES**

Wilkes v. State, 917 N.E.2d 675 (Ind. 2009)  
Wilkes v. State, LEXIS 199 (Ind. 2010) (Reh. denied)  
Wilkes v. Indiana, 131 S.Ct. 414 (2010) (Cert. denied)  
Wilkes v. State, 984 N.E.2d 1236 (Ind. 2013) (PCR)

#### **WILLIAMS, DARNELL**

Rouster v. State, 600 N.E.2d 1342 (Ind. 1992)  
Williams v. State, 706 N.E.2d 149 (Ind. 1999) (PCR)  
Williams v. State, 718 N.E.2d 737 (Ind. 1999) (Reh. denied)  
Williams v. Indiana, 120 S.Ct. 1970 (2000) (Cert. denied)  
Williams v. Anderson, 174 F.Supp. 843 (N.D. Ind. 2001)  
Williams v. Davis, 301 F.3d 625 (7th Cir. 2002) (Habeas)  
Williams v. Indiana, 123 S.Ct. 1904 (2003) (Cert. denied)  
Williams v. State, 791 N.E.2d 193 (Ind. 2003) (PCR)  
Williams v. Indiana, 124 N.E.2d 300 (2003) (Cert. denied)  
Williams v. State, 792 N.E.2d 22 (Ind. 2003) (PCR)  
Williams v. State, 793 N.E.2d 1019 (Ind. 2003) (Succ PCR)  
Williams v. State, 808 N.E.2d 652 (Ind. 2004) (Reh. denied)

#### **WILLIAMS, EDWARD EARL (Akeem Aki-Khuam)**

Williams v. State, 669 N.E.2d 1372 (Ind. 1996)  
Williams v. Indiana, 117 S.Ct. 1828 (1997) (Cert. Denied)  
Williams v. State, 724 N.E.2d 1070 (Ind. 2000) (PCR)  
Williams v. Indiana, 121 S.Ct. 886 (2001) (Cert. Denied)  
Aki-Khuam v. Davis, 203 F.Supp. 100 (N.D. Ind. 2002)  
Aki-Khuam v. Davis, 328 F.3d 366 (7th Cir. 2003) (Habeas)  
Aki-Khuam v. Davis, 339 F.3d 521 (7th Cir. 2003) (Habeas)  
Aki-Khuam v. State, 883 N.E.2d 228 (Ind. App. 2008)  
Aki-Khuam v. Indiana, 129 S.Ct. 1372 (2009) (Cert. Denied)

#### **WILLIAMS, LARRY C.**

Williams v. State, 430 N.E.2d 759 (Ind. 1982)  
Williams v. Indiana, 103 S.Ct. 33 (1982) (dismissed)  
Williams v. Indiana, 103 S.Ct. 479 (1982) (Reh. denied)  
Williams v. State, 525 N.E.2d 1238 (Ind. 1988) (PCR)  
Williams v. State, 619 N.E.2d 569 (Ind. 1993) (On remand)

#### **WEISHEIT, JEFFREY ALAN**

Weisheit v. State, 969 N.E.2d 1082 (Ind. App. 2012) (Bail)  
Weisheit v. State, LEXIS 421 (Ind. Ct. App. 2012) (Reh. denied)  
Weisheit v. State, 989 N.E.2d 782 (Ind. 2013) (Transfer denied)  
Weisheit v. State, 26 N.E.3d 3 (Ind. 2015)  
Weisheit v. State, LEXIS 511 (Ind. 2015) (Reh. denied)  
Weisheit v. Indiana, 136 S.Ct. 901 (2016) (Cert. denied)  
Weisheit v. State, 109 N.E.3d 978 (Ind. 2018) (PCR)  
Weisheit v. State, 2019 Ind. LEXIS 8 (Ind. 2019) (Reh. denied)  
Weisheit v. Indiana, 139 S.Ct. 2749 (2019) (Cert. denied)  
Weisheit v. Neal, (S.D. Ind. 2019) (Habeas)

#### **WISEHART, MARK ALLEN**

Wisehart v. State, 484 N.E.2d 949 (Ind. 1985)  
Wisehart v. Indiana, 106 S.Ct. 2929 (1986) (Cert. denied)  
Wisehart v. State, 693 N.E.2d 23 (Ind. 1998) (PCR)  
Wisehart v. Indiana, 119 S.Ct. 1338 (1999) (Cert. denied)  
Wisehart v. Davis, 408 F.3d 321 (7th Cir. 2005) (Habeas)  
Buss v. Wisehart, 126 S.Ct. 1617 (2006) (Cert. Denied)

#### **WOODS, DAVID LEON**

Woods v. State, 547 N.E.2d 772 (Ind. 1989)  
Woods v. State, 557 N.E.2d 1325 (Ind. 1990) (Rehearing)  
Woods v. Indiana, 111 S.Ct. 2911 (1991) (Cert. denied)  
Woods v. State, 701 N.E.2d 1208 (Ind. 1998) (PCR)  
Woods v. Indiana, 120 S.Ct. 150 (1999) (Cert. denied)  
Woods v. Anderson, 302 F.Supp.2d 915 (S.D. 2004) (Habeas)  
Woods v. McBride, 430 F.3d 813 (7th Cir. 2005) (Habeas)  
Woods v. Indiana, 127 S.Ct. 2159 (May 3, 2007) (Cert. denied)  
Woods v. Buss, 127 S.Ct. 2160 (May 3, 2007) (Cert. denied)  
Woods v. State, 863 N.E.2d 301 (Ind. 2007) (Succ PCR)

#### **WRINKLES, MATTHEW E.**

Wrinkles v. State, 690 N.E.2d 1156 (Ind. 1997)  
Wrinkles v. Indiana, 119 S.Ct. 148 (1998) (Cert. Denied)  
Wrinkles v. State, 749 N.E.2d 1179 (Ind. 2001) (PCR)  
Wrinkles v. Indiana, 122 S.Ct. 1610 (2002) (Cert. Denied)  
Wrinkles v. State, 776 N.E.2d 905 (Ind. 2002) (Succ PCR)  
Wrinkles, et al. v. Davis, 311 F.Supp.2d 735 (N.D. Ind. 2004)  
Wrinkles v. Buss, 537 F.3d 804 (7th Cir. 2008) (Habeas)  
Wrinkles v. Levenhagen, 129 S.Ct. 2382 (2009) (Cert. Denied)  
Wrinkles v. State, 915 N.E.2d 963 (Ind. 2009) (Successive PCR)

## HISTORICAL

### **Adams v. State, 271 N.E.2d 425 (Ind. 1971)**

Grant County (Venued from Huntington County) Judge Guerrero

CONVICTION AFFIRMED (5-0); DP AFFIRMED (3-2); ARTERBURN OPINION; DEBRULER AND PRENTICE DISSENT AND ASSERT DP UNCONSTITUTIONAL PER SE.

(Defendant was convicted of 1st Degree Murder under IC 35-13-4-1 (1971), and sentenced to death pursuant to discretionary provisions of that statute)

### **Adams v. State, 284 N.E.2d 757 (Ind. 1972) (ON REHEARING, ARTERBURN OPINION; DP VACATED 5-0 WITH INSTRUCTIONS TO IMPOSE LIFE IMPRISONMENT IN LIGHT OF U.S. SUPREME COURT OPINION IN FURMAN)**

Adams v. State, 376 N.E.2d 482 (Ind. 1978) (Appeal of PCR denial; remanded)

Adams v. State, 575 N.E.2d 625 (Ind. 1991) (Appeal of PCR denial; affirmed)

### **French v. State, 362 N.E.2d 834 (Ind. 1977)**

Henry County (Venued from Madison County) Judge Ratliff Ron McNabney

CONVICTION AFFIRMED (4-1); ARTERBURN OPINION; DP VACATED (5-0) WITH INSTRUCTIONS TO IMPOSE A SENTENCE OF LIFE IMPRISONMENT.

(Defendant was convicted of 1st Degree Murder under IC 35-13-4-1 (1975), and sentenced to death pursuant to the mandatory provisions included under section (c) of that statute. The U.S. Supreme court struck down a similar mandatory statute in Woodson after sentencing in this case)

### **French v. State, 547 N.E.2d 1084 (Ind. 1989)**

(Appeal of PCR denial; AFFIRMED; Givan Opinion 5-0)

### **State v. McCormick, 397 N.E.2d 276 (Ind. 1979)**

Vigo County (Venued from Vanderburgh County) Judge Miller

INTERLOCUTORY APPEAL BY STATE (Trial court dismissed Death Sentence count alleging prior unrelated murder as aggravating circumstance under IC 35-50-2-9)

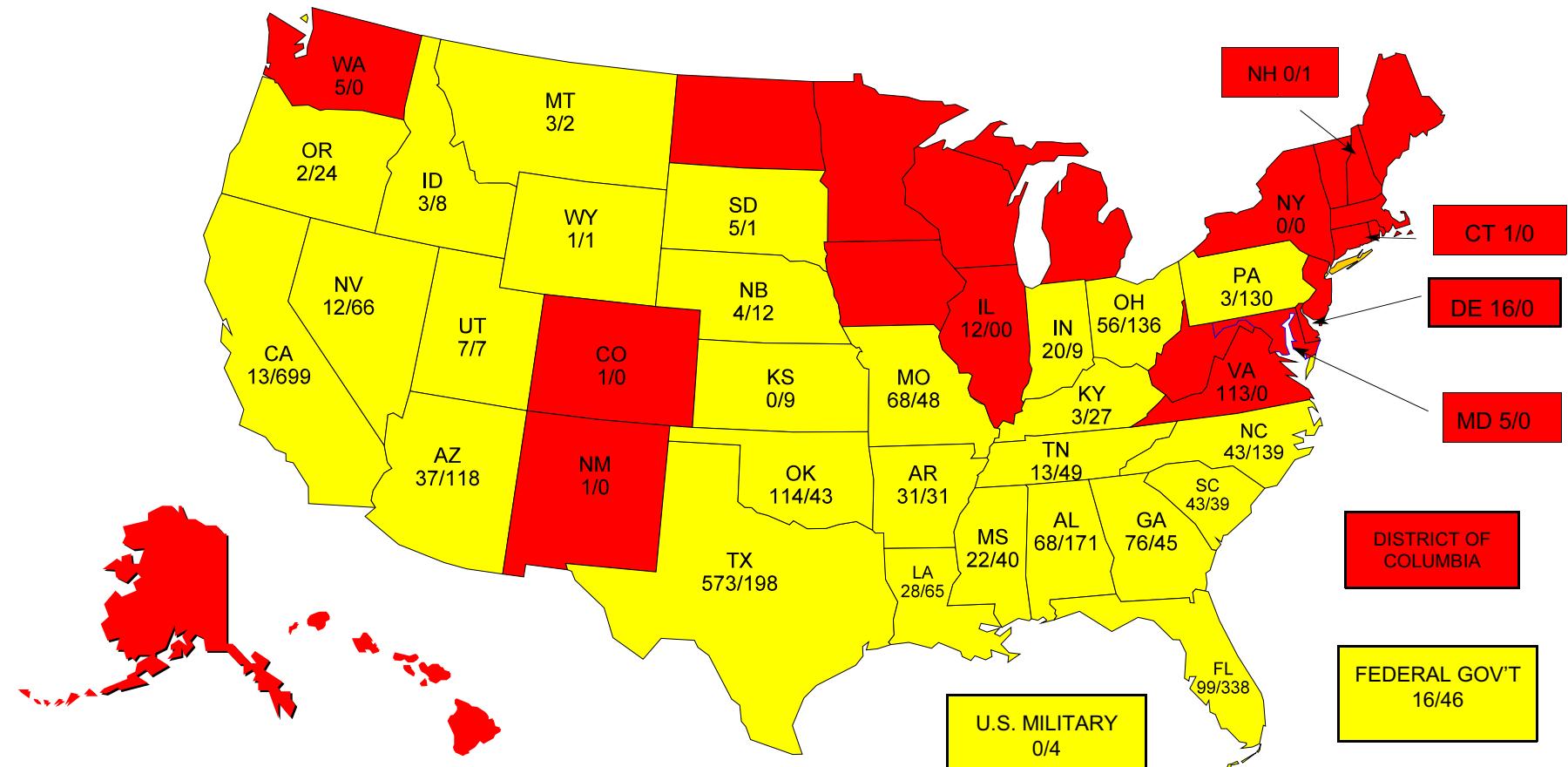
DISMISSAL AFFIRMED (4-1); PIVARNIK OPINION; DEBRULER DISSENT

### **State v. Alcorn, 638 N.E.2d 1242 (Ind. 1994)** Marion County Judge Darden

INTERLOCUTORY APPEAL BY STATE (Trial court ruled that July 1, 1993 amendments to IC 35-50-2-9, adding LWOP option, was applicable to all pending cases)

REVERSED (4-1) (Holding that LWOP option is available only to those who commit capital murder after July 1, 1993) GIVAN OPINION; DEBRULER DISSENT (Found Not Guilty November 11, 1994)

## U. S. EXECUTIONS SINCE 1976 / DEATH ROW POPULATION 2022

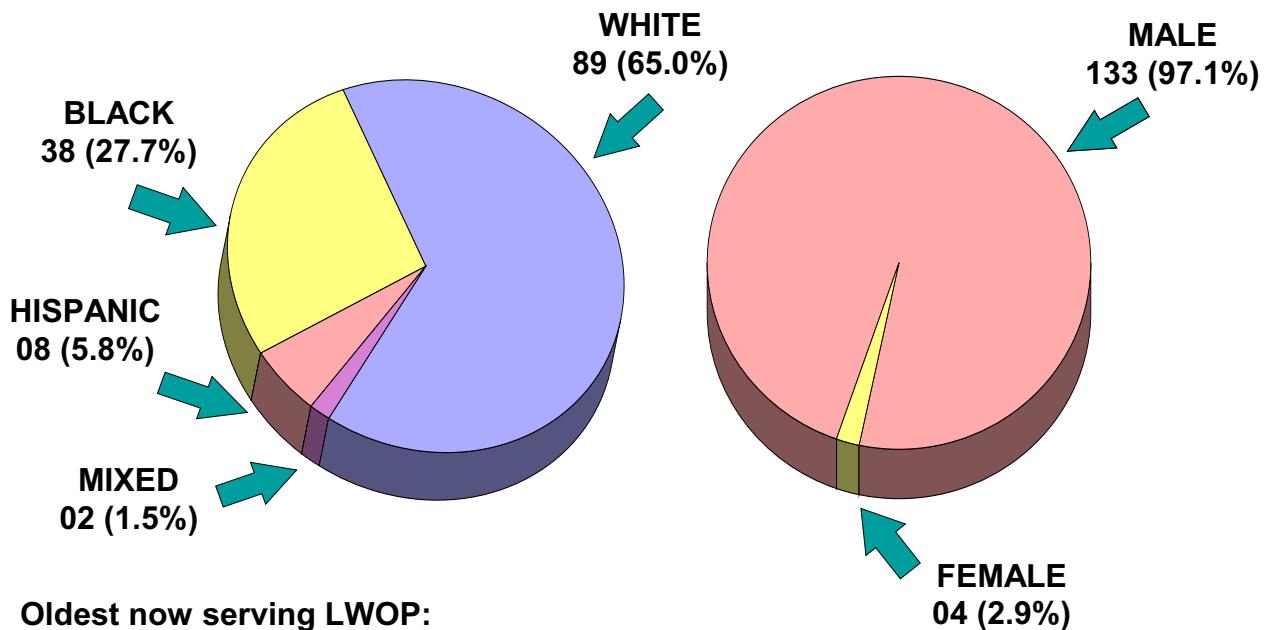


Death Penalty  
 No Death Penalty

Governor Moratoriums in California, Oregon, Pennsylvania

**TOTAL U.S. EXECUTIONS 1976 - JANUARY 1, 2022: 1,540**  
**TOTAL U.S. DEATH ROW POPULATION AS OF JULY 1, 2022: 2,478**

## Currently Serving Life Imprisonment Without Parole = 137



Oldest now serving LWOP:

Inmate	County	DOB	Age
Charles Daniel Sturgeon	Marion	01/28/1944	77 yrs
Arthur Paul Baird II	Montgomery	02/06/1946	75 yrs
Thomas Hardy	Marion	12/21/1950	71 yrs
Roger Leon Long	Greene	04/05/1952	69 yrs
Charles R. Stephenson	Dearborn	10/04/1953	68 yrs

Youngest now serving LWOP:

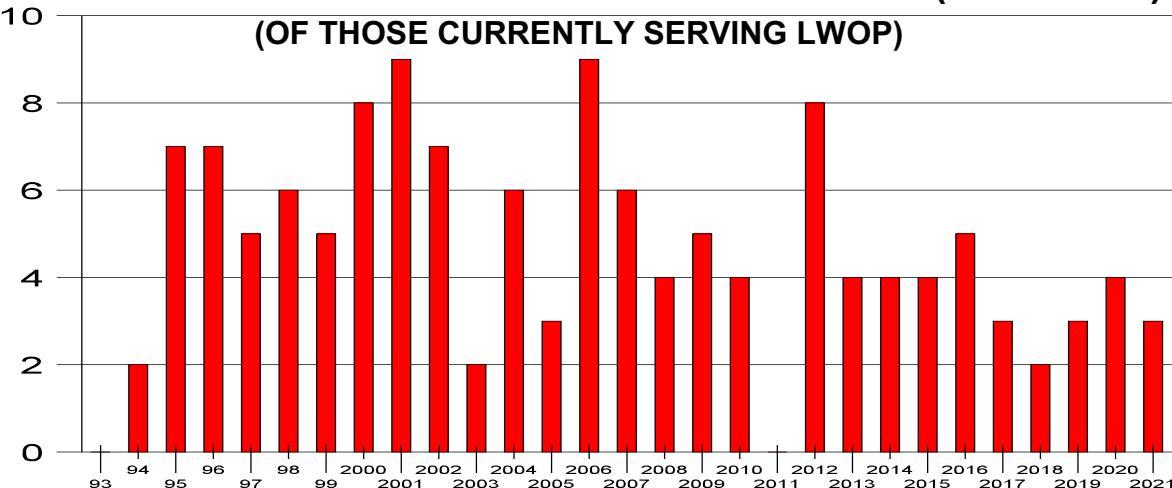
Inmate	County	DOB	Age
Donald Ray Owen Jr.	Elkhart	12/30/1998	23 yrs
Zachariah Brian Wright	Boone	07/15/1997	24 yrs
Anthony L. Baumgardt	Boone	10/17/1996	25 yrs
Johnathan S. Cruz	Marion	07/30/1996	25 yrs
Austin Bryan Scott	Harrison	10/25/1994	27 yrs

Longest amount of time already served under LWOP sentence:

Inmate	County	Sent Date (age)	Time Served
William T. Kidd	Elkhart	05/12/1994 (35)	27 yrs
Joseph Stephen Sotelo	Lake	10/21/1994 (20)	27 yrs
Wayne Antony Mull	Wayne	09/07/1995 (29)	26 yrs
James Gordon Walls	Hamilton	10/30/1995 (22)	26 yrs
Duane E. Turner	Delaware	06/08/1995 (20)	26 yrs

## **INDIANA LWOP SENTENCES YEAR BY YEAR (1993-2021)**

**(OF THOSE CURRENTLY SERVING LWOP)**



## **INDIANA LWOP SENTENCES YEAR BY YEAR (1993-2021)**

**(OF THOSE CURRENTLY SERVING LWOP)**

1993 = 0	2007 = 6
1994 = 2	2008 = 4
1995 = 7	2009 = 5
1996 = 7	2010 = 4
1997 = 5	2011 = 0
1998 = 6	2012 = 8
1999 = 5	2013 = 4
2000 = 8	2014 = 4
2001 = 9	2015 = 4
2002 = 7	2016 = 5
2003 = 2	2017 = 3
2004 = 7*	2018 = 2
2005 = 5*	2019 = 3
2006 = 9	2020 = 4
	2021 = 3

\* On July 2, 2004 Indiana Governor Joseph Kernan commuted the death sentence of Darnell Williams to Life Imprisonment Without Parole. On January 7, 2005, Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels to Life Imprisonment Without Parole. On August 29, 2005, Indiana Governor Mitch Daniels commuted the death sentence of Arthur Paul Baird II to Life Imprisonment Without Parole.

## 137 LWOP DEFENDANTS EQUAL 226 MURDER VICTIMS

The 137 Defendants currently serving Life Without Parole have accounted for 225 murders for which they were convicted in the same proceeding they received the LWOP sentence. (Does not include Asher Hill, convicted only of Robbery/Habitual Offender)

<b>Age</b>		<b>Race</b>		<b>Gender</b>	
00 - 09	31	White	179 (79.2%)	Male	109 (48.2%)
10 - 19	40	Black	24 (10.6%)	Female	117 (51.8%)
20 - 29	43	Hispanic	21 (09.3%)		
30 - 39	32	Indian	01 (00.4%)		
40 - 49	26	Asian	01 (00.4%)		
50 - 59	27				
60 - 69	11	Average Age of Victim = 37.2 years			
70 - 79	10				
80+	06				

Youngest Victims = Kyran Powers (5 months) murdered by Stephen R. Powers in 1996; Jaiden Melcher (11 months) and Viable Fetus murdered by Zachariah Melcher in 2005; Harlan Haines (18 months) murdered by Dylan Thomas Tate in 2018; Shelby McManus (23 months) murdered by Paul Michael McManus in 2001; Paisley Hudson (23 months) murdered by Ryan Ramirez in 2018.

Oldest Victims = Leander "Lee" Bradley (91 years) murdered by Kenneth Allen in 2004; Julia Gaerte (86 years) murdered by Donald Earl Houser in 1996; Donald Carroll (82 years) murdered by Jeffrey A. Treadway in 2005; Wilma Upsall (81 years) murdered by Roy E. Bell in 2011; Duwayne Myron Lindsey (81 years) murdered by James F. Griffith in 2012; Myrtle Satterfield (80) murdered by Hobert A. Pittman in 2004.

<b>Victim Relationship to Defendant</b>		<b>Method of Murder</b>	
Family	64	92	Shooting w/firearm (41.1%)
Wife / Girlfriend / Ex (21)		65	Stabbing / Slashing (29.0%)
Husband / Boyfriend / Ex (0)		33	Strangling (14.7%)
Mother / Step Mother (7)		15	Bludgeoning (06.7%)
Father / Step Father (4)		08	Beating (03.6%)
Child / Stepchild (25)		04	Smothering (1.8%)
Other (7)		02	Decapitation (0.9%)
Friend / Acquaintance	39	02	Smoke Inhalation (0.9%)
Employer / Co-worker	09	01	Drowning (0.4%)
Neighbor	12	01	Explosion (0.4%)
Police	10	01	Pushing off Highway Overpass (0.4%)
Stranger	62		

\* Some murders may have uncertain or multiple causes of death.

## **MULTIPLE MURDERS**

Of 137 Defendants convicted of Murder, sentenced to Life without Parole under IC 35-50-2-9, and are currently serving that LWOP sentence:

- |                                  |                                    |
|----------------------------------|------------------------------------|
| 7 - Desmond Turner (Marion)      | 2 - Corey Anderson (Jasper)        |
| 7 - Darren Vann (Lake)           | 2 - Fredrick Baer (Madison)        |
| 5 - David Ison (Franklin)        | 2 - Charles Barker (Marion)        |
| 4 - Angelica Alvarez (Elkhart)   | 2 - Barney Chamorro (Boone)        |
| 4 - Robert Bassett (Bartholomew) | 2 - Steven Clippinger (St. Joseph) |
| 4 - Kelly Holland (Harrison)     | 2 - Anthony Delarosa (Hamilton)    |
| 4 - Kenneth Rackemann (Marion)   | 2 - David Flores (Lake)            |
| 4 - Samuel Sallee (Bartholomew)  | 2 - Fernando Griffith (Johnson)    |
| 3 - Raymond Adams (Hamilton)     | 2 - Christian Haley (Hamilton)     |
| 3 - Arthur Baird (Montgomery)    | 2 - Christopher Helsley (Pike)     |
| 3 - Derrick Cardosi (Newton)     | 2 - Kelly Holland (Harrison)       |
| 3 - Chad Cottrell (Hamilton)     | 2 - Thomas Holland (Marion)        |
| 3 - Ronald Covington (Marion)    | 2 - Bob Leonard (Allen)            |
| 3 - Johnathan Cruz (Marion)      | 2 - Juan Lucio (Hamilton)          |
| 3 - Walter Dye (Marion)          | 2 - Robert McIntyre (LaPorte)      |
| 3 - Steven Hale (Daviess)        | 2 - Charles Moore (St. Joseph)     |
| 3 - Nicholas Harbison (Pike)     | 2 - Toby Payne (Hamilton)          |
| 3 - William Kidd (Elkhart)       | 2 - Hobert Pittman (Harrison)      |
| 3 - Wayne Kubsch (St. Joseph)    | 2 - Bryce Pope (Allen)             |
| 3 - Paul McManus (Vanderburgh)   | 2 - Kerrie Price (Marion)          |
| 3 - Zachariah Melcher (Clark)    | 2 - Stephen Richards (Lake)        |
| 3 - David Sholes (Wabash)        | 2 - Austin Scott (Harrison)        |
| 3 - Raymond Strominger (Marion)  | 2 - Craig Shank (Madison)          |
| 3 - Phillip Stroud (St. Joseph)  | 2 - Joseph Sotelo (Lake)           |
| 3 - Daniel Wilkes (Vanderburgh)  | 2 - Darnell Williams (Lake)        |
| 3 - James Walls (Hamilton)       | 1 - 83 others                      |

### **MATRICIDE:**

Kenneth Allen (Marion), Arthur Paul Baird (Montgomery), Andrew S. Satterfield (Pike).

### **PATRICIDE:**

Arthur Paul Baird (Montgomery), Barney Chamorro (Boone), Hobert A. Pittman (Harrison).

### **FRATRICIDE:**

Barney Chamorro (Boone), Steven J. Clippinger (St. Joseph), Andrew Conley (Ohio).

**Inmates who turned 21 in prison doing Life Without Parole:**

Inmate	DOB	County	Sentencing Date (age)
Greg Dickens	05/22/1981	St. Joseph	07/09/1999 (18)
Andrew Conley	05/14/1992	Ohio	10/15/2010 (18)
Larry Newton	11/09/1976	Delaware	12/29/1995 (19)
Casey Priest	12/02/1978	Marion	04/24/1998 (19)
Christopher Burns	01/03/1982	Delaware	08/02/2001 (19)
Johnathan Cruz	07/30/1996	Marion	05/11/2017 (20)
Craig Cain	06/11/1984	Grant	10/18/2004 (20)
Jeremy Gross	09/19/1979	Marion	06/09/2000 (20)
Jeffrey Ortiz	04/29/1978	Lake	06/12/1998 (20)
Bryce Pope	07/10/1977	Allen	06/19/1998 (20)
Henry Mason	12/06/1976	Allen	09/29/1997 (20)
Duane Turner	11/13/1974	Delaware	06/08/1995 (20)
Joseph Sotelo	02/19/1974	Lake	10/21/1994 (20)

**LAW ENFORCEMENT MURDER VICTIMS**

Of 137 Defendants convicted of Murder, sentenced to Life without Parole under IC 35-50-2-9, and are currently serving that LWOP sentence:

Murderer	Law Enforcement Murder Victim	County	Date of Murder
Anthony L. Baumgardt	Boone County Sheriff Deputy Jacob Pickett, 34 years old	Boone	March 2, 2018
Carl Le'Ellis Blount	Gary Patrolman Jeffrey Westerfield, 47 years old	Lake	July 6, 2014
Richard A. Branum	Oakland City Police Officer Michael E. Deno, 24 years old	Gibson	February 28, 2000
Major P. Davis, II	Indianapolis Metro PD Officer Perry Wayne Renn, 51 years old	Marion	July 5, 2014
Gregory Dickens, Jr.	South Bend PD Officer Paul Richard Deguch, 30 years old	St. Joseph	August 24, 1997
Thomas Hardy	Indianapolis Metro PD Officer David Moore, 29 years old	Marion	January 23, 2011
Darryl Joseph Jeter	Indiana State Police Trooper Scott Patrick, 27 years old	Lake	December 23, 2003
Mark L. Lichtenberger	Indiana State Police Trooper Cory Raymond Elson, 26 years old	Adams	April 3, 1999
Frankie Allen Salyers	Goshen City Police Dept. Officer Thomas Edward Goodwin, 31 years old	Elkhart	December 11, 1998
Michael P. Shannon	Marion County Sheriff Deputy Jason Baker, 24 years old	Marion	September 17, 2001

## CHILD VICTIMS OF MURDER

Of 137 Defendants convicted of Murder, sentenced to Life without Parole under IC 35-50-2-9, and are currently serving that LWOP sentence:

Murderer	Child Murder Victim(s) Less than 12 years old	County	Date of Murder
Angelica Salazar Alvarez	Jennifer Lopez H / F / 8 Gonzalo Lopez H / F / 6 Daniel Valdez H / M / 4 Jessica Valdez H / F / 2	Elkhart	November 14, 2006
Fredrick Baer	Jenna Clark (4)	Madison	February 25, 2004
Robert Bassett	Jessica Brown (2) Brandon Engleking (1)	Bartholomew	August 15, 1998
Eugene Britt	Sarah Lynn Paulsen (8)	Porter	August 22, 1995
Levohn Brown	McKenzie Brown (3)	Huntington	February 4-11, 2000
Amanda Carmack	Skylea Rayn Carmack (10)	Grant	August 31, 2019
Ian Clark	Samantha Muchowicz (2)	Kosciusko	May 25, 2007
Andrew Conley	Connor Conley (10)	Ohio	November 28, 2009
Chad A. Cottrell	Victoria Williams 10	Parke	October 30, 2005
Michelle Gauvin	Aiyana Emily Gauvin (4)	Tippecanoe	May 15, 2005
Joseph Gorbea	Alicia Rodriguez (6)	Lake	October 19, 1996
Kelly K. Holland	Dillian Daley (4 )	Harrison	March 26, 2000
Boris Kovak	Nicholi Hoffman (3)	Elkhart	February 23, 1998
Wayne Kubsch	Aaron Milewski (10)	St.Joseph	September 18, 1998
Paul McManus	Lindsey McManus (8) Shelby McManus (23 months)	Vanderburgh	February 26, 2001
Zachariah Melcher	Jaiden Melcher (11 months) Unborn Viable Fetus	Clark	April 16, 2005
Michael Plumadore	Aliahna Maroney-Lemmon (9)	Allen	December 22, 2011
Stephen Powers	Kyran Powers (5 months)	Vanderburgh	January 22, 1996
Ryan Ramirez	Paisley Hudson (23 months)	Madison	July 27, 2018
Christopher Stevens	Zachary Snider (10)	Tippecanoe	July 15, 1993
Anthony Stockelman	Katlyn Maria Collman (10)	Jackson	January 25, 2005
Dylan Tate	Harlan Haines (18 months)	Madison	February 23, 2018
Desmond Turner	Luis Aldarran (5) David Covarrubias (8) Alberto Covarrubias Jr. (11)	Marion	June 1, 2006
Daniel Wilkes	Sydney Claspell (8)	Vanderburgh	April 23, 2006

## **AGGRAVATING CIRCUMSTANCES - INDIANA CODE 35-50-2-9(b)**

Of 137 Defendants convicted of Murder, sentenced to Life Imprisonment Without Parole under IC 35-50-2-9, and are currently serving that LWOP sentence:

### **b (1) Intentional Murder while committing or attempting to commit:**

<u>Robbery</u>	<u>Burglary</u>
Fredrick Baer (Madison)	Corey Mosley (Marion)
Mark Baker (Fulton)	Larry Newton (Delaware)
Roy Bell (Fulton)	Jeffrey Ortiz (Lake)
Christopher Burns (Delaware)	Bryce Pope (Elkhart)
Jeffery Cain (DeKalb)	Casey Priest (Marion)
Derrick Cardosi (Newton)	Ronnie Rice (Lake)
Johnathan Cruz (Marion)	Thomas Rogers (Lake)
Michael Daniels (Marion)	Reggion Slater (Porter)
Ronald Dumas (Lake)	Joseph Sotelo (Lake)
Jeremy Gross (Marion)	Charles Stephenson (Dearborn)
Christian Haley (Hamilton)	Phillip Stroud (St.Joseph)
Ronald Hatfield (Delaware)	Charles Sturgeon (Marion)
Michael Highbaugh (Marion)	Jeffrey Treadway (Marion)
Tommy Holland (Marion)	Duane Turner (Delaware)
Michael Inman (Marion)	James Walls (Hamilton)
Sirlando Logan (Allen)	Michael West (Marion)
Ronald Mathisen (Marion)	Darnell Williams (Lake)
Thomas Mathisen (Marion)	Darren Witt (Lake)
Charles Moore (St.Joseph)	Charles Barker (Marion)
<u>Rape</u>	<u>Child Molesting</u>
Fredrick Baer (Madison) att	Jeff Leone (Greene)
David Flores (Lake)	Henry Mason (Allen)
Richard Hooten (Hooten)	Christopher Stevens (Tippecanoe)
Brian Jones (Knox)	Dylan Tate (Madison)
Wayne Mull (Wayne)	Jeffrey Voss (Marion)
Joseph Oberhansley (Clark)	
Craig Shank (Madison)	
Paul Veal (Marion)	
Zachariah Wright (Boone)	
<u>Confinement</u>	<u>Gang Activity</u>
Donald Owen (Elkhart)	Larry Newton (Delaware)
	Donald Owen (Elkhart)
	Duane Turner (Delaware)
<u>Criminal Deviate Conduct</u>	<u>Arson</u>
	Leonard Dickey (Wayne)
	Richard Hooten (Clark)
	Roger Long (Greene)
	Jerry Russell (Greene)
<u>Kidnapping</u>	
	Kelly Holland (Harrison)
	Andrew Satterfield (Pike)
	Craig Shank (Madison)
	Charles Barker (Marion)

**b (2) By Explosive:** Bob Leonard (Marion)

**b (3) Lying in Wait:** Hobert Pittman (Harrison); Danny Rouse (Cass); Jeffrey Washington Posey)

**b (4) Hired to Kill:** Jeffrey Cain (DeKalb); Craig Cain (Grant); Anthony Delarosa (Hamilton); Juan Lucio (Hamilton)

**b (5) Hiring to Kill:** Johnetta Hall (Scott/Jennings); Toby Payne (Hamilton)

**b (6) Law Enforcement Victim:**

Anthony L. Baumgardt (Boone)  
Carl Le'Ellis Blount (Lake)  
Richard A. Branum (Gibson)  
Major P. Davis II (Marion)  
Gregory Dickens, Jr. (St. Joseph)

Thomas Hardy (Marion)  
Darryl Joseph Jeter (Lake)  
Mark L. Lichtenberger (Adams)  
Frankie Allen Salyers (Elkhart)  
Michael P. Shannon (Marion)

**b (7) Convicted of Another Murder:** Steve Clippinger (St.Joseph); Danny Rouse (Cass)

**b (8) Committed Another Murder (Multiple Murders):**

Raymond Adams (Hamilton)  
Angelica Alvarez (Elkhart)  
Corey Anderson (Jasper)  
Fredrick Baer (Madison)  
Arthur Baird (Montgomery)  
Charles Barker (Marion)  
Robert Bassett (Bartholomew)  
Derrick Cardosi (Newton)  
Barney Chamorro (Boone)  
Steven Clippinger (St. Joseph)  
Chad Cottrell (Hamilton)  
Ronald Covington (Marion)  
Johnathan Cruz (Marion)  
Anthony Delarosa (Hamilton)  
Walter Dye (Marion)  
David Flores (Lake)  
Fernando Griffith (Johnson)

Steven Hale (Daviess)  
Christian Haley (Hamilton)  
Nicholas Harbison (Pike)  
Christopher Helsley (Pike)  
Kelly Holland (Harrison)  
Thomas Holland (Marion)  
David Ison (Franklin)  
William Kidd (Elkhart)  
Wayne Kubsch (St. Joseph)  
Bob Leonard (Allen)  
Juan Lucio (Hamilton)  
Robert McIntyre (LaPorte)  
Paul McManus (Vanderburgh)  
Zachariah Melcher (Clark)  
Charles Moore (St. Joseph)  
Toby Payne (Hamilton)  
Hobert Pittman (Harrison)

Bryce Pope (Allen)  
Kerrie Price (Marion)  
Kenneth Rackemann (Marion)  
Stephen Richards (Lake)  
Samuel Sallee (Bartholomew)  
Austin Scott (Harrison)  
Craig Shank (Madison)  
David Sholes (Wabash)  
Joseph Sotelo (Lake)  
Raymond Strominger (Marion)  
Phillip Stroud (St. Joseph)  
Desmond Turner (Marion)  
Darren Vann (Lake)  
James Walls (Hamilton)  
Daniel Wilkes (Vanderburgh)  
Darnell Williams (Lake)

**b (9) On Felony Probation or Parole or In Custody:**

Fredrick Baer (Madison)  
Robert Bassett (Bartholomew)  
Carl Le'Ellis Blount (Lake)  
Johnathan Cruz (Marion)  
Richard Hooten (Clark)  
Michael Inman (Marion)  
David Ison (Franklin)  
Randy Knapp (Greene)

Roger Long (Greene)  
Matthew McCallister (Warrick)  
Zachariah Melcher (Clark)  
Donald Owen (Elkhart)  
Hobert Pittman (Harrison)  
Kerrie Price (Marion)  
Danny Rouse (Cass)  
Jerry Russell (Greene)

Michael Shoun (Elkhart)  
Christopher Stevens (Tippecanoe)  
Jeffrey Treadway ((Marion)  
Desmond Turner (Marion)  
Jeffrey Washington (Posey)  
Darren Witt (Lake)  
Zachariah Wright (Boone)

**b (10) Dismemberment:** Joseph Brown (Vanderburgh); David Losch (Elkhart); Joseph Oberhansley (Clark); Michael Plumadore (Allen)

**b (11) Burning, Mutilation, Torture, or Attempt to Decapitate While Alive:**

Michelle Gauvin (Tippecanoe)  
Fernando Griffith (Johnson)  
Bob Leonard (Marion)  
Jeff Leone (Greene)  
Roger Long (Greene)

Donald Owen (Elkhart)  
Ryan Ramirez (Madison)  
Jerry Russell (Greene)  
Michael Shoun (Elkhart)  
Dylan Tate (Madison)

**b (12) Victim Less Than 12 Years of Age:**

Angelica Salazar Alvarez (Elkhart)	Chad A. Cottrell (Parke)	Michael Plumadore (Allen)
Fredrick Baer (Madison)	Michelle Gauvin (Tippecanoe)	Stephen Powers (Vanderburgh)
Robert Bassett (Bartholomew)	Joseph Gorbea (Lake)	Ryan Ramirez (Madison)
Eugene Britt (Porter)	Terry K. Holland (Harrison)	Christopher Stevens (Tippecanoe)
Levohn Brown (Huntington)	Boris Kovak (Elkhart)	Anthony Stockelman (Jackson)
Amanda Carmack (Grant)	Wayne Kubsch St.Joseph)	Dylan Tate (Madison)
Ian Clark (Kosciusko)	Paul McManus (Vanderburgh)	Desmond Turner (Marion)
Andrew Conley (Ohio)	Zachariah Melcher (Clark)	Daniel Wilkes (Vanderburgh)

**b (13) Convicted of Felony Battery, Kidnapping, Confinement, or Sex Crime against same victim:**  
Roy E. Bell (Fulton)

**b (14) Victim was Witness Against Defendant:** None.

**b (15) Drive-By Shooting or Shooting into Dwelling:**

Derrick Clark (Madison); Jason Powell (Elkhart)

**b (16) Intentional Killing of Viable Fetus:** Zachariah Melcher (Clark)

**b (17) At School:** None.

**b (18) At Church:** None.

**GUILTY PLEAS, JURY TRIALS, AND BENCH TRIALS**

Of 125 Defendants convicted of Murder, sentenced to Life without Parole under IC 35-50-2-9, and are currently serving that LWOP sentence (does not include Asher Hill, or the 11 Defendants formerly on Death Row):

- ✓ 67 (54.0%) of all LWOP sentences resulted from a guilty plea to Murder.
  - 62 resulted from a Plea Agreement.
  - 05 resulted from a guilty plea without any Plea Agreement.
- ✓ 53 (42.7%) of all LWOP sentences resulted from a jury trial and guilty verdict to Murder.
- ✓ 46 (37.1%) of all LWOP sentences resulted from an LWOP penalty phase jury trial.
- ✓ 17 (13.7%) of all LWOP sentences resulted from an LWOP penalty phase bench trial.
- ✓ 45 Defendants have filed no Direct Appeal, no Petition for PCR, and no Petition for Writ of Habeas Corpus.
  - Includes 4 who filed for PCR, but case dismissed without prejudice, or because of present inability to investigate.

**FORMER INDIANA DEATH ROW INMATES NOW SERVING LWOP  
AFTER REVERSAL OF DEATH SENTENCE BY APPEAL OR COMMUTATION**

Inmate	Committing County	Original Death Sentence	Reversed by	Resentenced to LWOP
Fredrick Michael Baer	Madison	06/19/2005	7th Circuit Court of Appeals	08-01-2019
Arthur Paul Baird II	Montgomery	03/13/1987	Commutation to LWOP by Governor	08-29-2005
Charles E. Barker	Marion	11/26/1996	Indiana Supreme Court	02-21-2005
Michael William Daniels	Marion	09/14/1979	Commutation to LWOP by Governor	01-07-2005
Walter L. Dye	Marion	01/20/1998	Marion Superior Court on PCR	11-08-2004
Wayne D. Kubsch	St. Joseph	08/28/2000 04/18/2005	Ind Supreme Court 7th Circuit Ct Appeals	03-08-2019
Paul Michael McManus	Vanderburgh	06/05/2002	7th Circuit Ct Appeals	08-06-2015
Christopher M. Stevens	Tippecanoe	03/14/1995	7th Circuit Court of Appeals	12-14-2009
Phillip A. Stroud	St. Joseph	09/04/2002	Indiana Supreme Court	07-11-2005
Daniel Ray Wilkes	Clark	01/25/2008	Vanderburgh Circuit Court on PCR	08-12-2011
Darnell Williams	Lake	03/25/1987	Commutation to LWOP by Governor	07-02-2004

Of the 137 cases where the Defendant was convicted of Murder, sentenced under IC 35-50-2-9, and currently serving Life Without Parole:

## MOST ACTIVE LWOP TRIAL / GUILTY PLEA JUDGES

- |   |   |
|---|---|
| 5 - Judge Terry Shewmaker (Elkhart)<br>(Alvarez, Halliburton, Losch, J.Powell, Shoun) | 2 - Judge Samuel L. Cappas (Lake)<br>(Le'Ellis, Vann)             |
| 5 - Judge John F. Surbeck Jr. (Allen)<br>(Hatch, Logan, Mason, Plumadore, Warlick)    | 2 - Judge Richard W. Maroc (Lake)<br>(Ellis, Gorbea)              |
| 4 - Judge Gene R. Duffin<br>(Kidd, Kovak, Salyers, Schlabach)                         | 2 - Judge Thomas P. Stefaniak, Jr. (Lake)<br>(Flores, Jeter)      |
| 3 - Judge Vicki L. Carmichael (Clark)<br>(Hooten, Scott, Oberhansley)                 | 2 - Judge James E. Letsinger (Lake)<br>(Ortiz, Sotelo)            |
| 3 - Judge Steven R. Nation (Hamilton)<br>(Delarosa, Haley, Lucio)                     | 2 - Judge Judge Clarence D. Murray (Lake)<br>(Witt, Sotelo)       |
| 3 - Judge Grant W. Hawkins (Marion)<br>(Voss, Strominger, Treadway)                   | 2 - Judge Robert Altice (Marion)<br>(Inman, Turner)               |
| 2 - Judge Frances C. Gull (Allen)<br>(Leonard, Pope)                                  | 2 - Judge Sheila A. Carlisle (Marion)<br>(R.Mathisen, T.Mathisen) |
| 2 - Judge Wayne E. Steele (Fulton)<br>(Baker, Baumgardt)                              | 2 - Judge Jeff Biesterveld (Pike)<br>(Harbison, Satterfield)      |
| 2 - Judge David Holt (Greene)<br>(Long, Russell)                                      | 2 - Judge John M. Marnocha (St.Joseph)<br>(Moore, Smallwood)      |
| 2 - Judge Roger D. Davis (Harrison)<br>(K.Holland, Pittman)                           | 2 - Judge Thomas H. Busch (Tippecanoe)<br>(Stevens, Gauvin)       |

## LWOP TRIAL / GUILTY PLEA JUDGE INDEX

- |   |   |
|---|---|
| Adams County Circuit Court<br>Special Judge Steven David (Lichtenberger)                              | Daviess County Circuit Court<br>Judge Gregory Smith (Hale)                                    |
| Allen County Superior Court #5<br>Judge John F. Surbeck Jr. (Hatch, Logan, Mason, Plumadore, Warlick) | Dearborn County Circuit Court<br>Judge James Humphrey (Stephenson)                            |
| Allen County Superior Court #5<br>Judge Frances C. Gull (Leonard, Pope)                               | Dekalb County Superior Court<br>Judge Kevin P. Wallace (J.Cain)                               |
| Bartholomew County Superior Court<br>Special Judge John A. Westhafer (Bassett)                        | Delaware County Circuit Court<br>Judge Richard Dailey (Burns)                                 |
| Bartholomew County Circuit Court<br>Judge Stephen R. Heimann (Sallee)                                 | Delaware County Circuit Court #4<br>Judge John M. Feick (Hatfield)                            |
| Boone County Superior Court #2<br>Judge Bruce E. Petit (Bell)   | Delaware County Superior Court<br>Judge (Newton)  |
| Boone County Superior Court #2<br>Judge Rebecca Sue McClure (Chamorro)                                | Delaware County Superior Court<br>Judge Robert Barnet Jr. (DuTurner)                          |
| Boone County Superior Court #1<br>Judge Matthew C. Kincaid (Wright)                                   | Elkhart County Circuit Court<br>Judge Gene R. Duffin (Kidd, Kovak, Salyers)                   |
| Cass County Superior Court #2<br>Judge Richard A. Maughmer (Rouse)                                    | Elkhart County Circuit<br>JudgeTerry Shewmaker (Alvarez, Halliburton, Losch, J.Powell, Shoun) |
| Clark County Circuit Court #4<br>Judge Vicki L. Carmichael (Hooten, Oberhansley)                      | Elkhart County Circuit Court<br>Judge Michael A. Christofeno (Owen)                           |
| Clark County Circuit Court #1<br>Judge Daniel F. Donahue (Melcher)                                    | Elkhart County Superior Court<br>Judge (Schlabach)  |

Franklin County Circuit Court  
    Judge Steven J. Fox (Ison)  
Fulton County Superior Court  
    Judge Wayne E. Steele (Baker, Baumgardt)  
Gibson County Circuit Court  
    Judge Jeffrey F. Meade (Blaize)  
Gibson County Circuit Court  
    Judge Walter H. Palmer (Branham)  
Grant County Superior Court  
    Judge Thomas R. Hunt (C.Cain)  
Grant County Superior Court  
    Judge Jeffrey D. Todd (J.Griffith)  
Grant County Superior Court  
    Judge Gary L. Thompson (Laux)  
Greene County Superior Court  
    Judge David Holt (Long, Russell)  
Greene County Circuit Court  
    Judge Erik A. Allen (Knapp)  
Greene County Circuit Court  
    Judge David K. Johnston (Leone)  
Hamilton County Superior Court  
    Judge Jerry M. Barr (Adams)  
Hamilton Superior Court Judge  
    William J. Hughes (Cottrell)  
Hamilton County Superior Court #1  
    Judge Steven R. Nation (Delarosa, Haley, Lucio)  
Hamilton County Superior Court #1  
    Judge (Payne)  
Hamilton County Superior Court  
    Judge (Walls)  
Harrison County Superior Court  
    Judge Roger D. Davis (K.Holland, Pittman)  
Harrison County Circuit Court  
    Special Judge Vicki L. Carmichael (Scott)  
Huntington County Circuit Court  
    Judge Mark A. McIntosh (L.Brown)  
Jackson County Circuit Court  
    Judge William E. Vance (Stockelman)  
Jasper County Circuit Court  
    Judge E. Duane Daugherty (Anderson)  
Jennings County Superior Court  
    Special Judge Jonathan W. Webster (Hall)  
Johnson County Circuit Court  
    Judge K. Mark Loyd (F. Griffith)  
Kosciusko County Circuit Court  
    Judge Michael W. Reed (I.Clark)  
Knox County Superior Court #1  
    Judge W. Timothy Rowley (Jones)  
Lake County Superior Court  
    Judge Samuel L. Cappas (Le'Ellis, Vann)  
Lake County Superior Court  
    Judge Richard W. Maroc (Ellis, Gorbea)  
Lake County Superior Court  
    Judge Thomas P. Stefaniak, Jr. (Flores, Jeter)

Lake County Superior Court  
    Judge Diane Ross Boswell (Rice)  
Lake County Superior Court  
    Judge Salvador Vasquez (Richards)  
Lake County Superior Court  
    Judge James L. Clement (Rogers)  
Lake County Superior Court  
    Judge James E. Letsinger (Ortiz, Sotelo)  
Lake County Superior Court  
    Judge Judge Clarence D. Murray (Witt, Sotelo)  
LaPorte County Superior Court  
    Judge Robert W. Gilmore Jr. (McIntyre)  
Madison County Superior Court #1  
    Judge Dennis D. Carroll (D.Clark)  
Madison County Circuit Court Division 3  
    Judge Andrew Hopper (T.Holland)  
Madison County Circuit Court #4  
    Judge David A.Happe (Ramirez)  
Madison County Circuit Court #1  
    Judge Fredrick R. Spencer (Shank)  
Madison County Circuit Court #1  
    Judge Angela G. Warner Sims (Tate)  
Madison County Circuit Court #6  
    Judge Mark Dudley (Baer)  
Marion County Circuit Judge  
    Tonya Walton Pratt (Allen)  
Marion Superior Court Judge  
    Robert R. Altice, Jr. (Covington)  
Marion Superior Court  
    Judge Sheila A. Carlisle (Cruz)  
Marion County Superior Court  
    Judge Grant W. Hawkins (Voss, Strominger, Treadway)  
Marion County Superior Court  
    Judge Marc T.Rothenberg (Davis)  
Marion County Superior Court  
    Judge Patricia J. Gifford (Barker, Gross)  
Marion County Superior Court  
    Judge Mark Stoner (Hardy)  
Marion County Superior Court  
    Judge Cale Bradford (Highbaugh)  
Marion County Superior Court  
    Judge (T.Holland)  
Marion County Superior Court  
    Judge Robert Altice (Inman, Turner)  
Marion County Superior Court  
    Judge Sheila A. Carlisle (R.Mathisen, T.Mathisen)  
Marion County Superior Court  
    Judge (Mosley)  
Marion County Superior Court  
    Judge Robyn Moberly (Price)  
Marion County Superior Court  
    Judge (Priest)

Marion County Superior Court  
Judge Kurt Eisgruber (Rackemann)  
Marion County Superior Court  
Judge Jane Magnus-Stinson (Sturgeon)  
Marion County Superior Court  
Judge (Shannon)  
Marion County Superior Court  
Judge Gary L. Miller (Veal)  
Marion County Superior Court  
Judge Tanya Walton Pratt (West)  
Newton County Superior Court  
Judge Daniel J. Molter (Cardosi)  
Noble County Superior Court #1  
Judge Stephen Spindler (Houser)  
Ohio County Circuit Court  
Judge James D. Humphrey (Conley)  
Pike County Circuit Court  
Judge Jeff Biesterveld (Harbison, Satterfield)  
Pike County Circuit Court  
Judge Lee F. Baker (Helsley)  
Porter County Superior Court  
Judge Thomas Webber (Britt)  
Porter County Superior Court  
Judge Roger Bradford (Slater)

Posey County Superior Court  
Judge Donald E. Baier (Washington)  
St. Joseph County Superior Court #3  
Judge Jerome Frese (Clippinger)  
St. Joseph County Superior Court #1  
Judge William H. Albrlght (Dickens)  
St. Joseph County Superior Court #1  
Judge Jane Woodward Miller (Kubsch)  
St. Joseph County Superior Court #4  
Judge William T. Means (Stroud)  
St. Joseph County Superior Court #2  
Judge John M. Marnocha (Moore, Smallwood)  
Tippecanoe County Superior Court #2  
Judge Thomas H. Busch (Gauvin, Stevens)  
Vanderburgh County Circuit Court  
Judge Carl A. Heldt (Wilkes, J.Brown)  
Vanderburgh County Circuit Court  
Judge Richard L. Young (S.Powers)  
Wabash County Circuit Court  
Special Judge Thomas Hakes (Sholes)  
Warrick County Superior Court #1  
Judge J. Zach Winsett (McCallister)  
Wayne County Superior Court  
Judge Gregory Horn (Dickey)  
Wayne County Circuit Court  
Judge Douglas H. VanMiddlesworth (Mull)

## MOST ACTIVE LWOP TRIAL / GUILTY PLEA PROSECUTORS

7 - Vicki E. Becker (Alvarez, Halliburton, Losch,  
Owen, Powell, Salyers, Shoun)  
5 - Denise A. Robinson (Hardy, Inman, Leonard,  
Rackemann, Treadway)  
4 - Carl Brizzi (Covington, Shannon, Strominger,  
Turner)  
4 - John F. Sullivan, III (Logan, Mason, Pope,  
Warlick)  
4 - David Wyser (Allen, Barker, T.Holland, Voss)  
3 - Bernard A. Carter (Flores, Rogers, Vann)  
3 - Michael A. Christofeno (Kovak, Powell, Schlabach)

3 - Scott Newman (Mathisen, Mathisen, Priest,  
Veal)  
3 - Cynthia Crispin (Delarosa, Lucio, Payne)  
3 - Billy P. Heck (C.Cain, J.Griffith, Laux)  
3 - Curtis T. Hill (Alvarez, Halliburton, Losch)  
3 - Mark Hollingsworth (Leonard, Strominger,  
Treadway)  
3 - Sonia J. Leerkamp (Adams, Delarosa, Lucio,  
Walls)  
3 - Kathleen O'Halloran (Ortiz, Richards, Witt)  
3 - David N. Powell (Leone, Long, Russell)  
3 - Richard W. Reed (Burns, Newton, D.Turner)

## LWOP TRIAL/ GUILTY PLEA PROSECUTORS INDEX

Robert R.Altice (Mosley, Price)  
George J. Ankenbrand (Branum)  
Jeffrey Arnold (Newton, D.Turner)  
Amy J. Barnes (Mosley)  
Jerry Bean (Gauvin)  
Vicki E. Becker (Alvarez, Halliburton, Losch, Owen, Powell, Salyers, Shoun)  
Peter J. Beyel (Ramirez)  
Jeffrey L. Biesterveld (Helsley)  
Tim Bookwalter (Stevens)  
Natalie Bokota (Gorbea)  
Clare Eve Bradley-Lubek (Jeter)  
Cale Bradford (Mathisen)  
Carl Brizzi (Covington, Shannon, Strominger, Turner)  
Angela J. Brown (Rice)  
Jeremy Wayne Brown (Lichtenberger)  
Richard Allen Brown (Baker, Bell)  
D. Lee Buckingham (Haley)  
John J. Burke (Sotelo)  
Levi Burkett (McCallister)  
Kathleen Burns (Bassett)  
Dennis Byrd (Pittman)  
Jamie Thompson Campbell (Haley)  
Sheila A.Carlisle (Price, Sturgeon)  
Bernard A. Carter (Flores, Rogers, Vann)  
T. Grey Chandler (Tate)  
Michael A. Christofeno (Kovak, Powell, Schlabach)  
Steven Clouse (Houser)  
John E. Colin (Pittman)  
John Commons (Mathisen, Mathisen)  
Jane Conley (Sturgeon, Veal)  
Bradley Cooper (F.Griffith)  
Ken Cotter (Clippinger)  
Barbara Crawford (Shannon)  
Cynthia Crispin (Delarosa, Lucio, Payne)  
Rodney J. Cummings (Shank, Baer)  
Jason C. Custer (Pope)  
Steven A. Cvengros (Cottrell)  
Aleksandra Dimitrijevic (Blount)  
James Douglas (Britt, Slater)  
Katelan M. Doyle (Owen)  
Jeffrey D. Drinski (Cardosi)  
Scott H. Duerring (Dickens, McIntyre)  
Kent Thomas Eastwood (Baumgardt, Wright)  
Kevin S. Enyeart (Rouse)  
James Ethridge Jr. (Powers)  
Jerome Ezell (Jeter)  
James Fox (Stroud)  
David L. Francisco (Shoun)  
Christopher Fronk (Kubsch)  
Diane M. Frye (Burns, Hatfield)  
Joel R. Gabrielse (Moore)

Lindsay E. Gedig (Cruz)  
Robert William Gevers II (Logan, Mason)  
Jeffrey M. Gill (Gross)  
Steven O. Godfrey (Hatch, Plumadore)  
Samantha M. Green (Ramirez)  
William C. Grimes (Melcher)  
Jennifer L. Haley (Highbaugh, D.Turner)  
Teresa Ann Hall (Cruz)  
Randy Head (Rouse)  
R. Steven Hearn (I.Clark)  
Billy P. Heck (C.Cain, J.Griffith, Laux)  
Daniel E. Henke (Adams, Walls)  
William F. Herrbach (McIntyre)  
Curtis T. Hill (Alvarez, Halliburton, Losch)  
Cheryl Hillenburg (K.Holland)  
William C. Hoelscher (Dickey)  
Mark Hollingsworth (Leonard, Strominger,Treadway)  
Mary L. Hutchison (Ramirez)  
Michelle Jatkiewicz (Vann)  
Harold R. Johnston (Jones)  
John D. Keiffne (Highbaugh)  
Richard Kiefner (Allen)  
Mark Kiesler (Scott)  
Jarrod D. Holtsclaw (Knapp)  
Stephen J. Koester (Tate)  
David A. Kolger (Mull)  
Robert D. Krieg (Blaize)  
Catherine Lake (Gorbea, Witt)  
Sonia J. Leerkamp (Adams, Delarosa, Lucio, Walls)  
Matthew R. Lemme (Hall)  
Stanley M. Levco (J.Brown, Scott)  
James D. Luttrull, Jr. (C.Cain, J.Griffith)  
Jayson W. McGrath (Davis)  
Todd Meyer (Chamorro)  
David H. McClamrock (Hatch)  
Darrin E. McDonald (Harbison)  
Mark R. McKinney (Hatfield)  
Andre Miksha (Haley, Lucio)  
Thomas K. Morris (Wright)  
Jeremy Mull (Hooten, Oberhansley)  
William Moss Nash (Sallee)  
F. Aaron Negangard (Conley, Stephenson)  
Scott Newman (Mathisen, Mathisen, Priest, Veal)  
Kathleen O'Halloran (Ortiz, Richards, Witt)  
Michael D. O'Neill (Anderson)  
G. Byron Overton (Hale)  
Chris A. Owens (Hall)  
Michael J. Perry (McCallister)  
Robert W. Persin (Flores)  
Stephen Pierson (Stockelman)  
Richard R. Plath (Gross, Priest)  
Alfred H. Plummer, III (Sholes)

Brian G. Poindexter (Voss)  
David N. Powell (Leone, Long, Russell)  
Richard W. Reed (Burns, Newton, D.Turner)  
Tracy Reinholt (Dumas)  
Karen E. Richards (Plumadore)  
Amy Christine Richison (L.Brown)  
Denise A. Robinson  
(Hardy, Inman, Leonard, Rackemann, Treadway)  
Joe A. Rowe (Houser)  
Mary Kathryn Ryan (Jeter)  
Armando L. Salinas (Rice)  
Matt Savage (Inman)  
Noah Schafer (Satterfield)  
Frank Schaffer (Stroud)  
Joshua Otto Schalk (Scott)  
Larry Sells (T.Holland)  
Michelle M. Sharpe (Covington, Davis)  
Terry Shewmaker (Kidd)  
Michael W. Shipman (Dickey, Mull)  
John Sievers (Jones)

Ronald W. Simpson (K.Holland)  
Janna Skelton (D.Turner)  
Dean A. Sobecki (Hale)  
Stacey Speith (Dumas, Plumadore)  
Gregory B. Spencer (Hardy)  
Ralph W. Staples (Covington, Shannon)  
Steven D. Stewart (Hooten, Melcher)  
John F. Sullivan, III (Logan, Mason, Pope, Warlick)  
Eric Tamashasky (Kubsch)  
Michael J. Toth (Blount)  
Jodi Uebelhack (Washington)  
David Urbanski (Blount)  
Trent VanHaften (Washington)  
Peter Villarreal (Flores)  
Sharon Werne (Blaize, Branum)  
Melvin F. Wilhelm (Ison)  
Bryan Williams (D.Clark)  
Clara Mary Winebrenner (J.Cain)  
David Wyser (Allen, Barker, T.Holland, Voss)  
Robert E. Zoss (Powers)

\* Counsel recognized by appearance at Trial or at Guilty Plea/Sentencing. No distinction is made between lead counsel and second chair.

## **PENDING AND ACTIVE LWOP CASES ON APPEAL**

### **On Direct Appeal**

Amanda Dawn Carmack v. State of Indiana

Indiana Supreme Court Case #: 21S-LW-00471, filed 10/14/2021.

Grant County Case #: 27C01-1909-MR-000008

Joseph Albert Oberhansley v. State of Indiana

Indiana Supreme Court Case #: 20S-LW-00620), filed 10/27/2020.

Clark County Case#:10C04-1409-MR-000001

Donald R. Owen, Jr. v. State of Indiana

Indiana Supreme Court Case #: 21S-LW-00333), filed 07/09/2021.

Elkhart County Case#: 20C01-1912-MR-000006

### **On PCR in Trial Court**

Steven A. Hale v. State of Indiana

Daviess County Case#: 14C01-2105-PC-000526), filed 05/12/2021.

Bob Leonard v. State of Indiana

Marion/Allen County Case #: 02D06-1808-PC-000062, filed 08/06/2016.

Frankie Allen Salyers v. State of Indiana

Elkhart County Case #: 20C01-1605-PC-000028, filed 06/03/2016.

Michael Todd Shoun v. State of Indiana

Elkhart County Case#: 20C01-1707-PC-000039 / 20C01-1311-MR-000007, filed 07/28/2017.

Charles Robert Stephenson v. State of Indiana

Dearborn County Cause #: 15C01-2007-PC-000007, filed 07/20/2020.

Paul Gregory Veal v. State of Indiana

Marion County Case #: 49D31-1703-PC-011985, filed 03/31/2017.

### **On PCR Appeal**

Andrew Conley v. State of Indiana

Indiana Supreme Court Case#: 21S-PC-00256, filed 05/20/2021.

Ohio County Case #: 58C01-1302-PC-000002

Fernando C. Griffith v. State of Indiana

Indiana Court of Appeals Case#: 21A-PC-01781, filed 08/13/2021.

Johnson County Case#: 41001-0405-PC-000001

### **On Habeas in U.S. District Court**

None.

### **On Habeas Appeal in U.S. Circuit Court**

None.

## **WHAT COURT HAS JURISDICTION ON APPEAL?**

Pursuant to Indiana Code 35-50-2-9(j), Indiana Appellate Rule 4(A)(1)(a), and Art. 7, § 4 of the Indiana Constitution, the Indiana Supreme Court has mandatory and exclusive jurisdiction over all appeals from cases resulting in a Death Sentence, and over direct appeals from cases resulting in a sentence of Life Imprisonment Without Parole. The direct appellate review is automatic and given priority over all other cases.

## **Indiana Rules of Appellate Procedure**

## Rule 4. Supreme Court Jurisdiction

## A. Appellate Jurisdiction.

(1) Mandatory review. The Supreme Court shall have mandatory and exclusive jurisdiction over the following cases:

(a) Criminal Appeals in which a sentence of death or life imprisonment without parole is imposed under Ind. Code § 35-50-2-9 and Criminal Appeals in post conviction relief cases in which the sentence was death. (3) Certain interlocutory appeals. The Supreme Court shall have jurisdiction over interlocutory appeals authorized under Appellate Rule 14 in any case in which the State seeks the death penalty or in life without parole cases in which the interlocutory order raises a question of interpretation of IC 35-50-2-9.

<u>COURT</u>	<u>PROCEEDING</u>	<u>WHO REPRESENTS STATE?</u>
Trial Court - County Circuit, Superior	Trial (DP)	County Prosecuting Attorney
Trial Court - County Circuit, Superior	Trial (LWOP)	County Prosecuting Attorney
Ind. Supreme Court (DP)	Direct Appeal (DP)	Attorney General
Ind. Supreme Court (LWOP)	Direct Appeal (LWOP)	Attorney General
Trial Court - County Circuit, Superior	PCR Petition(DP)	Attorney General
Trial Court - County Circuit, Superior	PCR Petition (LWOP)	County Prosecuting Attorney
Indiana Supreme Court	PCR Appeal (DP)	Attorney General
Indiana Court of Appeals	PCR Appeal (LWOP)	Attorney General
U.S. District Court	Habeas Petition (DP)	Attorney General
U.S. District Court	Habeas Petition (LWOP)	Attorney General
U.S. Court of Appeals	Habeas Appeal (DP)	Attorney General
U.S. Court of Appeals	Habeas Appeal (LWOP)	Attorney General

The Indiana Attorney General represents the State of Indiana in all cases after a defendant is sentenced to death, including direct appeal, post-conviction relief (trial and appeal), and habeas corpus (trial and appeal) in the federal courts.

## **Ind. R. P. Post-Conviction Remedies Rule 1, § 9(d)**

(d) State. In non-capital cases, the prosecuting attorney of the circuit in which the court of conviction is situated shall represent the State of Indiana in the court of conviction. In capital cases, the Attorney General shall represent the State of Indiana for purposes of answering the petition, and the prosecuting attorney shall, at the request of the Attorney General, assist the Attorney General. The Attorney General shall represent the State of Indiana on any appeal pursuant to this Rule.

## LIFE IMPRISONMENT WITHOUT PAROLE

Life Imprisonment Without Parole was added as a jury option in all Indiana Death Penalty cases by a 1993 amendment to IC 35-50-2-9 (P.L. 250, § 2, effective July 1, 1993). The Legislature added a savings clause that made LWOP available only where the murder is committed after June 30, 1993. A defendant who commits murder before this date, but is sentenced after, is not eligible for LWOP.  White v. Alcorn, 638 N.E.2d 1242 (Ind.1994), Azania v. State, 730 N.E.2d 646 (Ind.2000).

A 1994 amendment to IC 35-50-2-9 (P.L. 158, § 7) added provisions allowing the State to seek only Life Imprisonment Without Parole without seeking a death sentence, but with the same procedures and burdens.

In 1994 (P.L.158, § 6), IC 35-50-2-8.5 was created, establishing Indiana's version of a "three strikes" law, authorizing a sentence of Life Imprisonment Without Parole for any felony, where two prior unrelated felony convictions listed under IC 35-50-2-2 (b)(4) as non-suspendable are shown. This statute was repealed by P.L.158-2013, § 662, effective July 1, 2014. According to the Indiana Department of Corrections, Asher Hill, convicted in the Marion County Superior Court in 2001 of Robbery (Class A Felony) and Confinement (Class B Felony), is the only person sentenced to LWOP under this statute, and is currently serving that sentence.

Additionally, Michael Daniels (01-07-05) and Darnell Williams (07-02-04) had their death sentences commuted to Life Imprisonment Without Parole by Indiana Governor Joe Kernan. Arthur Baird (08-29-05) had his death sentence commuted to Life Imprisonment Without Parole by Indiana Governor Mitch Daniels. They are the only three convicted murderers to have their death sentences commuted by a Governor since the death penalty was reinstated in Indiana in 1977. Each are currently serving Life Imprisonment Without Parole instead.

Prior to 1977 Indiana had an indeterminate sentencing scheme which included "life imprisonment" for Murder, Kidnapping and a few other violent crimes. Almost all inmates serving such a sentence have since been released on parole or by commutation/pardon. The laws relating to their parole release have been changed many times since 1977. See, White v. Indiana Parole Bd., 713 N.E.2d 327, 328 (Ind. Ct. App. 1999), Indiana Code 11-1-1-9, Indiana Code 11-1-1-9.1, and Indiana Code 11-7-1-1. Those with more than one sentence of Life Imprisonment are apparently not currently eligible for parole.

It must also be recognized that there are many inmates currently serving what practically amounts to a sentence of Life Imprisonment Without Parole; that is, those who are serving sentences of 100+ years likely have a "projected release date" well past their life expectancy. The life expectancy for those born today in Indiana is estimated at 77.1 years. Of course, the demographics of those in prison may reduce this number dramatically. Inmates are 95% male, often lived or living a life of drug or alcohol dependence and abuse, are prone to violence and mental illness, have sometimes been subjected to extreme poverty, and may not receive premium medical care before or during imprisonment.

**Indiana Department of Corrections Inmates**  
**Currently Serving Life Imprisonment Without Parole (137 as of 01/01/2022)**

As of January 1, 2022, there are 137 inmates serving a sentence of Life Without Parole in Indiana, 136 of which were based upon a Murder conviction and sentencing under IC 35-50-2-9, and 1 (Asher Hill - Marion County) based upon a Robbery conviction and sentencing as a Habitual Offender under IC 35-50-2-8.5. (According to Indiana Department of Corrections) (Includes Tommy Holland twice, with two separate LWOP sentences from two different counties)

**ALPHABETICAL (Last Name)**

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense	Location
883978	Raymond	K	Adams	B	M	10/09/1968	Hamilton	10/30/1995	Murder	ISP
173335	Kenneth		Allen	W	M	11/27/1975	Marion	02/05/2010	Murder	PEND
153105	Angelicia	S	Alvarez	H	F	09/19/1979	Elkhart	09/24/2007	Murder	IWP
945315	Corey		Anderson	W	M	06/13/1978	Jasper	02/28/2000	Murder	PEND
910135	Fredrick	M	Baer	W	M	10/19/1971	Madison	06/19/2005	Murder	MIAMI
872036	Arthur	P	Baird	W	M	02/06/1946	Montgomery	03/13/1987	Murder	ISP
184339	Mark	S	Baker	B	M	12/20/1972	Fulton	11/16/2007	Murder	ISP
976850	Charles	E	Barker	W	M	01/19/1958	Marion	11/26/1996	Murder	MIAMI
872522	Robert	J	Bassett	W	M	10/06/1962	Bartholomew	06/21/2006	Murder	WV
273346	Anthony	L	Baumgardt	W	M	10/17/1996	Boone	05/29/2019	Murder	ISP
221837	Roy	E	Bell	W	M	06/11/1987	Fulton	09/16/2013	Murder	ISP
252565	Austin	T	Blaize	W	M	05/26/1989	Gibson	10/02/2014	Murder	PEND
263002	Carl	L	Blount	B	M	07/29/1988	Lake	02/08/2017	Murder	ISP
106718	Richard	A	Branum	W	M	09/02/1975	Gibson	12/12/2000	Murder	WV
963641	Eugene	R	Britt	B	M	11/04/1957	Porter	05/23/1996	Murder	ISP
112295	Joseph	W	Brown	W	M	11/24/1954	Vanderburgh	09/04/2001	Murder	WESTV-CU
116470	Levohn	H	Brown	W	M	02/01/1973	Huntington	07/05/2002	Murder	WV
117063	Christopher	A	Burns	W	M	01/03/1982	Delaware	08/02/2001	Murder	WV
209906	Jeffery	W	Cain	W	M	12/28/1957	DeKalb	08/20/2010	Murder	ISP
120057	Craig		Cain	W	M	06/11/1984	Grant	10/18/2004	Murder	WV
220566	Derrick	T	Cardosi	W	M	04/22/1992	Newton	02/15/2018	Murder	PEND
286819	Amanda		Carmack	W	F	09/27/1984	Grant	09/15/2021	Murder	IWP
219250	Barney		Chamorro	H	M	05/31/1990	Boone	05/10/2012	Murder	PEND
113973	Derrick		Clark	B	M	03/24/1981	Madison	04/02/2002	Murder	PEND
104092	Ian	J	Clark	W	M	02/13/1973	Kosciusko	04/03/2008	Murder	NEWC
871479	Steve	J	Clippinger	W	M	02/13/1971	St. Joseph	04/20/2015	Murder	ISP
218096	Andrew		Conley	W	M	05/14/1992	Ohio	10/15/2010	Murder	PEND
195185	Chad	A	Cottrell	W	M	07/21/1970	Hamilton	05/29/2009	Murder	NEWC
146060	Ronald		Covington	B	M	11/01/1974	Marion	10/22/2004	Murder	PEND
250449	Johnathan	S	Cruz	W	M	07/30/1996	Marion	05/11/2017	Murder	WV
13135	Michael	W	Daniels	B	M	03/08/1958	Marion	09/14/1979	Murder	NEWC
249215	Major	P	Davis	B	M	05/28/1989	Marion	04/27/2017	Murder	ISP

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense	Location
134291	Anthony		Delarosa	W	M	07/22/1983	Hamilton	04/15/2009	Murder	WV
967141	Greg		Dickens	B	M	05/22/1981	St. Joseph	07/09/1999	Murder	ISP
190101	Leonard	W	Dickey	W	M	05/18/1960	Wayne	07/03/2008	Murder	WV
882103	Ronald		Dumas	B	M	11/12/1960	Lake	11/01/2001	Murder	ISP
987990	Walter	L	Dye	B	M	10/02/1964	Marion	11/08/2004	Murder	PEND
952290	David	A	Flores	H	M	10/22/1973	Lake	09/09/2010	Murder	ISP
152955	Michelle	D	Gauvin	ML	F	01/17/1972	Tippecanoe	10/26/2006	Murder	IWP
984053	Joseph	L	Gorbea	H	M	01/22/1977	Lake	02/20/1998	Murder	ISP
117892	James	F	Griffith	W	M	05/17/1979	Grant	05/23/2014	Murder	ISP
105877	Fernando		Griffith	B	M	06/16/1977	Johnson	09/20/2001	Murder	WV
966498	Jeremy		Gross	W	M	09/19/1979	Marion	06/09/2000	Murder	PEND
102321	Steven	A	Hale	W	M	07/09/1976	Daviess	07/31/2000	Murder	OOS
256048	Christian	R	Haley	B	M	02/02/1993	Hamilton	05/22/2015	Murder	PEND
283254	Johnetta	R	Hall	W	F	01/26/1973	Jennings	11/02/2020	Murder	RCF
128713	Tyrice	J	Halliburton	B	M	05/28/1981	Elkhart	05/17/2012	Murder	WV
171967	Nicholas	R	Harbison	W	M	04/12/1983	Pike	06/22/2007	Murder	WV
973341	Thomas		Hardy	B	M	12/21/1950	Marion	04/05/2012	Murder	WV
138169	Ronrico		Hatch	B	M	10/05/1980	Allen	03/12/2004	Murder	ISP
871098	Ronald	A	Hatfield	W	M	07/21/1959	Delaware	01/25/2006	Murder	MIAMI
114564	Christopher		Helsley	W	M	02/07/1978	Pike	05/20/2014	Murder	PEND
902926	Michael	A	Highbaugh	B	M	10/09/1965	Marion	04/11/2000	Murder	WV
922526	Asher	B	Hill	B	M	05/30/1966	Marion	06/07/2001	Robbery	WV
116194	Kelly	K	Holland	W	M	10/22/1971	Harrison	05/16/2001	Murder	ISP
138825	Tommy		Holland	W	M	01/02/1975	Marion	12/09/2005	Murder	PEND
138825	Tommy		Holland	W	M	01/02/1975	Madison	05/03/2021	Murder	PEND
225558	Richard	C	Hooten	W	M	12/22/1963	Clark	05/19/2014	Murder	WV
923239	Donald	E	Houser	W	M	02/15/1970	Noble	02/04/2003	Murder	ISP
984424	Michael	E	Inman	B	M	03/29/1976	Marion	06/13/2012	Murder	WV
905813	David	E	Ison	W	M	08/27/1965	Franklin	03/14/2012	Murder	WV
160155	Darryl	J	Jeter	B	M	11/03/1984	Lake	07/14/2006	Murder	WV
102703	Brian		Jones	W	M	09/03/1976	Knox	01/12/2001	Murder	WV
943337	William	T	Kidd	W	M	04/01/1959	Elkhart	05/12/1994	Murder	ISP
970191	Randy		Knapp	W	M	05/26/1959	Greene	11/15/2012	Murder	OOS
995398	Boris		Kovak	W	M	07/11/1965	Elkhart	08/26/1999	Murder	WV
108000	Wayne	D	Kubsch	W	M	10/31/1967	St. Joseph	03/08/2019	Murder	WV
125893	Fredrick	A	Laux	W	M	04/01/1965	Grant	11/18/2002	Murder	PEND
935747	Bob		Leonard	W	M	12/12/1958	Allen	03/18/2016	Murder	WV
106789	Jeff		Leone	W	M	02/13/1963	Greene	05/14/2002	Murder	WV
105140	Mark		Lichtenberger	W	M	06/30/1960	Adams	07/10/2000	Murder	ISP
973822	Sirlando	D	Logan	B	M	06/15/1974	Allen	04/18/1997	Murder	ISP
915530	Roger		Long	W	M	04/05/1952	Greene	05/12/1999	Murder	ISP
137913	David		Losch	W	M	11/04/1981	Elkhart	02/06/2004	Murder	PEND

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense	Location
998680	Juan	C	Lucio	H	M	04/07/1984	Hamilton	05/15/2008	Murder	WESTV-CU
983734	Henry	T	Mason	B	M	12/06/1976	Allen	09/29/1997	Murder	ISP
964387	Ronald	A	Mathisen	W	M	03/18/1967	Marion	09/06/1996	Murder	WV
964397	Thomas	A	Mathisen	W	M	03/09/1970	Marion	09/04/1996	Murder	WV
951591	Mathew	W	McCallister	W	M	04/19/1982	Warrick	08/23/2016	Murder	WV
957178	Robert	P	McIntyre	W	M	08/13/1970	LaPorte	12/11/1995	Murder	WV
108001	Paul	M	McManus	W	M	07/14/1972	Vanderburgh	08/06/2015	Murder	ISP
971590	Zachariah		Melcher	W	M	10/03/1977	Clark	08/03/2006	Murder	WESTV-CU
132204	Charles		Moore	B	M	12/15/1985	St. Joseph	09/27/2013	Murder	ISP
974831	Corey	L	Mosley	B	M	03/24/1976	Marion	08/22/1997	Murder	WV
954934	Wayne	A	Mull	W	M	09/10/1965	Wayne	09/07/1995	Murder	ISP
914382	Larry	W	Newton	W	M	11/09/1976	Delaware	12/29/1995	Murder	ISP
249876	Joseph		Oberhansley	W	M	03/29/1981	Clark	10/13/2020	Murder	NEWC
984672	Jeffrey	R	Ortiz	H	M	04/29/1978	Lake	06/12/1998	Murder	ISP
229048	Donald	R	Owen	W	M	12/30/1998	Elkhart	06/10/2021	Murder	MIAMI
195043	Toby	K	Payne	W	M	08/02/1976	Hamilton	05/14/2009	Murder	PEND
126381	Hobert	A	Pittman	W	M	11/05/1980	Harrison	08/10/2006	Murder	WV
188374	Michael	L	Plumadore	W	M	11/16/1972	Allen	06/18/2012	Murder	NEWC
985038	Bryce	D	Pope	B	M	07/10/1977	Allen	06/19/1998	Murder	WV
113805	Jason		Powell	W	M	10/16/1980	Elkhart	03/14/2002	Murder	NEWC
970651	Stephen	R	Powers	W	M	10/09/1975	Vanderburgh	02/27/1997	Murder	ISP
856296	Kerrie		Price	B	M	04/15/1968	Marion	03/2/2000	Murder	WV
951864	Casey		Priest	W	M	12/02/1978	Marion	04/24/1998	Murder	NEWC
132668	Kenneth		Rackemann	W	M	06/15/1989	Marion	04/22/2016	Murder	PEND
281760	Ryan		Ramirez	H	M	03/28/1989	Madison	04/14/2020	Murder	PEND
221051	Ronnie	J	Rice	B	M	06/28/1981	Lake	01/12/2012	Murder	WV
145891	Stephen	T	Richards	W	M	09/28/1979	Lake	09/27/2004	Murder	ISP
872945	Thomas	L	Rogers	W	M	12/09/1964	Lake	04/26/1996	Murder	ISP
184602	Danny	R	Rouse	W	M	05/05/1955	Cass	12/14/2007	Murder	ISP
918733	Jerry		Russell, Sr.	W	M	09/08/1962	Greene	11/12/1999	Murder	PEND
895789	Samuel	E	Sallee	W	M	10/25/1957	Bartholomew	04/02/2015	Murder	WV
148067	Frankie	A	Salyers	W	M	06/29/1978	Elkhart	05/06/2005	Murder	WV
243850	Andrew	S	Satterfield	W	M	09/21/1975	Pike	12/20/2013	Murder	WV
964410	Gerald	W	Schlabach	W	M	01/12/1968	Elkhart	08/29/1996	Murder	ISP
249727	Austin		Scott	ML	M	10/25/1994	Harrison	09/06/2016	Murder	WV
161050	Craig	N	Shank	W	M	10/26/1982	Madison	10/05/2006	Murder	WV
988424	Michael		Shannon	W	M	01/28/1982	Marion	03/19/2003	Murder	PEND
973468	David	T	Sholes	W	M	12/03/1955	Wabash	03/07/1997	Murder	ISP
121207	Michael	T	Shoun	B	M	01/29/1987	Elkhart	01/07/2016	Murder	ISP
112650	Reggion		Slater	B	M	12/18/1969	Porter	10/29/2001	Murder	ISP
900079	Howard	J	Smallwood	B	M	06/24/1963	St. Joseph	11/01/2001	Murder	PEND
946008	Joseph	S	Sotelo	H	M	02/19/1974	Lake	10/21/1994	Murder	ISP

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense	Location
233024	Charles	R	Stephenson	W	M	10/04/1953	Dearborn	07/02/2013	Murder	ISP
952131	Christopher	M	Stevens	W	M	09/02/1972	Tippecanoe	11/23/2009	Murder	MIAMI
159336	Anthony	R	Stockelman	W	M	11/16/1966	Jackson	04/20/2006	Murder	ISP
160814	Raymond		Strominger	W	M	02/23/1967	Marion	09/08/2006	Murder	ISP
932249	Phillip	A	Stroud	B	M	12/30/1978	St. Joseph	09/04/2002	Murder	PEND
984270	Charles	D	Sturgeon	W	M	01/28/1944	Marion	04/17/1998	Murder	ISP
245198	Dylan		Tate	W	M	05/23/1991	Madison	07/09/2019	Murder	MIAMI
942643	Jeffrey	A	Treadway	W	M	03/02/1959	Marion	11/13/2007	Murder	ISP
953755	Desmond		Turner	B	M	02/24/1978	Marion	11/20/2009	Murder	OOS
952429	Duane	E	Turner	B	M	11/13/1974	Delaware	06/08/1995	Murder	MIAMI
251937	Darren		Vann	B	M	03/21/1971	Lake	05/25/2018	Murder	WV
106131	Paul		Veal	B	M	11/19/1977	Marion	10/19/2000	Murder	PEND
905676	Jeffrey		Voss	W	M	02/09/1965	Marion	04/20/2007	Murder	WV
957011	James	G	Walls	W	M	06/02/1973	Hamilton	10/30/1995	Murder	WV
984859	Rickey		Warlick	B	M	10/18/1960	Allen	05/29/1998	Murder	MIAMI
862899	Jeffrey	D	Washington	B	M	12/28/1968	Posey	06/14/2002	Murder	WV
995573	Michael		West	W	M	12/08/1974	Marion	10/01/1999	Murder	MIAMI
108002	Daniel	R	Wilkes	W	M	07/30/1968	Clark	01/25/2008	Murder	ISP
872037	Darnell		Williams	B	M	07/31/1966	Lake	03/25/1987	Murder	PEND
923458	Darren	J	Witt	W	M	01/03/1973	Lake	12/06/1996	Murder	ISP
263165	Zachariah		Wright	W	M	07/15/1997	Boone	01/03/2020	Murder	WV

Indiana State Prison (ISP) - 45  
Michigan City, IN

Wabash Valley Correctional Facility (WV) - 42  
Carlisle , IN

Pendleton Correctional Facility (PEND) - 24  
Pendleton, IN

Miami Correctional Facility (MIAMI) - 09  
Bunker Hill, IN

New Castle Correctional Facility (NEWC) - 07  
New Castle, IN

Westville Correctional Facility (WESTV) - 03  
Westville, IN

In Custody Out of State (OOS) - 03

Indiana Women's Prison (IWP) - 03  
Indianapolis, IN

Rockville Correctional Facility (RCF) - 01  
Rockville, IN

82% of all LWOP inmates serve their time in general population, maximum security at ISP, Wabash Valley, and Pendleton.

**TOTAL = 137 LWOP Inmates**

**Indiana Department of Corrections Inmates**  
**Currently Serving Life Without Parole (137 as of 0/01/2022)**

As of January 1, 2022, there are 137 Defendants serving a sentence of Life Without Parole in Indiana, 136 of which were based upon a Murder conviction and sentencing under IC 35-50-2-9, and 1 (Asher Hill - Marion County) based upon a Robbery conviction and sentencing as a Habitual Offender under IC 35-50-2-8.5. (According to Indiana Department of Corrections) (Includes Tommy Holland twice, with two separate LWOP sentences from two different counties)

**BY AGE AT SENTENCING / TIME SERVED / CURRENT AGE**

IDOC#	First Name	MI	Last Name	Race/ Sex	Date of Birth	Committing County	Sentence Date (Age)	Served Since Sentence	Current Age
984270	Charles	D	Sturgeon	W/M	01/28/1944	Marion	04/17/1998 (54)	23 yrs	77 yrs
872036	Arthur	P	Baird	W/M	02/06/1946	Montgomery	03/13/1987 (41)	34 yrs	75 yrs
973341	Thomas		Hardy	B/M	12/21/1950	Marion	04/05/2012 (61)	09 yrs	71 yrs
915530	Roger		Long	W/M	04/05/1952	Greene	05/12/1999 (47)	22 yrs	69 yrs
233024	Charles	R	Stephenson	W/M	10/04/1953	Dearborn	07/02/2013 (59)	08 yrs	68 yrs
112295	Joseph	W	Brown	W/M	11/24/1954	Vanderburgh	09/04/2001 (46)	20 yrs	67 yrs
184602	Danny	R	Rouse	W/M	05/05/1955	Cass	12/14/2007 (51)	13 yrs	66 yrs
973468	David	T	Sholes	W/M	12/03/1955	Wabash	03/07/1997 (41)	14 yrs	66 yrs
895789	Samuel	E	Sallee	W/M	10/25/1957	Bartholomew	04/02/2015 (57)	16 yrs	64 yrs
963641	Eugene	R	Britt	B/M	11/04/1957	Porter	05/23/1996 (38)	25 yrs	64 yrs
209906	Jeffery	W	Cain	W/M	12/28/1957	DeKalb	08/20/2010 (52)	11 yrs	64 yrs
976850	Charles	E	Barker	W/M	01/19/1958	Marion	11/26/1996 (38)	25 yrs	63 yrs
13135	Michael	W	Daniels	B/M	03/08/1958	Marion	09/14/1979 (21)	42 yrs	63 yrs
935747	Bob		Leonard	W/M	12/12/1958	Allen	03/18/2016 (57)	05 yrs	63 yrs
942643	Jeffrey	A	Treadway	W/M	03/02/1959	Marion	11/13/2007 (48)	14 yrs	62 yrs
943337	William	T	Kidd	W/M	04/01/1959	Elkhart	05/12/1994 (35)	27 yrs	62 yrs
970191	Randy		Knapp	W/M	05/26/1959	Greene	11/15/2012 (53)	09 yrs	62 yrs
871098	Ronald	A	Hatfield	W/M	07/21/1959	Delaware	01/25/2006 (46)	15 yrs	62 yrs
190101	Leonard	W	Dickey	W/M	05/18/1960	Wayne	07/03/2008 (48)	13 yrs	61 yrs
105140	Mark		Lichtenberger	W/M	06/30/1960	Adams	07/10/2000 (40)	21 yrs	61 yrs
984859	Rickey		Warlick	B/M	10/18/1960	Allen	05/29/1998 (37)	13 yrs	61 yrs
882103	Ronald		Dumas	B/M	11/12/1960	Lake	11/01/2001 (40)	20 yrs	61 yrs
918733	Jerry		Russell	W/M	09/08/1962	Greene	11/12/1999 (37)	22 yrs	59 yrs
872522	Robert	J	Bassett	W/M	10/06/1962	Bartholomew	06/21/2006 (43)	15 yrs	59 yrs
106789	Jeff		Leone	W/M	02/13/1963	Greene	05/14/2002 (39)	19 yrs	58 yrs
900079	Howard	J	Smallwood	B/M	06/24/1963	St. Joseph	11/01/2001 (38)	20 yrs	58 yrs
225558	Richard	C	Hooten	W/M	12/22/1963	Clark	05/19/2014 (50)	07 yrs	58 yrs
987990	Walter	L	Dye	B/M	10/02/1964	Marion	11/08/2004 (40)	17 yrs	57 yrs
872945	Thomas	L	Rogers	W/M	12/09/1964	Lake	04/26/1996 (31)	25 yrs	57 yrs
905676	Jeffrey		Voss	W/M	02/09/1965	Marion	04/20/2007 (42)	14 yrs	56 yrs

IDOC#	First Name	MI	Last Name	Race/ Sex	Date of Birth	Committing County	Sentence Date (Age)	Served Since Sentence	Current Age
125893	Fredrick	A	Laux	W/M	04/01/1965	Grant	11/18/2002 (37)	19 yrs	56 yrs
995398	Boris		Kovak	W/M	07/11/1965	Elkhart	08/26/1999 (34)	22 yrs	56 yrs
905813	David	E	Ison	W/M	08/27/1965	Franklin	03/14/2012 (46)	09 yrs	56 yrs
954934	Wayne	A	Mull	W/M	09/10/1965	Wayne	09/07/1995 (29)	26 yrs	55 yrs
902926	Michael	A	Highbaugh	B/M	10/09/1965	Marion	04/11/2000 (34)	21 yrs	56 yrs
922526	Asher	B	Hill	B/M	05/30/1966	Marion	06/07/2001 (35)	20 yrs	55 yrs
872037	Darnell		Williams	B/M	07/31/1966	Lake	03/25/1987 (20)	34 yrs	55 yrs
159336	Anthony	R	Stockelman	W/M	11/16/1966	Jackson	04/20/2006 (39)	15 yrs	55 yrs
160814	Raymond		Strominger	W/M	02/23/1967	Marion	09/08/2006 (39)	15 yrs	54 yrs
964387	Ronald	A	Mathisen	W/M	03/18/1967	Marion	09/06/1996 (29)	25 yrs	54 yrs
108000	Wayne	D	Kubsch	W/M	10/31/1967	St. Joseph	03/08/2019 (51)	02 yr	54 yrs
964410	Gerald	W	Schlabach	W/M	01/12/1968	Elkhart	08/29/1996 (28)	25 yrs	53 yrs
856296	Kerrie		Price	B/M	04/15/1968	Marion	03/02/2000 (31)	21 yrs	53 yrs
108002	Daniel	R	Wilkes	W/M	07/30/1968	Clark	01/25/2008 (39)	13 yrs	53 yrs
883978	Raymond	K	Adams	B/M	10/09/1968	Hamilton	10/30/1995 (27)	26 yrs	53 yrs
862899	Jeffrey	D	Washington	B/M	12/28/1968	Posey	06/14/2002 (33)	19 yrs	53 yrs
112650	Reggion		Slater	B/M	12/18/1969	Porter	10/29/2001 (31)	20 yrs	52 yrs
923239	Donald	E	Houser	W/M	02/15/1970	Noble	02/04/2003 (32)	18 yrs	51 yrs
964397	Thomas	A	Mathisen	W/M	03/09/1970	Marion	09/04/1996 (26)	25 yrs	51 yrs
195185	Chad	A	Cottrell	W/M	07/21/1970	Hamilton	05/29/2009 (38)	12 yrs	51 yrs
957178	Robert	P	McIntyre	W/M	08/13/1970	LaPorte	12/11/1995 (25)	26 yrs	51 yrs
871479	Steve	J	Clippinger	W/M	02/13/1971	St. Joseph	04/20/2015 (44)	06 yrs	50 yrs
251937	Darren		Vann	B/M	03/21/1971	Lake	05/25/2018 (47)	03 yrs	50 yrs
910135	Fredrick	M	Baer	W/M	10/19/1971	Madison	06/19/2005 (33)	16 yrs	50 yrs
116194	Kelly	K	Holland	W/M	10/22/1971	Harrison	05/16/2001 (29)	20 yrs	50 yrs
152955	Michelle	D	Gauvin	ML/W	01/17/1972	Tippecanoe	10/26/2006 (34)	15 yrs	49 yrs
108001	Paul	M	McManus	W/M	07/14/1972	Vanderburgh	08/06/2015 (43)	06 yrs	49 yrs
952131	Christopher	M	Stevens	W/M	09/02/1972	Tippecanoe	11/23/2009 (37)	12 yrs	49 yrs
188374	Michael	L	Plumadore	W/M	11/16/1972	Allen	06/18/2012 (39)	09 yrs	49 yrs
184339	Mark	S	Baker	B/M	12/20/1972	Fulton	11/16/2007 (34)	14 yrs	48 yrs
923458	Darren	J	Witt	W/M	01/03/1973	Lake	12/06/1996 (23)	24 yrs	48 yrs
283254	Johnetta	R	Hall	W/F	01/26/1973	Jennings	11/02/2020 (47)	01 yrs	48 yrs
116470	Levohn	H	Brown	W/M	02/01/1973	Huntington	07/05/2002 (29)	19 yrs	48 yrs
104092	Ian	J	Clark	W/M	02/13/1973	Kosciusko	04/03/2008 (35)	13 yrs	48 yrs
957011	James	G	Walls	W/M	06/02/1973	Hamilton	10/30/1995 (22)	26 yrs	48 yrs
952290	David	A	Flores	H/M	10/22/1973	Lake	09/09/2010 (36)	11 yrs	48 yrs
946008	Joseph	S	Sotelo	H/M	02/19/1974	Lake	10/21/1994 (20)	27 yrs	47 yrs
973822	Sirlando	D	Logan	B/M	06/15/1974	Allen	04/18/1997 (22)	14 yrs	46 yrs
146060	Ronald		Covington	B/M	11/01/1974	Marion	10/22/2004 (29)	17 yrs	47 yrs
952429	Duane	E	Turner	B/M	11/13/1974	Delaware	06/08/1995 (20)	26 yrs	47 yrs

IDOC#	First Name	MI	Last Name	Race/ Sex	Date of Birth	Committing County	Sentence Date (Age)	Served Since Sentence	Current Age
995573	Michael		West	W/M	12/08/1974	Marion	10/01/1999 (24)	22 yrs	47 yrs
138825	Tommy		Holland	W/M	01/02/1975	Marion	12/09/2005 (30)	16 yrs	46 yrs
138825	Tommy		Holland	W/M	01/02/1975	Madison	05/03/2021 (46)	07 mo	46 yrs
106718	Richard	A	Branum	W/M	09/02/1975	Gibson	12/12/2000 (25)	21 yrs	46 yrs
243850	Andrew	S	Satterfield	W/M	09/21/1975	Pike	12/20/2013 (38)	08 yrs	46 yrs
970651	Stephen	R	Powers	W/M	10/09/1975	Vanderburgh	02/27/1997 (21)	24 yrs	46 yrs
173335	Kenneth		Allen	W/M	11/27/1975	Marion	02/05/2010 (34)	11 yrs	46 yrs
974831	Corey	L	Mosley	B/M	03/24/1976	Marion	08/22/1997 (21)	24 yrs	45 yrs
984424	Michael	E	Inman	B/M	03/29/1976	Marion	06/13/2012 (36)	09 yrs	45 yrs
102321	Steven	A	Hale	W/M	07/09/1976	Daviess	07/31/2000 (24)	21 yrs	45 yrs
195043	Toby	K	Payne	W/M	08/02/1976	Hamilton	05/14/2009 (32)	12 yrs	45 yrs
102703	Brian		Jones	W/M	09/03/1976	Knox	01/12/2001 (24)	20 yrs	45 yrs
914382	Larry	W	Newton	W/M	11/09/1976	Delaware	12/29/1995 (19)	26 yrs	45 yrs
983734	Henry	T	Mason	B/M	12/06/1976	Allen	09/29/1997 (20)	14 yrs	45 yrs
984053	Joseph	L	Gorbea	H/M	01/22/1977	Lake	02/20/1998 (21)	13 yrs	44 yrs
105877	Fernando		Griffith	B/M	06/16/1977	Johnson	09/20/2001 (24)	20 yrs	44 yrs
985038	Bryce	D	Pope	B/M	07/10/1977	Allen	06/19/1998 (20)	13 yrs	43 yrs
971590	Zachariah		Melcher	W/M	10/03/1977	Clark	08/03/2006 (28)	15 yrs	44 yrs
106131	Paul		Veal	B/M	11/19/1977	Marion	10/19/2000 (22)	21 yrs	44 yrs
114564	Christopher		Helsley	W/M	02/07/1978	Pike	05/20/2014 (36)	07 yrs	43 yrs
953755	Desmond		Turner	B/M	02/24/1978	Marion	11/20/2009 (31)	12 yrs	43 yrs
984672	Jeffrey	R	Ortiz	H/M	04/29/1978	Lake	06/12/1998 (20)	23 yrs	43 yrs
945315	Corey		Anderson	W/M	06/13/1978	Jasper	02/28/2000 (21)	21 yrs	43 yrs
148067	Frankie	A	Salyers	W/M	06/29/1978	Elkhart	05/06/2005 (26)	16 yrs	43 yrs
951864	Casey		Priest	W/M	12/02/1978	Marion	04/24/1998 (19)	23 yrs	43 yrs
932249	Phillip	A	Stroud	B/M	12/30/1978	St. Joseph	09/04/2002 (23)	19 yrs	43 yrs
117892	James	F	Griffith	W/M	05/17/1979	Grant	05/23/2014 (35)	07 yrs	42 yrs
966498	Jeremy		Gross	W/M	09/19/1979	Marion	06/09/2000 (20)	21 yrs	42 yrs
153105	Angelicia	S	Alvarez	H/F	09/19/1979	Elkhart	09/24/2007 (28)	14 yrs	42 yrs
145891	Stephen	T	Richards	W/M	09/28/1979	Lake	09/27/2004 (24)	17 yrs	42 yrs
138169	Ronrico		Hatch	B/M	10/05/1980	Allen	03/12/2004 (23)	17 yrs	41 yrs
113805	Jason		Powell	W/M	10/16/1980	Elkhart	03/14/2002 (21)	19 yrs	41 yrs
126381	Hobert	A	Pittman	W/M	11/05/1980	Harrison	08/10/2006 (25)	15 yrs	41 yrs
113973	Derrick		Clark	B/M	03/24/1981	Madison	04/02/2002 (21)	19 yrs	40 yrs
249876	Joseph		Oberhansley	W/M	03/29/1981	Clark	10/13/2020 (39)	01 yrs	40 yrs
967141	Greg		Dickens	B/M	05/22/1981	St. Joseph	07/09/1999 (18)	22 yrs	40 yrs
128713	Tyrice	J	Halliburton	B/M	05/28/1981	Elkhart	05/17/2012 (30)	09 yrs	40 yrs
221051	Ronnie	J	Rice	B/M	06/28/1981	Lake	01/12/2012 (30)	09 yrs	40 yrs
137913	David		Losch	W/M	11/04/1981	Elkhart	02/06/2004 (22)	17 yrs	40 yrs
117063	Christopher	A	Burns	W/M	01/03/1982	Delaware	08/02/2001 (19)	20 yrs	39 yrs

IDOC#	First Name	MI	Last Name	Race/ Sex	Date of Birth	Committing County	Sentence Date (Age)	Served Since Sentence	Current Age
988424	Michael		Shannon	W/M	01/28/1982	Marion	03/19/2003 (21)	18 yrs	39 yrs
951591	Mathew	W	McCallister	W/M	04/19/1982	Merrick	08/23/2016 (34)	05 yrs	39 yrs
161050	Craig	N	Shank	W/M	10/26/1982	Madison	10/05/2006 (23)	15 yrs	39 yrs
171967	Nicholas	R	Harbison	W/M	04/12/1983	Pike	06/22/2007 (24)	14 yrs	38 yrs
134291	Anthony		Delarosa	W/M	07/22/1983	Hamilton	04/15/2009 (25)	12 yrs	38 yrs
998680	Juan	C	Lucio	H/M	04/07/1984	Hamilton	05/15/2008 (24)	13 yrs	37 yrs
120057	Craig		Cain	W/M	06/11/1984	Grant	10/18/2004 (20)	17 yrs	37 yrs
286819	Amanda		Carmack	W/F	09/27/1984	Grant	09/15/2021 (36)	03 mo	37 yrs
160155	Darryl	J	Jeter	B/M	11/03/1984	Lake	07/14/2006 (21)	15 yrs	37 yrs
132204	Charles		Moore	B/M	12/15/1985	St. Joseph	09/27/2013 (27)	08 yrs	36 yrs
121207	Michael	T	Shoun	B/M	01/29/1987	Elkhart	01/07/2016 (28)	05 yrs	34 yrs
221837	Roy	E	Bell	W/M	06/11/1987	Fulton	09/16/2013 (26)	08 yrs	34 yrs
263002	Carl	L	Blount	B/M	07/29/1988	Lake	02/08/2017 (28)	04 yrs	33 yrs
281760	Ryan		Ramirez	H/M	03/28/1989	Madison	04/14/2020 (31)	01 yrs	32 yrs
252565	Austin	T	Blaize	W/M	05/26/1989	Gibson	10/02/2014 (25)	07 yrs	32 yrs
249215	Major	P	Davis	B/M	05/28/1989	Marion	04/27/2017 (27)	04 yrs	32 yrs
132668	Kenneth		Rackemann	W/M	06/15/1989	Marion	04/22/2016 (26)	05 yrs	32 yrs
219250	Barney		Chamorro	H/M	05/31/1990	Boone	05/10/2012 (21)	09 yrs	31 yrs
245198	Dylan		Tate	W/M	05/23/1991	Madison	07/09/2019 (28)	02 yrs	30 yrs
220566	Derrick	T	Cardosi	W/M	04/22/1992	Newton	02/15/2018 (25)	03 yrs	29 yrs
218096	Andrew		Conley	W/M	05/14/1992	Ohio	10/15/2010 (18)	11 yrs	29 yrs
256048	Christian	R	Haley	B/M	02/02/1993	Hamilton	05/22/2015 (22)	06 yrs	28 yrs
249727	Austin		Scott	ML/M	10/25/1994	Harrison	09/06/2016 (21)	05 yrs	27 yrs
250449	Johnathan	S	Cruz	W/M	07/30/1996	Marion	05/11/2017 (20)	04 yrs	25 yrs
273346	Anthony	L	Baumgardt	W/M	10/17/1996	Boone	05/29/2019 (22)	02 yrs	25 yrs
263165	Zachariah		Wright	W/M	07/15/1997	Boone	01/03/2020 (22)	01 yrs	24 yrs
229048	Donald	R	Owen	W/M	12/30/1998	Elkhart	06/10/2021 (22)	00 yrs	23 yrs

#### Oldest now serving LWOP

Charles Sturgeon (Marion) - 77 yrs

#### Youngest now serving LWOP

Donald Ray Owen (Elkhart) - 23 yrs

#### Longest time served under LWOP

William T. Kidd (Elkhart) - 27 yrs

#### Oldest at LWOP Sentencing

Thomas B Hardy (Marion) - 61 yrs

#### Youngest at LWOP Sentencing

Greg Dickens (St. Joseph) - 18 yrs , 48 d  
Andrew Conley (Ohio) - 18 yrs, 154 d

#### Sentenced to LWOP in 2021

Amanda Carmack (Grant) 09/15/2021  
Donald Ray Owen (Elkhart) 06/10/2021  
Tommy Holland (Madison) 05/03/2021

**Indiana Department of Corrections**  
**Inmates Currently Serving Life Without Parole (137 as of 01/01/2021)**

As of January 1, 2022, there are 137 inmates serving a sentence of Life Without Parole in Indiana, 136 of which were based upon a Murder conviction and sentencing under IC 35-50-2-9, and 1 (Asher Hill - Marion County) based upon a Robbery conviction and sentencing as a Habitual Offender under IC 35-50-2-8.5. (According to Indiana Department of Corrections) (Includes Tommy Holland twice, with two separate LWOP sentences from two different counties)

**BY COUNTY**

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
105140	Mark		Lichtenberger	W	M	06/30/1960	Adams	07/10/2000	Murder
973822	Sirlando	D	Logan	B	M	06/15/1974	Allen	04/18/1997	Murder
983734	Henry	T	Mason	B	M	12/06/1976	Allen	09/29/1997	Murder
984859	Rickey		Warlick	B	M	10/18/1960	Allen	05/29/1998	Murder
985038	Bryce	D	Pope	B	M	07/10/1977	Allen	06/19/1998	Murder
138169	Ronrico		Hatch	B	M	10/05/1980	Allen	03/12/2004	Murder
188374	Michael	L	Plumadore	W	M	11/16/1972	Allen	06/18/2012	Murder
935747	Bob		Leonard	W	M	12/12/1958	Allen	03/18/2016	Murder
872522	Robert	J	Bassett	W	M	10/06/1962	Bartholomew	06/21/2006	Murder
895789	Samuel	E	Sallee	W	M	10/25/1957	Bartholomew	04/02/2015	Murder
219250	Barney		Chamorro	H	M	05/31/1990	Boone	05/10/2012	Murder
273346	Anthony	L	Baumgardt	W	M	10/17/1996	Boone	05/29/2019	Murder
263165	Zachariah		Wright	W	M	07/15/1997	Boone	01/03/2020	Murder
184602	Danny	R	Rouse	W	M	05/05/1955	Cass	12/14/2007	Murder
971590	Zachariah		Melcher	W	M	10/03/1977	Clark	08/03/2006	Murder
108002	Daniel	R	Wilkes	W	M	07/30/1968	Clark	01/25/2008	Murder
225558	Richard	C	Hooten	W	M	12/22/1963	Clark	05/19/2014	Murder
249876	Joseph		Oberhansley	W	M	03/29/1981	Clark	10/13/2020	Murder
102321	Steven	A	Hale	W	M	07/09/1976	Daviess	07/31/2000	Murder
233024	Charles	R	Stephenson	W	M	10/04/1953	Dearborn	07/02/2013	Murder
209906	Jeffery	W	Cain	W	M	12/28/1957	DeKalb	08/20/2010	Murder
952429	Duane	E	Turner	B	M	11/13/1974	Delaware	06/08/1995	Murder
914382	Larry	W	Newton	W	M	11/09/1976	Delaware	12/29/1995	Murder
117063	Christopher	A	Burns	W	M	01/03/1982	Delaware	08/02/2001	Murder
871098	Ronald	A	Hatfield	W	M	07/21/1959	Delaware	01/25/2006	Murder
943337	William	T	Kidd	W	M	04/01/1959	Elkhart	05/12/1994	Murder
964410	Gerald	W	Schlabach	W	M	01/12/1968	Elkhart	08/29/1996	Murder
995398	Boris		Kovak	W	M	07/11/1965	Elkhart	08/26/1999	Murder
113805	Jason		Powell	W	M	10/16/1980	Elkhart	03/14/2002	Murder
137913	David		Losch	W	M	11/04/1981	Elkhart	02/06/2004	Murder
148067	Frankie	A	Salyers	W	M	06/29/1978	Elkhart	05/06/2005	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
153105	Angelicia	S	Alvarez	H	F	09/19/1979	Elkhart	09/24/2007	Murder
128713	Tylice	J	Halliburton	B	M	05/28/1981	Elkhart	05/17/2012	Murder
121207	Michael	T	Shoun	B	M	01/29/1987	Elkhart	01/07/2016	Murder
229048	Donald	R	Owen	W	M	12/30/1998	Elkhart	06/10/2021	Murder
905813	David	E	Ison	W	M	08/27/1965	Franklin	03/14/2012	Murder
184339	Mark	S	Baker	B	M	12/20/1972	Fulton	11/16/2007	Murder
221837	Roy	E	Bell	W	M	06/11/1987	Fulton	09/16/2013	Murder
106718	Richard	A	Branum	W	M	09/02/1975	Gibson	12/12/2000	Murder
252565	Austin	T	Blaize	W	M	05/26/1989	Gibson	10/02/2014	Murder
125893	Fredrick	A	Laux	W	M	04/01/1965	Grant	11/18/2002	Murder
120057	Craig		Cain	W	M	06/11/1984	Grant	10/18/2004	Murder
286819	Amanda		Carmack	W	F	09/27/1984	Grant	09/15/2021	Murder
117892	James	F	Griffith	W	M	05/17/1979	Grant	05/23/2014	Murder
915530	Roger		Long	W	M	04/05/1952	Greene	05/12/1999	Murder
918733	Jerry		Russell Sr.	W	M	09/08/1962	Greene	11/12/1999	Murder
106789	Jeff		Leone	W	M	02/13/1963	Greene	05/14/2002	Murder
970191	Randy		Knapp	W	M	05/26/1959	Greene	11/15/2012	Murder
883978	Raymond	K	Adams	B	M	10/09/1968	Hamilton	10/30/1995	Murder
957011	James	G	Walls	W	M	06/02/1973	Hamilton	10/30/1995	Murder
998680	Juan	C	Lucio	H	M	04/07/1984	Hamilton	05/15/2008	Murder
134291	Anthony		Delarosa	W	M	07/22/1983	Hamilton	04/15/2009	Murder
195043	Toby	K	Payne	W	M	08/02/1976	Hamilton	05/14/2009	Murder
195185	Chad	A	Cottrell	W	M	07/21/1970	Hamilton	05/29/2009	Murder
256048	Christian	R	Haley	B	M	02/02/1993	Hamilton	05/22/2015	Murder
116194	Kelly	K	Holland	W	M	10/22/1971	Harrison	05/16/2001	Murder
126381	Hobert	A	Pittman	W	M	11/05/1980	Harrison	08/10/2006	Murder
249727	Austin		Scott	ML	M	10/25/1994	Harrison	09/06/2016	Murder
116470	Levohn	H	Brown	W	M	02/01/1973	Huntington	07/05/2002	Murder
159336	Anthony	R	Stockelman	W	M	11/16/1966	Jackson	04/20/2006	Murder
945315	Corey		Anderson	W	M	06/13/1978	Jasper	02/28/2000	Murder
283254	Johnetta	R	Hall	W	F	01/26/1973	Jennings	11/02/2020	Murder
105877	Fernando		Griffith	B	M	06/16/1977	Johnson	09/20/2001	Murder
102703	Brian		Jones	W	M	09/03/1976	Knox	01/12/2001	Murder
104092	Ian	J	Clark	W	M	02/13/1973	Kosciusko	04/03/2008	Murder
872037	Darnell		Williams*	B	M	07/31/1966	Lake	03/25/1987	Murder
946008	Joseph	S	Sotelo	H	M	02/19/1974	Lake	10/21/1994	Murder
872945	Thomas	L	Rogers	W	M	12/09/1964	Lake	04/26/1996	Murder
923458	Darren	J	Witt	W	M	01/03/1973	Lake	12/06/1996	Murder
984053	Joseph	L	Gorbea	H	M	01/22/1977	Lake	02/20/1998	Murder
984672	Jeffrey	R	Ortiz	H	M	04/29/1978	Lake	06/12/1998	Murder
882103	Ronald		Dumas	B	M	11/12/1960	Lake	11/01/2001	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
145891	Stephen	T	Richards	W	M	09/28/1979	Lake	09/27/2004	Murder
160155	Darryl	J	Jeter	B	M	11/03/1984	Lake	07/14/2006	Murder
952290	David	A	Flores	H	M	10/22/1973	Lake	09/09/2010	Murder
221051	Ronnie	J	Rice	B	M	06/28/1981	Lake	01/12/2012	Murder
263002	Carl	L	Blount	B	M	07/29/1988	Lake	02/08/2017	Murder
251937	Darren		Vann	B	M	03/21/1971	Lake	05/25/2018	Murder
957178	Robert	P	McIntyre	W	M	08/13/1970	LaPorte	12/11/1995	Murder
113973	Derrick		Clark	B	M	03/24/1981	Madison	04/02/2002	Murder
910135	Fredrick	M	Baer	W	M	10/19/1971	Madison	06/19/2005	Murder
161050	Craig	N	Shank	W	M	10/26/1982	Madison	10/05/2006	Murder
245198	Dylan		Tate	W	M	05/23/1991	Madison	07/09/2019	Murder
281760	Ryan		Ramirez	H	M	03/28/1989	Madison	04/14/2020	Murder
138825	Tommy		Holland	W	M	01/02/1975	Madison	05/03/2021	Murder
13135	Michael	W	Daniels*	B	M	03/08/1958	Marion	09/14/1979	Murder
964397	Thomas	A	Mathisen	W	M	03/09/1970	Marion	09/04/1996	Murder
964387	Ronald	A	Mathisen	W	M	03/18/1967	Marion	09/06/1996	Murder
976850	Charles	E	Barker	W	M	01/19/1958	Marion	11/26/1996	Murder
974831	Corey	L	Mosley	B	M	03/24/1976	Marion	08/22/1997	Murder
984270	Charles	D	Sturgeon	W	M	01/28/1944	Marion	04/17/1998	Murder
951864	Casey		Priest	W	M	12/02/1978	Marion	04/24/1998	Murder
995573	Michael		West	W	M	12/08/1974	Marion	10/01/1999	Murder
856296	Kerrie		Price	B	M	04/15/1968	Marion	03/02/2000	Murder
902926	Michael	A	Highbaugh	B	M	10/09/1965	Marion	04/11/2000	Murder
966498	Jeremy		Gross	W	M	09/19/1979	Marion	06/09/2000	Murder
106131	Paul		Veal	B	M	11/19/1977	Marion	10/19/2000	Murder
922526	Asher	B	Hill	B	M	05/30/1966	Marion	06/07/2001	Robbery
988424	Michael		Shannon	W	M	01/28/1982	Marion	03/19/2003	Murder
146060	Ronald		Covington	B	M	11/01/1974	Marion	10/22/2004	Murder
987990	Walter	L	Dye	B	M	10/02/1964	Marion	11/08/2004	Murder
138825	Tommy		Holland	W	M	01/02/1975	Marion	12/09/2005	Murder
160814	Raymond		Strominger	W	M	02/23/1967	Marion	09/08/2006	Murder
905676	Jeffrey		Voss	W	M	02/09/1965	Marion	04/20/2007	Murder
942643	Jeffrey	A	Treadway	W	M	03/02/1959	Marion	11/13/2007	Murder
953755	Desmond		Turner	B	M	02/24/1978	Marion	11/20/2009	Murder
173335	Kenneth		Allen	W	M	11/27/1975	Marion	02/05/2010	Murder
973341	Thomas		Hardy	B	M	12/21/1950	Marion	04/05/2012	Murder
984424	Michael	E	Inman	B	M	03/29/1976	Marion	06/13/2012	Murder
132668	Kenneth		Rackemann	W	M	06/15/1989	Marion	04/22/2016	Murder
249215	Major	P	Davis	B	M	05/28/1989	Marion	04/27/2017	Murder
250449	Johnathan	S	Cruz	W	M	07/30/1996	Marion	05/11/2017	Murder
872036	Arthur	P	Baird*	W	M	02/06/1946	Montgomery	03/13/1987	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
220566	Derrick	T	Cardosi	W	M	04/22/1992	Newton	02/15/2018	Murder
923239	Donald	E	Houser	W	M	02/15/1970	Noble	02/04/2003	Murder
218096	Andrew		Conley	W	M	05/14/1992	Ohio	10/15/2010	Murder
171967	Nicholas	R	Harbison	W	M	04/12/1983	Pike	06/22/2007	Murder
243850	Andrew	S	Satterfield	W	M	09/21/1975	Pike	12/20/2013	Murder
114564	Christopher		Helsley	W	M	02/07/1978	Pike	05/20/2014	Murder
963641	Eugene	R	Britt	B	M	11/04/1957	Porter	05/23/1996	Murder
112650	Reggion		Slater	B	M	12/18/1969	Porter	10/29/2001	Murder
862899	Jeffrey	D	Washington	B	M	12/28/1968	Posey	06/14/2002	Murder
967141	Greg		Dickens	B	M	05/22/1981	St. Joseph	07/09/1999	Murder
900079	Howard	J	Smallwood	B	M	06/24/1963	St. Joseph	11/01/2001	Murder
932249	Phillip	A	Stroud	B	M	12/30/1978	St. Joseph	09/04/2002	Murder
132204	Charles		Moore	B	M	12/15/1985	St. Joseph	09/27/2013	Murder
871479	Steve	J	Clippinger	W	M	02/13/1971	St. Joseph	04/20/2015	Murder
108000	Wayne	D	Kubsch	W	M	10/31/1967	St. Joseph	03/08/2019	Murder
152955	Michelle	D	Gauvin	ML	F	01/17/1972	Tippecanoe	10/26/2006	Murder
952131	Christopher	M	Stevens	W	M	09/02/1972	Tippecanoe	11/23/2009	Murder
970651	Stephen	R	Powers	W	M	10/09/1975	Vanderburgh	02/27/1997	Murder
112295	Joseph	W	Brown	W	M	11/24/1954	Vanderburgh	09/04/2001	Murder
108001	Paul	M	McManus	W	M	07/14/1972	Vanderburgh	08/06/2015	Murder
973468	David	T	Sholes	W	M	12/03/1955	Wabash	03/07/1997	Murder
951591	Mathew	W	McCallister	W	M	04/19/1982	Warrick	08/23/2016	Murder
954934	Wayne	A	Mull	W	M	09/10/1965	Wayne	09/07/1995	Murder
190101	Leonard	W	Dickey	W	M	05/18/1960	Wayne	07/03/2008	Murder

(As of January 1, 2022)

Marion - 27	Grant - 4
Lake - 13	Boone - 3
Elkhart - 10	Pike - 3
St. Joseph - 6	Vanderburgh - 3
Allen - 7	Tippecanoe - 2
Hamilton - 7	Bartholomew - 2
Madison - 6	Porter - 2
Clark - 4	Wayne - 2
Delaware - 4	Fulton - 2
Greene - 4	Gibson - 2

**Indiana Department of Corrections Inmates**  
**Currently Serving Life Imprisonment Without Parole (137 as of 01/01/2022 )**

As of January 1, 2022, there are 137 inmates serving a sentence of Life Without Parole in Indiana, 136 of which were based upon a Murder conviction and sentencing under IC 35-50-2-9, and 1 (Asher Hill - Marion County) based upon a Robbery conviction and sentencing as a Habitual Offender under IC 35-50-2-8.5. (According to Indiana Department of Corrections) (Includes Tommy Holland twice, with two separate LWOP sentences from two different counties)

**CHRONOLOGICAL (Sentencing Date)**

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
13135	Michael	W	Daniels	B	M	03/08/1958	Marion	09/14/1979*	Murder
872036	Arthur	P	Baird	W	M	02/06/1946	Montgomery	03/13/1987*	Murder
872037	Darnell		Williams	B	M	07/31/1966	Lake	03/25/1987*	Murder
<b>1994 (2)</b>									
943337	William	T	Kidd	W	M	04/01/1959	Elkhart	05/12/1994	Murder
946008	Joseph	S	Sotelo	H	M	02/19/1974	Lake	10/21/1994	Murder
<b>1995 (7)</b>									
952429	Duane	E	Turner	B	M	11/13/1974	Delaware	06/08/1995	Murder
954934	Wayne	A	Mull	W	M	09/10/1965	Wayne	09/07/1995	Murder
957011	James	G	Walls	W	M	06/02/1973	Hamilton	10/30/1995	Murder
883978	Raymond	K	Adams	B	M	10/09/1968	Hamilton	10/30/1995	Murder
957178	Robert	P	McIntyre	W	M	08/13/1970	LaPorte	12/11/1995	Murder
914382	Larry	W	Newton	W	M	11/09/1976	Delaware	12/29/1995	Murder
<b>1996 (7)</b>									
872945	Thomas	L	Rogers	W	M	12/09/1964	Lake	04/26/1996	Murder
963641	Eugene	R	Britt	B	M	11/04/1957	Porter	05/23/1996	Murder
964410	Gerald	W	Schlabach	W	M	01/12/1968	Elkhart	08/29/1996	Murder
964397	Thomas	A	Mathisen	W	M	03/09/1970	Marion	09/04/1996	Murder
964387	Ronald	A	Mathisen	W	M	03/18/1967	Marion	09/06/1996	Murder
976850	Charles	E	Barker	W	M	01/19/1958	Marion	11/26/1996	Murder
923458	Darren	J	Witt	W	M	01/03/1973	Lake	12/06/1996	Murder
<b>1997 (5)</b>									
970651	Stephen	R	Powers	W	M	10/09/1975	Vanderburgh	02/27/1997	Murder
973468	David	T	Sholes	W	M	12/03/1955	Wabash	03/07/1997	Murder
973822	Sirlando	D	Logan	B	M	06/15/1974	Allen	04/18/1997	Murder
974831	Corey	L	Mosley	B	M	03/24/1976	Marion	08/22/1997	Murder
983734	Henry	T	Mason	B	M	12/06/1976	Allen	09/29/1997	Murder
<b>1998 (6)</b>									
984053	Joseph	L	Gorbea	H	M	01/22/1977	Lake	02/20/1998	Murder
984270	Charles	D	Sturgeon	W	M	01/28/1944	Marion	04/17/1998	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
951864	Casey		Priest	W	M	12/02/1978	Marion	04/24/1998	Murder
984859	Rickey		Warlick	B	M	10/18/1960	Allen	05/29/1998	Murder
984672	Jeffrey	R	Ortiz	H	M	04/29/1978	Lake	06/12/1998	Murder
985038	Bryce	D	Pope	B	M	07/10/1977	Allen	06/19/1998	Murder
<b>1999 (5)</b>									
915530	Roger		Long	W	M	04/05/1952	Greene	05/12/1999	Murder
967141	Greg		Dickens	B	M	05/22/1981	St Joseph	07/09/1999	Murder
995398	Boris		Kovak	W	M	07/11/1965	Elkhart	08/26/1999	Murder
995573	Michael		West	W	M	12/08/1974	Marion	10/01/1999	Murder
918733	Jerry		Kovak	W	M	07/11/1965	Elkhart	08/26/1999	Murder
<b>2000 (8)</b>									
945315	Corey		Anderson	W	M	06/13/1978	Jasper	02/28/2000	Murder
856296	Kerrie		Price	B	M	04/15/1968	Marion	03/02/2000	Murder
902926	Michael	A	Highbaugh	B	M	10/09/1965	Marion	04/11/2000	Murder
966498	Jeremy		Gross	W	M	09/19/1979	Marion	06/09/2000	Murder
105140	Mark		Lichtenberger	W	M	06/30/1960	Adams	07/10/2000	Murder
102321	Steven	A	Hale	W	M	07/09/1976	Daviess	07/31/2000	Murder
106131	Paul		Veal	B	M	11/19/1977	Marion	10/19/2000	Murder
106718	Richard	A	Branum	W	M	09/02/1975	Gibson	12/12/2000	Murder
<b>2001 (9)</b>									
102703	Brian		Jones	W	M	09/03/1976	Knox	01/12/2001	Murder
116194	Kelly	K	Holland	W	M	10/22/1971	Harrison	05/16/2001	Murder
922526	Asher	B	Hill	B	M	05/30/1966	Marion	06/07/2001	Robbery
117063	Christopher	A	Burns	W	M	01/03/1982	Delaware	08/02/2001	Murder
112295	Joseph	W	Brown	W	M	11/24/1954	Vanderburgh	09/04/2001	Murder
105877	Fernando		Griffith	B	M	06/16/1977	Johnson	09/20/2001	Murder
112650	Reggion		Slater	B	M	12/18/1969	Porter	10/29/2001	Murder
882103	Ronald		Dumas	B	M	11/12/1960	Lake	11/01/2001	Murder
900079	Howard	J	Smallwood	B	M	06/24/1963	St Joseph	11/01/2001	Murder
<b>2002 (7)</b>									
113805	Jason		Powell	W	M	10/16/1980	Elkhart	03/14/2002	Murder
113973	Derrick		Clark	B	M	03/24/1981	Madison	04/02/2002	Murder
106789	Jeff		Leone	W	M	02/13/1963	Greene	05/14/2002	Murder
862899	Jeffrey	D	Washington	B	M	12/28/1968	Posey	06/14/2002	Murder
116470	Levohn	H	Brown	W	M	02/01/1973	Huntington	07/05/2002	Murder
932249	Phillip	A	Stroud	B	M	12/30/1978	St Joseph	09/04/2002	Murder
125893	Fredrick	A	Laux	W	M	04/01/1965	Grant	11/18/2002	Murder
<b>2003 (2)</b>									
923239	Donald	E	Houser	W	M	02/15/1970	Noble	02/04/2003	Murder
988424	Michael		Shannon	W	M	01/28/1982	Marion	03/19/2003	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
<b>2004 (6)</b>									
137913	David		Losch	W	M	11/04/1981	Elkhart	02/06/2004	Murder
138169	Ronrico		Hatch	B	M	10/05/1980	Allen	03/12/2004	Murder
145891	Stephen	T	Richards	W	M	09/28/1979	Lake	09/27/2004	Murder
120057	Craig		Cain	W	M	06/11/1984	Grant	10/18/2004	Murder
146060	Ronald		Covington	B	M	11/01/1974	Marion	10/22/2004	Murder
987990	Walter	L	Dye	B	M	10/02/1964	Marion	11/08/2004	Murder
<b>2005 (3)</b>									
148067	Frankie	A	Salyers	W	M	06/29/1978	Elkhart	05/06/2005	Murder
910135	Fredrick	M	Baer	W	M	10/19/1971	Madison	06/19/2005	Murder
138825	Tommy		Holland	W	M	01/02/1975	Marion	12/09/2005	Murder
<b>2006 (9)</b>									
871098	Ronald	A	Hatfield	W	M	07/21/1959	Delaware	01/25/2006	Murder
159336	Anthony	R	Stockelman	W	M	11/16/1966	Jackson	04/20/2006	Murder
872522	Robert	J	Bassett	W	M	10/06/1962	Bartholomew	06/21/2006	Murder
160155	Darryl	J	Jeter	B	M	11/03/1984	Lake	07/14/2006	Murder
971590	Zachariah		Melcher	W	M	10/03/1977	Clark	08/03/2006	Murder
126381	Hobert	A	Pittman	W	M	11/05/1980	Harrison	08/10/2006	Murder
160814	Raymond		Strominger	W	M	02/23/1967	Marion	09/08/2006	Murder
161050	Craig	N	Shank	W	M	10/26/1982	Madison	10/05/2006	Murder
152955	Michelle	D	Gauvin	ML	F	01/17/1972	Tippecanoe	10/26/2006	Murder
<b>2007 (6)</b>									
905676	Jeffrey		Voss	W	M	02/09/1965	Marion	04/20/2007	Murder
171967	Nicholas	R	Harbison	W	M	04/12/1983	Pike	06/22/2007	Murder
153105	Angelicia	S	Alvarez	H	F	09/19/1979	Elkhart	09/24/2007	Murder
942643	Jeffrey	A	Treadway	W	M	03/02/1959	Marion	11/13/2007	Murder
184339	Mark	S	Baker	B	M	12/20/1972	Fulton	11/16/2007	Murder
184602	Danny	R	Rouse	W	M	05/05/1955	Cass	12/14/2007	Murder
<b>2008 (4)</b>									
108002	Daniel	R	Wilkes	W	M	07/30/1968	Clark	01/25/2008	Murder
104092	Ian	J	Clark	W	M	02/13/1973	Kosciusko	04/03/2008	Murder
998680	Juan	C	Lucio	H	M	04/07/1984	Hamilton	05/15/2008	Murder
190101	Leonard	W	Dickey	W	M	05/18/1960	Wayne	07/03/2008	Murder
<b>2009 (5)</b>									
134291	Anthony		Delarosa	W	M	07/22/1983	Hamilton	04/15/2009	Murder
195043	Toby	K	Payne	W	M	08/02/1976	Hamilton	05/14/2009	Murder
195185	Chad	A	Cottrell	W	M	07/21/1970	Hamilton	05/29/2009	Murder
953755	Desmond		Turner	B	M	02/24/1978	Marion	11/20/2009	Murder
952131	Christopher	M	Stevens	W	M	09/02/1972	Tippecanoe	11/23/2009	Murder
<b>2010 (4)</b>									
173335	Kenneth		Allen	W	M	11/27/1975	Marion	02/05/2010	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
209906	Jeffery	W	Cain	W	M	12/28/1957	DeKalb	08/20/2010	Murder
952290	David	A	Flores	H	M	10/22/1973	Lake	09/09/2010	Murder
218096	Andrew		Conley	W	M	05/14/1992	Ohio	10/15/2010	Murder
<b>2011 (0)</b>									
<b>2012 (8)</b>									
221051	Ronnie	J	Rice	B	M	06/28/1981	Lake	01/12/2012	Murder
905813	David	E	Ison	W	M	08/27/1965	Franklin	03/14/2012	Murder
973341	Thomas		Hardy	B	M	12/21/1950	Marion	04/05/2012	Murder
219250	Barney		Chamorro	H	M	05/31/1990	Boone	05/10/2012	Murder
128713	Tyrice	J	Halliburton	B	M	05/28/1981	Elkhart	05/17/2012	Murder
984424	Michael	E	Inman	B	M	03/29/1976	Marion	06/13/2012	Murder
188374	Michael	L	Plumadore	W	M	11/16/1972	Allen	06/18/2012	Murder
970191	Randy		Knapp	W	M	05/26/1959	Greene	11/15/2012	Murder
<b>2013 (4)</b>									
233024	Charles	R	Stephenson	W	M	10/04/1953	Dearborn	07/02/2013	Murder
221837	Roy	E	Bell	W	M	06/11/1987	Fulton	09/16/2013	Murder
132204	Charles		Moore	B	M	12/15/1985	St Joseph	09/27/2013	Murder
243850	Andrew	S	Satterfield	W	M	09/21/1975	Pike	12/20/2013	Murder
<b>2014 (4)</b>									
225558	Richard	C	Hooten	W	M	12/22/1963	Clark	05/19/2014	Murder
114564	Christopher		Helsley	W	M	02/07/1978	Pike	05/20/2014	Murder
117892	James	F	Griffith	W	M	05/17/1979	Grant	05/23/2014	Murder
252565	Austin	T	Blaize	W	M	05/26/1989	Gibson	10/02/2014	Murder
<b>2015 (4)</b>									
895789	Samuel	E	Sallee	W	M	10/25/1957	Bartholomew	04/02/2015	Murder
871479	Steve	J	Clippinger	W	M	02/13/1971	St Joseph	04/20/2015	Murder
256048	Christian	R	Haley	B	M	02/02/1993	Hamilton	05/22/2015	Murder
108001	Paul	M	McManus	W	M	07/14/1972	Vanderburgh	08/06/2015	Murder
<b>2016 (5)</b>									
121207	Michael	T	Shoun	B	M	01/29/1987	Elkhart	01/07/2016	Murder
935747	Bob		Leonard	W	M	12/12/1958	Allen	03/18/2016	Murder
132668	Kenneth		Rackemann	W	M	06/15/1989	Marion	04/22/2016	Murder
951591	Mathew	W	McCallister	W	M	04/19/1982	Warrick	08/23/2016	Murder
249727	Austin		Scott	ML	M	10/25/1994	Harrison	09/06/2016	Murder
<b>2017 (3)</b>									
263002	Carl	L	Blount	B	M	07/29/1988	Lake	02/08/2017	Murder
249215	Major	P	Davis	B	M	05/28/1989	Marion	04/27/2017	Murder
250449	Johnathan	S	Cruz	W	M	07/30/1996	Marion	05/11/2017	Murder
<b>2018 (2)</b>									
220566	Derrick	T	Cardosi	W	M	04/22/1992	Newton	02/15/2018	Murder
251937	Darren		Vann	B	M	03/21/1971	Lake	05/25/2018	Murder

IDOC#	First Name	MI	Last Name	Race	Sex	Date of Birth	Committing County	Sentence Date	Offense
<b>2019 (3)</b>									
108000	Wayne	D	Kubsch	W	M	10/31/1967	St Joseph	03/08/2019	Murder
273346	Anthony	L	Baumgardt	W	M	10/17/1996	Boone	05/29/2019	Murder
245198	Dylan		Tate	W	M	05/23/1991	Madison	07/09/2019	Murder
<b>2020 (4)</b>									
263165	Zachariah		Wright	W	M	07/15/1997	Boone	01/03/2020	Murder
281760	Ryan		Ramirez	H	M	03/28/1989	Madison	04/14/2020	Murder
249876	Joseph		Oberhansley	W	M	03/29/1981	Clark	10/13/2020	Murder
283254	Johnetta	R	Hall	W	F	01/26/1973	Jennings	11/02/2020	Murder
<b>2021 (3)</b>									
138825	Tommy		Holland	W	M	01/02/1975	Madison	05/03/2021	Murder
229048	Donald	R	Owen	W	M	12/30/1998	Elkhart	06/10/2021	Murder
286819	Amanda		Carmack	W	F	09/27/1984	Grant	09/15/2021	Murder

**(As of January 1, 2022)**

\* On July 2, 2004 Indiana Governor Joseph Kernan commuted the death sentence of Darnell Williams to Life Imprisonment Without Parole.

\* On January 7, 2005, Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels to Life Imprisonment Without Parole.

\* On August 29, 2005, Indiana Governor Mitch Daniels commuted the death sentence of Arthur Paul Baird II to Life Imprisonment Without Parole.

[All three had their death sentences commuted, even though at the time they committed murder, and at the time they were originally convicted and sentenced to death, the penalty of Life Without Parole did not exist under Indiana Law.]

**OTHERS SENTENCED TO LIFE WITHOUT PAROLE AFTER 1993,  
BUT LWOP SENTENCE LATER VACATED, OR INMATE DECEASED**

DOC#	Inmate	Race	Sex	DOB	Committing County	LWOP Sentence Date	Resentencing Date
955750	<b>Kofi Modibo Ajabu</b>	B	M	02/02/1973	St. Joseph	10/30/1995	-
Convicted and sentenced to LWOP in St. Joseph County after venue changed from Hamilton County. On Direct Appeal: Convictions affirmed, but LWOP reversed at <u>Ajabu v. State</u> , 722 N.E.2d 339 (Ind. January 21, 2000). On remand, resentenced to 60 years for Murder (3 Counts), and other Counts totaling 240 years imprisonment. Accomplices Raymond Adams and James G. Walls also convicted in separate trials and sentenced to LWOP.							
997251	<b>Amy Bostick</b>	W	F	04/26/1974	Henry	10/18/1999	07/02/2003
Direct Appeal: Conviction affirmed, but LWOP sentence vacated due to jury unable to reach verdict. <u>Bostick v. State</u> , 773 N.E.2d 266 (Ind. August 19, 2002) On remand, resentenced to 65 years on each of 3 Counts, + 15 years, consecutive, for a total term of 210 years							
870096	<b>Terry C. Brown</b>	B	M	09/09/1962	Howard	11/08/2001	05/27/2003
Direct Appeal: Conviction affirmed, but LWOP sentence vacated due to insufficient Sentencing Order. Remanded with instructions to impose consecutive sentences of 55 years on each count of Murder. <u>Brown v. State</u> , 783 N.E.2d 1121 (Ind. February 28, 2003)							
	<b>David R. Camm</b>	W	M	03/23/1964	Floyd Warrick	03/28/2006	-
On Direct Appeal: Murder conviction and LWOP Sentence reversed at <u>Camm v. State</u> , 908 N.E.2d 215 (Ind. 2009); On remand following a third jury trial, Defendant found Not Guilty.							
143066	<b>Engelica E. Castillo</b>	H	F	08/06/1990	Lake	09/09/2010	10/17/2012
On Direct Appeal: Conviction affirmed, but LWOP sentence reversed at <u>Castillo v. State</u> , 974 N.E.2d 458 (Ind. July 31, 2012) (Asking jury to give LWOP based upon defendant's unsavory character was improper and her abusive actions to child did not "cause" her death. LWOP sentence inappropriate, resentenced to 65 years imprisonment )							
139208	<b>Curtis N. Cooper</b>	B	M	09/23/1968	Marion	06/16/2004	11/17/2007
On Direct Appeal: Conviction affirmed, but LWOP Sentence reversed at <u>Cooper v. State</u> , 854 N.E.2d 831 (Ind. October 5, 2006) (Calling Defendant "back shooter and woman beater" was fair commentary in guilt phase, but asking jury to give LWOP based upon defendant's unsavory character was improper) On remand, State withdrew LWOP request and Defendant resentenced to 65 years imprisonment.							
973230	<b>Patrick E. Cox</b>	W	M	06/28/1977	Madison	08/27/1997	12/22/2011
Sentenced in 1997 to LWOP by Judge following trial verdict convicting Cox of Murder, but hung jury on penalty; Direct Appeal: Conviction and LWOP sentence affirmed at <u>Cox v. State</u> , 696 N.E.2d 853 (Ind. June 26, 1998); Motion to Correct Erroneous Sentence granted 12/22/2011, Cox resentenced to 60 years imprisonment.							
985703	<b>Frank Dennis</b>	W	M	06/02/1966	Marion	10/29/1998	-
On belated Direct Appeal: Trial Court LWOP Sentencing Statement insufficient, revised to 65 year term, consecutive to total aggregate sentence of 190 years. <u>Dennis v. State</u> , 908 N.E.2d 209 (Ind. June 23, 2009)							

DOC#	Inmate	Race	Sex	DOB	Committing County	LWOP Sentence Date	Resentencing Date
893898	<b>Tracey T. Dunlop</b>	B	M	07/19/1974	Marion	01/22/1997	10/03/2007
Direct Appeal: Murder Conviction and LWOP Sentence affirmed at <u>Dunlop v. State</u> , 724 N.E.2d 592 (Ind. 2000); At PCR, by agreement LWOP Sentence later revised and reduced to 65 years imprisonment for Murder.							
974933	<b>Timothy R. Farber</b>	W	M	06/19/1964	Vanderburgh	09/26/1997	04/16/2009
Direct Appeal: Conviction and LWOP Sentence affirmed despite jury recommendation against LWOP (Judge override) <u>Farber v. State</u> , 729 N.E.2d 139 (Ind. May 26, 2000); On PCR, agreement entered, resentenced to 50 years imprisonment.							
993826	<b>Timothy G. Greer</b>	W	M	05/08/1968	Johnson	03/02/2000	-
Direct Appeal: Conviction and LWOP Sentencing affirmed at <u>Greer v. State</u> , 749 N.E.2d 545 (Ind. June 28, 2001); Deceased 09/13/2019.							
116563	<b>Jerry Jones</b>	B	M	03/27/1964	Marion	05/29/2003	
Direct Appeal: Murder conviction and LWOP Sentence affirmed at <u>Jones v. State</u> , 783 N.E.2d 1132 (Ind. 2003); Later reduced to aggregate 73 years imprisonment.							
951619	<b>Michael Eugene Klein</b>	W	M	06/29/1977	Marion	12/06/1997	10/06/2009
Direct Appeal: Murder Conviction and LWOP Sentence affirmed at <u>Klein v. State</u> , 698 N.E.2d 296 (Ind. August 24, 1998); PCR granted 05/12/2009; Pursuant to Plea Agreement, Resentenced on 10/06/2009 to 50 years imprisonment.							
159186	<b>Spenser Krempetz</b>	W	M	12/11/1986	Elkhart	03/30/2006	-
LWOP - Deceased 01/18/2015							
926523	<b>Mark Leonard</b>	W	M	03/02/1969	Marion/ St. Joseph	08/14/2015	-
LWOP (3 Counts) - Deceased 01/30/2018							
244941	<b>Robert Lewis III</b>	B	M	10/29/1972	Lake	11/26/2013	01/23/2014
On Direct appeal: Convictions affirmed, but LWOP Sentence reversed at <u>Lewis v. State</u> , 59 N.E.3d 967 (Ind. October 4, 2016) (LWOP cannot stand since jury was hung and Judge cannot sentence to LWOP under these facts); Resentenced to 65 years, 20 years for CDC, and 3 years for RLE, consecutive, for a total sentence of 88 years imprisonment.							
984308	<b>Steven R. Lowrimore</b>	W	M	08/14/1959	Marion	04/17/1998	-
Direct Appeal: Murder Conviction and LWOP Sentence affirmed at <u>Lowrimore v. State</u> , 728 N.E.2d 860 (Ind. 2000); Deceased 05/01/2004							
914612	<b>Joseph C. Monegan</b>	B	M	07/16/1977	Wayne	11/22/1996	06/30/2000
Direct Appeal: Conviction affirmed, but LWOP sentence vacated due to use of prior murder aggravator that was unrelated and not reduced to conviction. <u>Monegan v. State</u> , 721 N.E.2d 243 (Ind. December 30, 1999) On remand, resentenced to 60 years imprisonment.							

DOC#	Inmate	Race	Sex	DOB	Committing County	LWOP Sentence Date	Resentencing Date
994119	<b>Christopher D. Nicholson</b>	W	M	12/18/1961	Madison	01/22/2001	08/10/2005
Direct Appeal: Conviction affirmed, but LWOP sentence vacated, ridiculously holding that tying the 78 year old victim's arms and legs to bedposts, stuffing tissue paper inside her mouth, and taping her mouth shut resulting in death by asphyxia, was not sufficient to prove "torture." <u>Nicholson v. State</u> , 768 N.E.2d 443 (Ind. May 24, 2002); On remand, resentenced to 65 years for Murder.							
963332	<b>Michael G. Parker</b>	B	M	08/06/1958	Marion	04/04/1996	09/29/1998
Defendant found guilty of Robbery, found to be Habitual Offender under IC 35-50-2-8.5, and was sentenced to LWOP; Direct Appeal: Robbery affirmed, but Habitual/LWOP reversed due to jury instructions using "should" instead of "may" find habitual. <u>Parker v. State</u> , 698 N.E.2d 737 (Ind. July 8, 1998). On remand, resentenced to 20 years for Robbery.							
915747	<b>James Richard Rawley</b>	W	M	05/12/1948	Monroe	11/26/1997	-
Direct Appeal: Murder Conviction affirmed, but LWOP Sentence vacated for lack of specificity in Sentencing Order, at <u>Rawley v. State</u> , 724 N.E.2d 1087 (Ind. 2000); Deceased							
971774	<b>John A. Redman</b>	W	M	01/00/1957	Greene	07/28/1999	-
Convicted and sentenced to LWOP (28D01-9805-CF-244) <u>Redman v. State</u> , 743 N.E.2d 263 (Ind. March 9, 2001); Accomplices Roger L. Long and Jerry E. Russell also convicted in separate trials and sentenced to LWOP; Deceased 01/04/2019.							
915357	<b>Paul E. Rhodes</b>	B	M	10/01/1960	Marion	02/26/1997	08/26/1998
Direct Appeal: Murder Conviction affirmed, LWOP Sentence reversed because murder was committed on May 8, 1994, almost two months before the statute became effective. <u>Rhodes v. State</u> , 698 N.E.2d 304 (Ind. August 26, 1998); Revises sentence to a 60 year term of imprisonment.							
172761	<b>Simon Rios</b>	H	M	03/06/1972	Delaware	09/17/2007	-
LWOP (3 Counts) - Deceased 10/08/08							
150684	<b>Aaron M. Rohr</b>	W	M	01/14/1971	Jennings	08/24/2005	02/11/2011
On Direct Appeal: Convictions and LWOP Sentence reversed at <u>Rohr v. State</u> , 866 N.E.2d 242 (Ind. May 15, 2007) (Excluding defense witnesses for failure to meet discovery deadline was abuse of discretion); On remand, found Not Guilty of Murder but Guilty of Battery, Aggravated Battery, and Neglect and resentenced to 70 years imprisonment.							
249590	<b>Kevin A. Schuler</b>	W	M	02/08/1995	Harrison	02/09/2017	-
LWOP + 65 years; Affirmed at <u>Schuler v. State</u> , 132 N.E.3d 903 (Ind. October 18, 2019)- Deceased 11/14/2019; Accomplice Austin Scott also convicted in separate trial 09/06/2016 and sentenced to LWOP (31D01-1308-MR-507)							
962676	<b>Stephen K. Sherwood</b>	W	M	07/10/1970	Morgan	09/28/2001	
Direct Appeal: Murder Conviction and LWOP Sentence reversed due to failure to allow Defendant to represent himself. <u>Sherwood v. State</u> , 717 N.E.2d 131 (Ind. October 1, 1999) On remand, Defendant again convicted and sentenced to 65 years imprisonment.							

DOC#	Inmate	Race	Sex	DOB	Committing County	LWOP Sentence Date	Resentencing Date
229776	<b>Carlitez J. Taylor</b>	B	M	02/13/1998	Vanderburgh	09/29/2016	-
On Direct Appeal: LWOP Sentence - The Indiana Supreme Court exercised its authority under Rule 7(B) to revise sentence from life without parole to an aggregate eighty-year term of imprisonment.							
<u>Taylor v. State, 86 N.E.3d 157 (Ind. November 5, 2017)</u>							
884135	<b>Earl E. Taylor</b>	W	M	04/29/1952	Vigo	03/23/2016	-
On Direct Appeal: Conviction (Pre-1977 Murder) and Life Sentence affirmed at <u>Taylor v. State, 87 N.E.3d 60 (Ind. App. July 27, 2017)</u>							
128857	<b>Louie Verner</b>	B	M	09/07/1968	Delaware	02/24/2005	-
January 25, 2022 DNA database hit on Illinois inmate; Defendant p/g by Plea Agreement in 18C02-0207-MR-000002; Deceased							
956024	<b>Robert W. Weatherford Sr.</b>	W	M	01/08/1938	Madison	11/15/1995	-
Direct Appeal: Murder Conviction and LWOP Sentence affirmed at <u>Weatherford v. State, 697 N.E.2d 32 (Ind. 1998)</u> ; Deceased 2008.							
971994	<b>Kerry C. Wilson</b>	B	M	09/22/1964	Floyd	09/20/2005	-
Guilty Plea by Plea Agreement, sentenced to LWOP (2 Counts) - Deceased: 05/29/2013							
114644	<b>Zhan Yin</b>	A	M	02/10/1974	Tippecanoe	06/28/2002	-
Guilty Plea by Plea Agreement; Sentenced to LWOP (2 Counts) (79D01-0108-CF-000077) Deceased: September 12, 2004							

(33)

**INDIANA PROSECUTORS CASE MANAGEMENT SYSTEM - FROM THERESA STEVENS  
ALL DEATH PENALTY AND LWOP CASES FILED JUNE 2013 - JANUARY 2022**

Cause #	County	First Name	MI	Last Name	Disposition
03C01-1312-MR-6529	Bartholomew	Samuel	E.	Sallee*	LWOP filed 2-20-14 Sent 4-2-15 LWOP
03D01-2008-MR-004053	Bartholomew	Eliel		Avelar	LWOP filed 8-21-20; <b>Pending</b> Plea Vol.Mans Sent 4-13-22
03D01-2008-MR-004212	Bartholomew	Abraham	Jiminez	Cesareo	LWOP filed 8-28-20; <b>Pending</b> P/G 3-14-22 JT 4-5-22
06D01-1706-MR-001078	Boone	Zachariah	Brian	Wright*	LWOP filed 6-12-19 Sent 1-3-20 LWOP
06D02-1803-MR-000501	Boone	Anthony		Baumgardt*	DP filed 4-24-18 Sent 5-29-19 LWOP
12D01-2108-MR-000908	Clinton	Gary	Cecil	Ferrell, II	DP filed 8-20-21; <b>Pending</b> PTC 2-9-22 JT 2-24-22
19C01-1601-MR-000030	Dubois	Kyle	N.	Popplewell	LWOP filed 10-26-16 Sent 9-8-17 65+8+15 yr
20C01-1912-MR-000005	Elkhart	Mario	M.	Angulo	LWOP filed 12-19-19 Sent 6-24-21 127 yr
20C01-1912-MR-000006	Elkhart	Donald	R.	Owen, Jr.*	LWOP filed 12-19-19 Sent 6-10-21 LWOP
26C01-1301-MR-0001	Gibson	Austin	T.	Blaize*	LWOP filed 5-14-13 Sent 10-02-14 LWOP
26C01-1305-MR-0002	Gibson	Jason	S.	Perry	LWOP filed 8-13-13 Sent 5-19-14 85-15 yrs
26D01-1804-MR-000416	Gibson	Ashley	L.	Robling	LWOP filed 4-23-18 Sent 7-23-20 50 yrs
27C01-1909-MR-000008	Grant	Amanda	Dawn	Carmack*	LWOP filed 9-6-19 Sent 9-15-21 LWOP
29D01-1312-MR-010619	Hamilton	Christian	Rene	Haley*	LWOP filed 8-15-14 Sent 5-22-15 LWOP
31D01-1308-MR-000507	Harrison	Austin		Scott*	DP filed 1-14-14 Sent 9-6-16 LWOP
31D01-1308-MR-000508	Harrison	Kevin	Andrew	Schuler	DP filed 1-14-14; Sent 2-9-17 LWOP+65 yrs - Deceased
38C01-1510-MR-000002	Jay	Dalton	R.	Davis	LWOP filed 11-15-15 Sent 8-17-16 65 yrs
40C01-1301-MR-1	Jennings	Ryan	James	Shelley	LWOP filed 8-28-13 Sent 9-15-15 58 yrs
40C01-2103-MR-000001	Jennings	Michael	Wayne	Hubbard	LWOP filed 5-20-21; <b>Pending</b> Jury Trial Continued Indef
40C01-2003-MR-000001	Jennings	Johnetta	Ruth	Hall*	LWOP filed 10-5-15 Sent 11-2-20 LWOP
42C01-1704-MR-000001	Knox	Robert	J.	Baldwin	LWOP filed 4-6-17 Sent 8-23-19 65 yrs

Cause #	County	First Name	MI	Last Name	Disposition
45G04-1407-MR-000006	Lake	Carl	LeEllis	Blount*	DP filed 9-16-14 Sent 2-8-17 LWOP
46D01-1409-MR-000264	LaPorte	Johnny	A.	McSwain	LWOP filed 8-15-14 Sent 09-23-15 55+35+30
46C01-2110-MR-000012	LaPorte	Allen	Dale	Morgan	LWOP filed 10-13-21; <b>Pending</b> Omnibus Hearing 2-11-22
48C01-1810-MR-002542	Madison	Dylan	Thomas	Tate*	LWOP filed 10-1-18 Sent 7-11-19 LWOP+52yr
48C01-1811-F1-002821	Madison	Jacob	Stephen	Wootten	LWOP filed 5-3-19 Dismissed
48C03-1912-MR-002950	Madison	Tommy	O.	Holland*	LWOP filed 9-14-20 Sent 5-3-21 LWOP
48C04-1808-MR-001964	Madison	Ryan		Ramirez*	LWOP filed 6-11-19 Sent 4-14-20 LWOP
52C01-1805-MR-000001	Miami	Ethan	D.	Cain	LWOP filed; <b>Pending</b> Sent 2-1-22 55 yr max
53C02-1908-MR-000861	Monroe	Dakota	Lee	King	LWOP filed 8-2-19; <b>Pending</b> p/g Neglect Sent 1-27-22
53C03-1905-MR-000601	Monroe	Dayana	Sarahid	Medina Flores	LWOP filed 7-26-19 Sent 7-15-21 65 yrs
53C03-1905-MR-000602	Monroe	Luis	Eduardo	Posso, Jr.	LWOP filed 7-26-19 Pending PTC 2-3-22
56D01-1608-MR-000002	Newton	Derrick	T.	Cardosi*	LWOP filed 12-6-16 Sent 2-20-18 LWOP
56D01-1608-MR-1	Newton	Sebastian	M.	Wedding	LWOP filed 12-06-16 Sent 10-30-17 55+55 yrs
56D01-1904-MR-000367	Newton	Garett	K.	Kirts	LWOP filed 4-5-19 Sent 1-11-21 55 yrs
63C01-1310-MR-000475	Pike	Christopher	Warren	Morton	LWOP filed 11-1-13 Sent 7-31-14 80 yrs
82C01-2008-MR-004676	Vanderburgh	Stephen	Brian	Nail	LWOP filed; <b>Pending</b> PTC 04/12/22; JT 05/09/22
82D03-2112-MR-006827	Vanderburgh	Arthur	Lee	Jones IV	LWOP filed 12-22-21; <b>Pending</b> Review Hearing 2-23-22
85C01-2010-MR-001110	Wabash	William	L.	Sendelbach	LWOP filed 10-14-20 Deceased 10-24-20
87C01-1705-MR-000203	Warrick	Isaiah	Albert	Hagan	LWOP filed 5-16-17 Sent 8-2-18 60 yrs

\* Currently Serving LWOP Sentence

## Life Imprisonment Without Parole 1993-2022

### The Odd, the Evil, and the Extraordinary

- ◆ Darren Deon Vann (Lake County) and Desmond Turner (Marion County) were each convicted of 7 Counts of Murder and each is serving 7 LWOP sentences. By definition, Vann is a serial killer (committing Murders at different times in different locations, often with similar victims, similar motives, and similar methods of murder); Turner is a Mass Murderer (committing multiple murders at nearly the same time at the same location).
- ◆ Joseph Weldon Brown (Vanderburgh County) claimed to be a serial killer of more than 13 women, few of which could be verified. He had been convicted in 1977 in Gibson County of Kidnapping and Robbery resulting in a term of Life Imprisonment. While incarcerated, he was convicted of Felony Battery upon another inmate and received a 5 year term of imprisonment in 1980. He was released in 1995 after serving 18 years. He was returned to the Indiana Department of Corrections with a sentence of Life Without Parole in 2001 following the murder and dismemberment of an ex-girlfriend. In 2011, he was convicted of the strangulation and murder of another inmate, Charles Miller, in Miami Correctional Facility and was sentenced to an additional 75 years imprisonment.
- ◆ David Losch (Elkhart), Joseph Oberhansley (Clark), Michael Plumadore (Allen), and Joseph Brown (Vanderburgh) dismembered their murder victims. Losch decapitated his sister-in-law victim with a butcher's knife while she clung to life after being strangled by Losch. Oberhansley went even further, as he cut the heart out of his ex-girlfriends chest, ate it, then removed part of her brain and other internal organs, fried it in a skillet and consumed it, all by his own admission. His statement was corroborated by the physical evidence in the bathroom and kitchen.
- ◆ Three inmates have committed murder in the Indiana Department of Corrections while serving a Life Without Parole sentence. In 2005, Tommy Holland entered a guilty plea to Murder in two separate cases in Marion County, and was sentenced to two consecutive terms of Life Without Parole. While serving these LWOP sentences in the IDOC Pendleton, on August 9, 2019 Holland attacked and killed another inmate by stabbing him with a sharp object. He was later convicted and was sentenced on May 3, 2021 to his third LWOP sentence. In 2006, Zachariah Melcher pled guilty to the murders of his pregnant wife, his 11 month old son, and his wife's unborn viable fetus in Clark County. He was sentenced to two terms of Life Without Parole and 65 years, all consecutive. While serving these LWOP sentences in the IDOC Wabash Valley, Melcher strangled to death his cellmate Nicholas Roman, and in 2011 he pled guilty and was sentenced to a 65 year consecutive term of imprisonment. In 2001, Joseph Weldon Brown was convicted and sentenced to Life Without Parole following the murder and dismemberment of his ex-girlfriend. While serving that sentence, in 2011 he pled guilty to the strangulation and murder of another inmate, Charles Miller, in IDOC Miami, and was sentenced to a 75 year consecutive term of imprisonment.
- ◆ Face/Neck tatoos have become more popular among LWOP inmates in recent years. The top 3 are Tommy Holland (Marion), Donald Ray Owen (Elkhart), and Kenneth Rackemann (Marion).

- ◆ Joseph Weldon Brown (Vanderburgh County) strangled his ex-girlfriend with a shoelace, bought an electric saw at Home Depot, but then had difficulty dismembering the body. He returned to the store, this time covered in blood. He told the clerk he was trying to cut up a deer and the saw he bought was not cutting it. With a new blade in hand, he returned to the victim's apartment to finish his work. The job turned out to be harder than he expected, so Brown made himself bacon, toast and coffee before going about the work of scattering pieces of the victim's body in Posey, Gibson and Warrick counties.
- ◆ In 2006, along with Desmond Turner, James Stewart killed 7 members of a family in their home in Marion County, including 3 children aged 5, 8, and 11. Both were convicted at trial of 7 counts of murder and various other offenses. Turner was sentenced to Life Without Parole. Stewart was sentenced to consecutive terms totaling 425 years imprisonment. It is thought to be the longest term of years sentence in a single case handed down in Indiana history.
- ◆ Perhaps the most unusual means of any LWOP murder was committed in 1995 upon 72 year old Virginia Cates in Lake County. After robbing her in her home, Thomas Lee Rogers forced her into the car he was driving. He then drove to a crowded overpass, and threw or pushed Cates onto the heavily traveled interstate highway below. She was still alive when she hit the pavement and attempted to stand up, but two vehicles ran over her in rapid succession, killing her.
- ◆ Only one person is serving a sentence of Life Without Parole in Indiana without committing murder. In 2001, Asher Hill was convicted in Marion County of Armed Robbery and Confinement and was sentenced to LWOP as a Habitual Offender under IC 35-50-2-8.5. [This statute was since repealed by P.L.158-2013, § 662, effective July 1, 2014].
- ◆ Murdering your own child sets you apart from almost all other murderers. Angelica Salazar Alvarez (Elkhart) murdered her 4 children, aged 2, 4, 6, 8, by strangulation because her husband was leaving her and they would be better off in heaven. LeVohn Brown (Huntington) murdered his 3 year old daughter disciplining her with a paddle. Paul McManus shot and killed his 8 year old and 23 month old daughters after murdering his estranged wife because of problems with visitation. Zachariah Melcher suffocated to death his 11 month old son after strangling his pregnant wife. Also, Amanda Carmack (Grant), Chad Cottrell (Hamilton), Michelle Gauvin, (Tippecanoe), Kelly Holland (Harrison), and Boris Novak all murdered their stepchildren.
- ◆ Gregory Dickens (St.Joseph) is the youngest person to commit murder, resulting in a sentence of Life Without Parole in Indiana, having shot and killed a police officer in 1997. At that time he was 16 years, 3 months old. At LWOP sentencing in 1999 he was 18 years, 1 month old. As of January 01, 2022 he was 40 years, 7 months old. - The only other juvenile murderers sentenced to LWOP: Andrew Conley (Ohio), having strangled to death his 10 year old brother in 2009. At that time he was 17 years, 6 months old. At sentencing to LWOP in 2010, he was 18 years, 5 months old. As of January 1, 2022 he was 29 years, 8 months old; Larry Newton (Delaware) having shot and killed a Ball State University student after a robbery in 1994. At that time he was 17 years, 10 months old. At LWOP sentencing in 1995 he was 19 years, 1 month old. As of January 1, 2022 he was 45 years, 2 months old.

- ◆ Remarkably, 54% of all LWOP sentences resulted from a guilty plea to Murder. Perhaps this is because of fear of the death penalty, or fear of facing the evil details of the crime, or fear of facing overwhelming evidence of guilt, or seeking to establish mitigating circumstance of acceptance of responsibility.
- ◆ Just as surprising is that in 36% of all LWOP cases, the Defendants have filed no Direct Appeal, no Petition for PCR, and no Petition for Writ of Habeas Corpus. (Although the Defendant's options are limited following a guilty plea, what do they have to lose?)
- ◆ A finding of incompetency to stand trial often causes substantial delays in any criminal case, sometimes laying the foundation for an insanity defense and a strong mitigating circumstance. This was particularly true in the cases of Joseph Oberhansley (Clark) 5-6 year delay; Frankie Salyers (Elkhart) 4-5 year delay.
- ◆ Often, telephones and texting records may constitute a critical piece of evidence to prove guilt: Tracing the locations and interactions of defendants, co-conspirators and accomplices near the time of murder (Payne/Lucio/Delarosa - Hamilton County), or (Christian Haley - Hamilton County), or (Derrick Cardosi - Newton County), or (Johnetta Hall - Scott County), or (Wayne Kubsch - St.Joseph County), or Charles Stephenson - Dearborn County); Or merely hitting the redial button on crime scene phone (Stephen Richards - Lake County); Or checking the Caller ID on crime scene phone (Craig Shank - Madison County); or checking messages on crime scene answering machine (Darren Witt - Lake County).
- ◆ Very few LWOP murderers kill their own mother: Arthur P. Baird (Montgomery), stabbed to death his mother and father and strangled his wife in 1985; Kenneth Allen (Marion) strangled to death his mother, then beat and strangled his grandmother and grandfather to death in 2004; Andrew Satterfield (Pike) shot to death his mother in 2011.
- ◆ Murderers almost always select the weak and the vulnerable to victimize, but only Stephen Richards (Lake) saw fit to murder a quadriplegic victim, as well as his caretaker, for a pocket full of coins in 2004.
- ◆ Akin to a scene from the 1994 movie Pulp Fiction, brothers Ron and Tom Mathisen armed themselves with handguns just before lunch on a Monday, intending to rob a Denny's restaurant near their hotel in Indianapolis. They had run out of money after stopping there on the run from Utah criminal charges. When there was an apparent scuffle with one brother, the other panicked and started shooting customers. Several were seriously injured and a 71 year old man was killed. The brothers took three dozen customers and restaurant employees hostage at gunpoint and kept police at bay for the next 5-6 hours, until they surrendered. Needless to say, the robbery did not go as planned. Both are serving Life Without Parole.

# INDIANA INMATES CURRENTLY SERVING LIFE IMPRISONMENT WITHOUT PAROLE

## ADAMS, RAYMOND K.

DOB: 10-09-1968    DOC# 883978    Black Male    Location: Indiana State Prison

Hamilton County Superior Court Judge Jerry M. Barr  
Trial Cause #: 29D02-9403-CF-00009



**Defense:** Marcus C. Emery, Robert J. Hill

**Prosecutor:** Sonia J. Leerkamp, Prosecuting Attorney, Daniel E. Henke, Deputy

**Date of Murder:** March 17, 1994

**Victims:** Lisa Allemenos H / F / 13; Nick Allemenos H / M /17; Christopher James W / M / 23  
(No relationship to Adams)

**Method of Murder:** Slashed throats with knife

**Summary:** At approximately 7:00 am on March 17, 1994, Nicholas Allemenos (17), Lisa Allemenos (13), and Christopher James (23) were found dead in the home of Nicholas's and Lisa's father, George Allemenos, in Carmel. The house had been ransacked and items taken. All three victims were bound with duct tape and the throats of all three victims had been cut. Immediately after their discovery, the crimes attracted extensive coverage in both print and electronic news media. Kofi Ajabu, James Walls and Raymond Adams soon became suspects. The next night, Ajabu was arrested at Adams's apartment and was transported to the Hamilton County Jail, where he waived his rights and confessed his involvement in the robbery, but claimed Adams killed all 3 victims with a knife. James was staying with the teenage kids while their father was out of town on vacation. Testimony indicated that Adams had been to the Allemenos house a day or two earlier to sell marijuana to James. After being told that his father was out of town, Adams was impressed by the affluence he saw there and thought the home would be an easy target. He returned later with Walls and Ajabu to rob the place. While the stories of each Defendant varied, Walls agreed to go to the home armed with intent to burglarize and rob them.

**Request for Death Sentence Filed:** April 8, 1994

**Conviction:** Murder (3 Counts)

**Sentencing:** October 30, 1995 (LWOP, LWOP, LWOP)

Accomplice Kofi Modibo Ajabu was convicted after a change of venue and a jury trial in the St. Joseph County Superior Court of Murder (3 Counts), Criminal Confinement (Class B felony - 3 Counts), Robbery (Class B felony - 3 Counts), and Burglary (Class B Felony). He was initially sentenced on October 30, 1995 by Judge Sanford Brook to 3 terms of Life Imprisonment Without Parole plus 60 years imprisonment. Following an appeal, the case was remanded and Ajabu was resentenced to 60 years for each murder count, 20 years for each robbery count, and 13 years for each confinement count. The court then ordered that the sentences for confinement and robbery run concurrently, but ordered that those sentences run consecutively to the murder sentences. This resulted in a total of 240 years imprisonment. (71D01-9409-CF-963). Ajabu v. State, 722 N.E.2d 339 (Ind. January 21, 2000) (Affirmed).

Accomplice James Gordon Walls was convicted in the Hamilton County Superior Court of Murder (3 Counts), Criminal Confinement (Class B Felony - 3 Counts), Robbery (Class B Felony - 3 Counts), and Burglary (Class B felony), and on October 30, 1995 was sentenced to: LWOP, LWOP, LWOP, 20 years, 20 years. (29D02-9403-CF-000010). Walls v. State, Unpub., 804 N.E.2d 1286 (Ind. App. February 26, 2004) (Affirmed).

**Aggravating Circumstances:** (b)(1) Robbery  
(b) (8) Multiple Murders

**Mitigating Circumstances:**

**Interlocutory:** (Issue regarding enforcement of subpoenas to FBI DNA Technicians for depositions)  
United States District Court, Southern District of Indiana, Indianapolis Division  
Judge John Daniel Tinder - Indiana v. Adams, 892 F. Supp. 1101 (S.D. Ind. 1995).

**Direct Appeal:** None.

**PCR:** None.

**Habeas:** None.

**ALLEN, KENNETH**

DOB: 11/27/1975 White Male DOC# 173335 Location: Pendleton Correctional Facility

Marion County Circuit Judge Tonya Walton Pratt  
**Trial Cause #:** 49G01-0502-MR-020627 / 49G01-0502-PC-020627



**Date of Murders:** December 2004

**Victim(s):** Sharon Allen W / F / 53, Leander "Lee" Bradley W / M / 91, Betty Bradley W / F / 75.  
(Allen's Mother and Grandparents)

**Method of Murder:** Smothering and strangulation (Sharon Allen, Mother)  
Strangulation (Betty Bradley, Grandmother)  
Beating with hammer and strangulation (Leander Bradley, Grandfather)

**Summary:** On February 8, 2005, Kenneth Allen and his sister, Kari Allen were driving west on I-70 near St. Louis when they were pulled over for speeding by Deputy Sheriff Anthony Hojsik. Allen said he was on his way to Las Vegas to "start a new life," and consented to a vehicle search. In the trunk was found numerous Credit/ATM Cards in the names of Leander Bradley and Betty Bradley, along with jewelry and a bloodstained bed sheet. Concerned for the Bradleys' safety the Deputy contacted Indianapolis law enforcement to arrange a welfare check. Indianapolis Police Officer Chris Edwards went to the Bradley residence on Linwood, gained entry through a window and found no one home. He did note a freshly poured slab of concrete in the basement. Overhearing the phone call, Kari Allen blurted out, "He killed 'em, and buried 'em in the basement."

Kenneth Allen admitted to Missouri authorities that he killed his mother and grandparents. According to Allen, he had been released from prison November 26, 2004, and began living with his mother in her Noblesville apartment. He smothered and strangled his Mother after she refused to go along with his plan to kill both of his Grandparents. Two weeks later, he lured his grandmother to the Noblesville apartment and strangled her to death. He took the keys to the Linwood residence from his grandmother. He drove to the Linwood residence, let himself in the

house, and waited for his grandfather to come out of his bedroom. When his grandfather came out, he hit him with a hammer and strangled him to death.

About a week later, Allen rented a car and transported the dismembered bodies of his mother and grandmother to the Linwood residence. With a rented jackhammer, Allen dug a hole through the Bradleys' basement floor into which he placed the three bodies and covered them with fresh concrete. Over the next month, Allen stayed in the Linwood residence and attempted to gain access to the Bradleys' bank accounts and lines of credit. Allen eventually decided to go to Las Vegas. He explained, "Once I felt like things were kinda-wrapped up and I got pretty much all the credit cards I could, had all the ATM cards. That was when I was ready to just get on out."

A search warrant for the Linwood residence was issued and the basement floor was excavated and trash bags were found containing the body of Leander and the dismembered bodies of Betty and Sharon Allen, Kenneth and Kari's mother. Family told investigators that Allen was angry with his grandfather because he would not give him money to fuel a gambling habit.

**Request for DP Filed:** DP (February 24, 2005); Amended Request for LWOP (January 8, 2010)

**Conviction:** Murder (3 Counts); Dismiss Conspiracy to Commit Murder (3 counts) and Robbery (2 Counts).  
Guilty Plea by Plea Agreement

**Sentencing:** February 5, 2010 (LWOP, 65 yr, 65 yr consecutive)

Accomplice Kari Allen, 18 at the time of the murders, was convicted of Conspiracy to Commit Murder (3 counts) and pursuant to a Plea Agreement was sentenced on April 9, 2010 to consecutive executed terms totaling 38 years imprisonment, with 20 years probation and 2 years community corrections upon release. (49G01-0502-MR-020629).

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**Interlocutory Appeal:** Allen v. State, 893 N.E.2d 1092 (Ind. App. September 24, 2008)

Affirmed 3-0 - Opinion by Crone; Kirsch, Vadik concur.

(Affirmed the trial court's denial of a motion to suppress evidence of three bodies found in the basement of his grandparents' home. The court found that defendant did not establish that he had a legitimate right to control and possess the house or an objective expectation of privacy. He was a trespasser. Any control and possession of the house exercised by defendant was obtained by illegal means, the alleged murder of the rightful owners. Any expectation of privacy he had was not one that society was prepared to recognize as reasonable.)

For Defendant: Monica Foster, Eric Koselke, Indianapolis, Indiana.

For State: Kelly A. Miklos, Deputy Attorney General (Carter)

**DIRECT APPEAL:** None.

**PCR:** 10/19/2010 PCR Petition filed (49G01-0502-PC-020627)

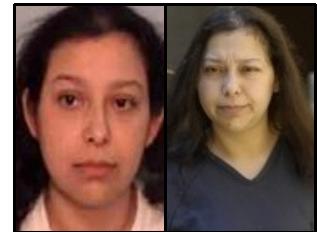
01/17/2013 Defendant Pro Se Files Motion to Withdraw PCR Petition Without Prejudice.

01/23/2013 Court Grants Motion, Court Orders PCR Petition Dismissed Without Prejudice.

**HABEAS:** None.

**ALVAREZ, ANGELICA SALAZAR**

DOB: 09/19/1979 Hispanic Female DOC# 153105  
Location: Indiana Women's Prison



Elkhart County Circuit Judge Terry Shewmaker  
**Trial Cause #:** 20C01-0611-MR-00008

**Defense:** Juan C Garcia

**Prosecutor:** Curtis T. Hill, Prosecuting Attorney, Vicki E. Becker, Deputy Prosecutor

**Date of Murders:** November 14, 2006

**Victims:** Jennifer Lopez H / F / 8, Gonzalo Lopez H / F / 6,  
Daniel Valdez H / M / 4, Jessica Valdez H / F / 2 (Children of Alvarez)

**Method of Murder:** Strangulation, Asphyxia

**Summary:** On November 14, 2006, an unconscious Alvarez was found by her husband Fernando Valdez in the basement of their home, near the bodies of their four small children, aged 2, 4, 6, and 8 years. As she later admitted at her guilty plea, Alvarez had decided to kill her four children, then commit suicide. The children were asleep after she had given them sleeping pills. One by one, she used her hands to strangle each child. She then wrote a note on the computer explaining that her husband was in the process of leaving her, she did not feel that she was capable of taking care of the four children alone, and that she believed the children would be better off in Heaven. She moved them to the basement, laid the bodies on the floor, then used an electrical cord to try to hang herself. When that did not work, she took an overdose of sleeping pills. When Valdez found her, she was unconscious with a faint pulse, but was later able to recover. Her mental health was a major concern in pretrial proceedings. According to her husband, and father of the two oldest children, Alvarez was very depressed after losing her job as a housekeeper and had been hospitalized for 12 days. Following a court-ordered evaluation she was found competent and entered a guilty plea accepting a sentence of Life Without Parole.

**Request for LWOP Filed:** September 5, 2007

**Conviction:** Murder (4 Counts); Guilty Plea by Plea Agreement

**Sentencing:** September 24, 2007 (LWOP, LWOP, LWOP, LWOP, concurrent)

**Aggravating Circumstances:** (b) (8) Multiple Murders  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**ANDERSON, COREY**

DOB: 06/13/1978 White Male DOC# 945315 Location: Pendleton Correctional Facility

Jasper County Circuit Judge E. Duane Daugherty

**Trial Cause #:** 37C01-9811-CF-023**Defense:** Jacob R. Taulman, Michael Riley, Donald W. Shelmon, Rensselaer, IN**Prosecutor:** Michael D. O'Neill, Jasper County Prosecuting Attorney**Date of Murder:** November 4, 1998**Victims:** Edward Poquette, W / M / 72, Irene Poquette, W / F / 69

(Acquaintance to Poquette's Grandson)

**Method of Murder:** Stabbing and slashing throat with knife

**Summary:** In the early morning hours of November 4, 1998, Anderson went to the home of Edward Poquette, 72, and his wife, Irene, 69, carrying a knife and with the intent to steal money and property. Once inside the apparently unlocked house, Anderson confronted Irene downstairs and during a struggle, stabbed her multiple times and slashed her throat. Heading up the stairs, Anderson came face to face with Edward Poquette, stabbed him repeatedly and slashed his throat. He left the bodies on the floor, then ransacked the home, stealing several thousand dollars in cash as well as numerous miscellaneous items he loaded into the white 1999 Lincoln four-door parked in the garage. Anderson drove the Lincoln to a pre-arranged spot in a cornfield about 10 miles away abandoned it, getting into a red 1988 Ford Escort that friends Christopher Biro and Sheena Anderson drove to the site. The three put the loot from the burglary into the Escort, then set the Lincoln on fire. Shortly before 10 am, a daughter of the Polettes called a neighbor concerned that she could not get in touch with her parents. The neighbor walked across the street, looked in a window, saw a body on the floor and called 9-1-1. Anderson immediately became a suspect since he had been convicted of breaking into the home as a juvenile, and received a suspended sentence three years earlier. He had been good friends with the Pouquette's grandson. Officers went to Anderson's trailer where he was taken into custody with his friend Biro. Anderson provided police with a detailed confession, including his assistance from Biro and Sheena Anderson.

**Request for DP Filed:** November 10, 1998**Conviction:** Murder (2 Counts); Dismiss Felony Murder, Theft, Auto Theft, Arson  
Guilty Plea by Plea Agreement**Sentencing:** February 28, 2000 (LWOP, LWOP)**Aggravating Circumstances:****Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** (37C01-1802-PC-000097)

Jasper County Circuit Court

Special Judge Russell D. Bailey

For Defendant: Joanna Green, Deputy Public Defender (Owens)

05-09-18, 05-31-18 State PD Notice of Present Inability to Investigate.

**HABEAS:** 01-24-02 Petition for Writ of Habeas Corpus filed.  
06-03-02 Response to Order to Show Cause by Respondent  
08-02-02 Memorandum and Order by Judge Allen Sharp denying habeas corpus petition.  
(No basis for relief)

## BAER, FREDRICK MICHAEL

OFF DEATH ROW SINCE JANUARY 11, 2018  
DOB: 10-19-1971 DOC#: 910135 White Male  
Location: Miami Correctional Facility

Madison County Superior Court #1 Judge Fredrick R. Spencer  
**Trial Cause #:** 48D01-0403-MR-062



**Prosecutor:** Rodney J. Cummings, David L. Puckett  
**Defense:** Jeffrey A. Lockwood, Bryan R. Williams

**Date of Murder:** February 25, 2004

**Method of Murder:** slashing throat with knife

**Victim(s):** Cory Clark W / F /26, Jenna Clark W / F / 4 (No relationship to Baer)

**Summary:** On the morning of February 25, 2004, in a rural residential neighborhood near Lapel High School, Cory Clark, age 24, stepped onto the porch of her home as the defendant drove by. He turned his vehicle around and drove back, stopped near her driveway, and got out. Cory and her 4 year old daughter Jenna were alone in their home near Lapel. Her 7 year old daughter was at school and her husband was outside the state. Later that day, they were found murdered in their home, Cory in a bedroom nude from the waist down, lying in a pool of blood with her throat lacerated, and Jenna in another bedroom with spinal injuries and a severely lacerated throat that nearly decapitated her. Cory's purse containing three to four hundred dollars was missing from the house. Baer admitted committing the murders. telling police that had entered the residence and used a knife to slit the throat of Cory Clark, then chased down four year old Jenna and slit her throat as well. He also had attempted to rape Cory before her death. Baer had been working at a nearby construction site that day, left work, committed the murders, then returned to the job. The apparent motive was to feed a drug habit and a deviate sexual appetite. There is no evidence that Cory and Jenna Clark were anything other than total strangers to the defendant.

**Trial:** Information/PC for Murder Filed (03-03-04); Amended Information and Death Sentence Request Filed (04-07-04); Recusal of Presiding Judge (12-16-04); Change of Venue Granted (01-31-05); Motion to Plead Guilty But Mentally Ill (02-28-05); Plea Rejected (03-01-05); Motion to Sever Unrelated Offenses Granted (04-04-05); Voir Dire in Huntington County (04-26-05, 04-27-05, 04-28-05); Amended Information Filed (05-02-05, 05-12-05); Jury Trial in Madison County (05-03-05, 05-04-05, 05-05-05, 05-10-05, 05-11-05, 05-12-05); Verdict (05-12-05); Amended Information Filed (05-17-05); DP Trial (05-19-05, 05-20-05); Verdict (05-20-05); Court Sentencing (06-09-05).

**Conviction:** Murder, Murder, Robbery (A Felony), Attempted Rape (A Felony), Theft (D Felony)

**Sentencing:** June 9, 2005 (Death Sentence - No sentence entered for Robbery, Attempted Rape, and Theft)

**Aggravating Circumstances:**

- b (1) Robbery
- b (1) Attempted Rape
- b (8) Two Murders
- b (9) On Parole
- b (12) Victim less than 12 years of age

**Mitigating Circumstances:** Mental illness, paranoid personality disorder, anxiety disorder  
Severe drug dependency  
Difficult childhood, family strife, drug use, toxic parenting  
Bad report cards, inattentive, impulsive  
Mother had chemotherapy, sister got killed

**Direct Appeal:** Baer v. State, 866 N.E.2d 752 (Ind. March 26, 2007) (48S00-0404-DP-181)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Affirmed 5-0; Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur  
For Defendant: Mark D. Maynard, Anderson  
For State: Andrew A. Kobe, Deputy Attorney General (S. Carter)  
Baer v. Indiana, 128 S.Ct. 1869 (2008) (Cert. denied)

**PCR:** PCR denied February 27, 2009 by Madison County Superior Court Judge Fredrick R. Spencer.

Baer v. State, 942 N.E.2d 80 (Ind. January 26, 2011) (48S00-0709-PD-362)  
(Appeal of PCR denial by Madison County Special Judge Thomas H. Newman Jr.)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Rucker, David concur.  
For Defendant: Joanna Green, Thomas C. Hinesley, Deputy Public Defenders (Owens)  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

**Habeas:** Baer v. Neal (1:11-cv-01168-SEB-TAB)  
U.S. District Court for the Southern District of Indiana (Indianapolis)  
Judge Sarah Evans Barker, Magistrate Tim A. Baker

08/29/2011 Motion for a Stay of Execution  
08/29/2011 Notice of Intent To File First Federal Habeas Petition  
11/29/2011 First Petition for Writ of Habeas Corpus filed  
02/16/2012 Entry - Granting Requests for First Interim Payment of Fees: Mr. Freedman is entitled to out of court compensation totaling \$10,697.80; Ms. Donnelly is entitled to out of court compensation totaling \$25,400.60.  
05/25/2012 Return to Order to Show Cause,  
10/29/2012 Traverse and Memorandum in Support of Petition for Writ of Habeas  
03/18/2013 Entry - Granting Requests for Second Interim Payment of Fees: Mr. Freedman is entitled to out of court compensation totaling \$7,654.00; Ms. Donnelly is entitled to out of court compensation totaling \$22,072.00.  
05/15/2014 Entry - Fredrick Michael Baer has filed a motion to waive all final appeals and a motion to withdraw the motion to waive all appeals.  
12/18/2014 ORDER - Petition for a Writ of Habeas Corpus DENIED.

Baer v. Wilson, 2014 U.S. Dist. LEXIS 174713 (S.D. Ind. December 18, 2014)  
United States District Court for the Southern District of Indiana, Indianapolis  
(1:11-cv-1168-SEB-TAB)  
Judge Sarah Evans Barker  
Baer's petition for a writ of habeas corpus must be DENIED.  
Opinion later vacated by Baer v. Neal, 879 F.3d 769 (7th Cir. January 11, 2018)  
For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.  
For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Wilson, 2015 U.S. Dist. LEXIS 197428 (S.D. Ind. December 22, 2015)  
United States District Court for the Southern District of Indiana, Indianapolis  
(1:11-cv-01168-SEB-TAB)  
Judge Sarah Evans Barker

Certificate of Appealability denied.

(The AEDPA forbids habeas relief on issues "adjudicated on the merits" in state court unless the state decision "was contrary to, or an unreasonable application of, clearly established Federal law" or "was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.")

For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.  
For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Neal, 879 F.3d 769 (7th Cir. January 11, 2018) (No. 15-1933)

Appeal from the United States District Court for the Southern District of Indiana  
(No. 1:11-cv-1168) Judge Sarah Evans Barker

(At the penalty phase, defendant's counsel failed to challenge crucial misleading jury instructions that modified Indiana's statutory mitigating factor and included a "voluntary intoxication" instruction and a pattern of prosecutorial misconduct that conflated the standards of a legal insanity defense and guilty but mentally ill, and the state court unreasonably applied Strickland in denying defendant relief. Counsel's deficiency resulted in a denial of due process, and the errors were sufficient to undermine confidence in the outcome of a defendant's penalty trial and so defendant was prejudiced. While defendant's offenses were despicable and his guilt was clear, he was entitled to a penalty trial untainted by constitutional error. Judgment reversed. Case remanded.)

Conviction Affirmed 3-0      DP Reversed 3-0

Opinion by: Williams; Bauer, Flaum concur.

For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.

For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Neal (7th Cir. Ind., Apr. 4, 2018) (Rehearing denied)

Neal v. Baer, 139 S. Ct. 595 (2018) (Cert. denied)

**On Remand:** On August 1, 2019, pursuant to a Sentencing Agreement, the State of Indiana withdrew its request for a death sentence on Counts 1 and II for murder; the Defendant admitted 5 aggravators charged, and Madison County Circuit Court #6 Judge Mark Dudley resentenced Baer to two consecutive terms of Life Without Parole. No sentences were entered for the other convictions on Count III: Robbery (Class A Felony), Count IV: Theft (Class D Felony), and Count V: Attempted Rape (Class A Felony).

For Defendant: Mark E. Kamish, Stacy R. Uliana.

For State: Madison County Prosecuting Attorney Rodney Cummings.

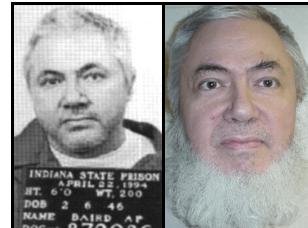
- ▶ BAER IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **BAIRD, ARTHUR PAUL, II # 49**

OFF DEATH ROW SINCE 08-29-05

DOB: 02-06-1946 DOC#: 872036 White Male

Location: Indiana State Prison



Montgomery County Circuit Court

Judge Thomas K. Milligan

**Trial Cause #:** CR85-66

**Prosecutor:** Wayne E. Steele, Peggy O. Lohorn

**Defense:** Harry A. Siamas

**Date of Murder:** September 6-7, 1985

**Victim(s):** Nadine Baird W / F / 32 (wife); Kathryn Baird W / F / 78 (mother);  
Arthur Paul Baird, I W / M / 68 (father)

**Method of Murder:** Manual strangulation (Nadine); Stabbing with knife (Katherine);  
Stabbing with knife (Arthur)

**Summary:** Baird strangled his wife on their bed in their trailer home in Darlington for no apparent reason. His wife was 6 months pregnant. He spent several hours watching TV and holding his wife's body. Early the following morning, he went to his parents' home nearby, and after feeding the chickens and getting a haircut from his Mom, he stabbed them both to death with a butcher knife. He left after loading up his belongings, and was arrested in Huntingburg, 2½ hours away, the next day. (insanity defense)

**Trial:** Information/PC for Murder filed (09-08-85); Amended Information for DP filed (09-10-85); Plea Agreement filed (10-07-86); Defendant demands Jury Trial (12-22-86); Voir Dire (02-04-87, 02-05-87, 02-06-87, 02-09-87, 02-10-87); Jury Trial (02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-17-87); Verdict (02-17-87); DP Trial (02-18-87); Verdict (02-19-87); Court Sentencing (03-13-87).

**Conviction:** Murder, Murder, Murder, Feticide (C Felony)

**Sentencing:** March 13, 1987 (Jury recommended death for the murder of his Mother and his Father, but against death for the murder of his wife. The Court sentenced Baird to 60 years for the Murder of Nadine Baird and 8 years for Feticide, to be served concurrently; Death for the Murder of Kathryn Baird and Death for the Murder of Arthur Paul Baird, I.)

**Aggravating Circumstances:** b(8) 3 murders

**Mitigating Circumstances:** extreme mental and emotional disturbance  
no criminal history  
active in church; person of good character  
employed; provided for family  
honorable discharge from military

**Direct Appeal:** Baird v. State, 604 N.E.2d 1170 (Ind. December 1, 1992) (54S00-8804-CR-428)

Conviction Affirmed 5-0 DP Affirmed 5-0

Debruler Opinion; Shepard, Givan, Dickson, Krahulik concur.

For Defendant: David P. Freund, M.E. Tuke, Deputy Public Defenders (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Baird v. Indiana, 114 S.Ct. 255 (1993) (Cert. denied)

**PCR:** PCR Petition filed 04-29-94.  
State's Answer filed 01-23-95.  
PCR Hearing 09-12-95.  
Special Judge Vincent F. Grogg.  
For Defendant: Jessie A. Cook, Mark Ernest  
For State: Joseph R. Buser  
PCR Petition denied 12-07-95.

Baird v. State, 688 N.E.2d 911 (Ind. 1997) (54S00-9304-PD-434)  
(Appeal of PCR denial by Special Judge Vincent F. Grogg)  
Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby, concur.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Baird v. Indiana, 119 S.Ct. 122 (1998) (Cert. denied)

Baird v. State, 831 N.E.2d 109 (Ind. July 19, 2005) (54S00-0505-SD-240)  
Motion for leave to file successive Petition for PCR. Motion denied.  
("Mentally ill" short of insanity when murders committed not a defense)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

Baird v. State, 833 N.E.2d 28 (Ind. August 25, 2005) (54S00-0505-SD-240)  
Motion for leave to file second successive Petition for PCR. Motion denied.  
(Showing of present incompetency insufficient)  
Shepard, Sullivan, Dickson concur; Boehm, Rucker dissent.  
Baird v. Indiana, 126 S.Ct. 312 (2005) (Cert. denied).

**Habeas:** 03-27-98 Petitioner files Notice of Intent to File Habeas.  
03-02-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Arthur Paul Baird, II v. Rondle Anderson, Superintendent (TH 98-70-C-M/F)  
Judge Larry J. McKinney  
For Defendant: Jessie A. Cook, Terre Haute  
For State: James D. Dimitri, Andrew L. Hedges, Geoffrey Slaughter, James B. Martin,  
Deputy Attorneys General (S. Carter)  
06-04-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-25-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-17-03 Writ of Habeas Corpus denied.

Baird v. Davis, 388 F.3d 1110 (7th Cir. November 12, 2004) (03-3170)  
(Appeal of denial of Writ of Habeas Corpus)  
Affirmed 2-1; Opinion by Circuit Judge Richard A. Posner.  
Judge Diane P. Wood concurs. Judge Kenneth F. Ripple Dissents.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: Steve Carter, Attorney General  
Baird v. Davis, 125 S.Ct. 953 (April 18, 2005) (Cert. denied)

**Clemency:** On August 29, 2005, Indiana Governor Mitch Daniels commuted the death sentence of Arthur Paul Baird to Life Imprisonment Without Parole. Baird had served on death row since March 13, 1987. Despite a recommendation against clemency by the Indiana Parole Board, Governor Daniels noted that Life Without Parole was not available at the time of Baird's trial, that Baird had initially accepted a plea agreement to a term of years before trial, and that the victim's family had no objections then or now. This marked only the third time since the reinstatement of the Death Penalty in Indiana in 1977 that an Indiana Governor had commuted a death sentence. On July 2, 2004 Governor Joseph Kernan commuted the death sentence of Darnell Williams to Life Imprisonment Without Parole. On January 7, 2005, outgoing Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels to Life Without Parole.  
[https://www.in.gov/governorhistory/mitchdaniels/files/EO\\_05-23\\_Clemency\\_Arthur\\_Baird\\_II.pdf](https://www.in.gov/governorhistory/mitchdaniels/files/EO_05-23_Clemency_Arthur_Baird_II.pdf)

- ▶ BAIRD IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE, AND 60 YEARS IMPRISONMENT FOR MURDERS.

**BAKER, MARK SHANE**

DOB: 12/20/1972 Black Male DOC# 184339 Location: Indiana State Prison

Fulton County Superior Court Judge Wayne E. Steele

**Trial Cause #:** 25D01-0510-MR-000234**Defense:** Gary S. Germann, Edward R. Ruiz**Prosecutor:** Richard Allen Brown, Fulton County Prosecuting Attorney**Date of Murder:** October 27, 2005**Victim:** Mustansar Chaudhry I / M / 69 (Employer)**Method of Murder:** Beating with hammer; Suffocation

**Summary:** Mark Shane Baker and his sometime girlfriend Newgent co-managed the Rose Dale Motel in Rochester, which was owned by Illinois resident Mustansar Chaudhry. Baker lived in an apartment at the hotel. On the morning of October 23, 2005, at approximately 10:00 am, Chaudhry visited the motel, apparently to discuss finances with Baker. A resident heard an angry, heated discussion between the two. At some later point Baker apparently collapsed into a seizure in one of the motel rooms. Chaudhry and Newgent assisted Baker upstairs and into the spare bedroom of his apartment. As they did so, Baker placed Chaudhry into a headlock, and the two dropped to the ground at the top of the stairway. At Baker's request, Newgent brought him a hammer. Baker then used full swings to hit Chaudhry in the head multiple times. Chaudhry fell down the stairs. Baker followed and continued to hit Chaudhry with the hammer. At Baker's request, Newgent brought him duct tape which Baker used to cover his mouth. He then ordered Chaudhry to the adjacent laundry room, where he taped his hands and feet.

Over the next few hours, Baker threatened Chaudhry to turn over his Credit cards, and ATM card, and Newgent and Baker attempted to clean Chaudhry's blood off of the walls and carpet, using bleach. In the morning, he forced him to write checks for \$500 and \$5,000 to Baker upon the promise of release. After Chaudhry wrote these checks, Baker hit Chaudhry in the head again with the hammer, then placed a pillow over his face and held it down. His body was moved by Baker and Newgent and was placed in the water softener tank in the garage.

Newgent, Baker, and others spent the next several days smoking crack at the Rose Dale Motel, where Chaudhry's body remained. On October 27, 2005, authorities investigating Chaudhry's disappearance spoke with Newgent, who ultimately indicated that Chaudhry's body was inside the motel.

Baker was previously convicted of murder in Cass County two decades earlier. In 1985, when he was 12 years old, Baker shot and killed his maternal grandmother, 61-year-old Myrtle M. Hilficker, at her Humphrey Street residence on Logansport's south side. Baker pleaded guilty in the Cass County Juvenile Court and was sentenced in April 1986 to the Indiana Department of Correction, where he remained incarcerated until his 21st birthday.

**Request for DP Filed:** January 13, 2006

**Conviction:** Count III: Criminal Confinement Resulting in Serious Bodily Injury as a Class B felony; Count IV: Robbery Resulting in Serious Bodily Injury as a Class A felony; Count V: Murder. Plea Agreement / Guilty Plea - September 28, 2007

**Sentencing:** November 1, 2007 (LWOP)

Accomplice Bianca Newgent, 21, was found guilty of Murder, Criminal Confinement and Assisting a Criminal following a jury trial in the Fulton County Superior Court and was sentenced by Judge Wayne E. Steele to a total term of 93 years imprisonment. (25D01-0510-MR-233) Her sentence was reduced to 65 years imprisonment on appeal. (Newgent v. State, 897 N.E.2d 520 (Ind. App. 2008)).

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**BARKER, CHARLES E. # 87**

OFF DEATH ROW SINCE 12-21-05

DOB: 01-19-1958 DOC#: 976850 White Male

Location: Miami Correctional Level 3 Facility

Marion County Superior Court Judge John R. Barney, Jr.

**Trial Cause #:** 49G05-9308-CF-095544

**Prosecutor:** Lawrence O. Sells, Brian G. Poindexter

**Defense:** Alex R. Voils, Jr., Carolyn W. Rader

**Date of Murder:** August 3, 1993

**Method of Murder:** shooting with handgun

**Victim(s):** Francis Benefiel W / M / 66; Helen Benefiel W / F / 65 (Grandparents of former girlfriend)

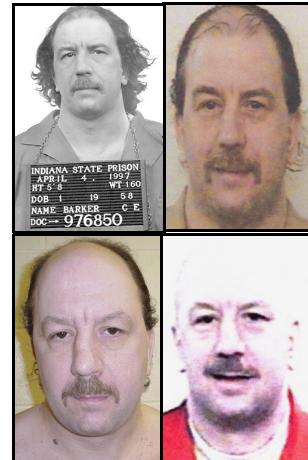
**Summary:** Barker's former girlfriend, Candice Benefiel, was staying with her grandparents, Francis and Helen Benefiel, in their home. Barker watched the home one night for several hours, then broke in and struggled with Candice. Francis came to her aid and jumped on Barker, who shrugged him aside and shot him through the heart. Barker then broke down a bathroom door and found Helen and the one year old child of Barker and Candice. Barker shot Helen in the head and took the child. He then forced Candice to leave with him, first to the home of his former wife, Deanna Barker, then to Tennessee, where he was later arrested. At trial, Barker claimed he just wanted to see his daughter, he shot Francis in self-defense and shot Helen accidentally.

**Trial:** Information/PC for Murder filed (08-04-93); Amended Information for DP filed (02-18-94); Voir Dire (06-17-96, 06-18-96, 06-19-96); Jury Trial (06-20-96, 06-21-96, 06-23-96, 06-24-96); Verdict (06-24-96); DP Trial (06-25-96, 06-26-96, 06-27-96); Verdict (06-27-96); Court Sentencing (11-26-96, 12-30-96).

**Conviction:** Murder, Murder, Kidnapping (A Felony), Confinement (B Felony), Burglary (B Felony), Burglary (B Felony), Carrying a Handgun (A Misdemeanor)

**Sentencing:** November 26, 1996 and December 30, 1996 (Death Sentence)  
50 years, 20 years, 20 years, 20 years, 1 year, all consecutive, 1210 days credit

**Aggravating Circumstances:** b (1) Burglary  
b (1) Kidnapping  
b (8) 2 murders



**Mitigating Circumstances:** brain damage; low IQ, 3rd grade reading level  
progressive neurological disease

**Direct Appeal:** Barker v. State, 695 N.E.2d 925 (Ind. June 12, 1998) (49S00-9411-DP-1107)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Boehm Opinion; Shepard, Dickson, Selby, Sullivan concur.  
(Failure to instruct on Life Without Parole / Improper admission of prior assaults on Candice)  
For Defendant: Susan D. Burke, Carolyn W. Rader, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**On Remand:** Marion Superior Court Judge Grant W. Hawkins granted Motion to Dismiss Death Penalty, declaring that the Indiana death penalty statute was unconstitutional in light of Apprendi v. New Jersey, since a jury was not required to make death finding.  
State v. Barker, 768 N.E.2d 425 (Ind. April 26, 2002) (49S00-0110-DP-461)  
Interlocutory appeal by State. Reversed and remanded for new sentencing phase trial.  
Per Curiam Opinion; Shepard, Dickson, Sullivan, Boehm, Rucker.  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Marion Superior Court Judge Grant W. Hawkins again granted Motion to Dismiss Death Penalty, declaring that the Indiana death penalty statute was unconstitutional in light of Ring v. Arizona, which requires that aggravators outweigh mitigators "beyond a reasonable doubt," which our statute does not require.

Barker v. State, 809 N.E.2d 312 (Ind. May 25, 2004) (49S00-0308-DP-392)  
Interlocutory appeal by State. Reversed and remanded for new sentencing phase trial.  
Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.  
(Rucker notes that Ring/Apprendi requires that weighing be "beyond a reasonable doubt", but would not declare statute unconstitutional. He would simply construe the statute to implicitly require such a standard.)  
For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

State v. Barker, 826 N.E.2d 648 (Ind. May 4, 2005) (On Rehearing)  
(Death penalty statute requiring court to impose sentence if jury is unable to agree on a sentence recommendation after reasonable deliberations does not violate STATE constitutional right to jury trial.)  
For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Opinion by Dickson; Shepard, Sullivan, Boehm concur. Rucker dissents.  
Barker v. Indiana, 126 S.Ct. 666 (2005) (Cert. denied)

On December 21, 2005 Barker entered a guilty plea to all charges in the Marion Superior Court and was sentenced by Judge Patricia Gifford to Life Without Parole on two counts of Murder. Consecutive sentences were given for Kidnapping (50 years), Confinement (20 years), Burglary (20 years), Burglary (20 years), and Carrying a Handgun Without a License (1 year).

- ▶ BARKER IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

**BASSETT, ROBERT J., JR.**

DOB: 10/06/1962 White Male DOC# 8725221 Location: Wabash Valley Level 4 Facility

Bartholomew County Superior Court Special Judge John A. Westhafer  
Trial Cause #: 03D01-0007-CF-835

**Defense:** Ross G. Thomas**Prosecutor:** Kathleen Burns, Chief Deputy Prosecuting Attorney**Date of Murder:** August 15, 1998

**Victims:** Jamie Engleking, W / F / 22; her two children: Jessica Brown, W / F / 2 and Brandon Engleking W / F / 1; and family friend, Amanda Davis W / F / 12. (Girlfriend and acquaintances of Bassett)

**Method of Murder:** Stabbing with knife

**Summary:** Four Jackson County residents disappeared August 15, 1998: Jamie Engleking (22), her two children Jessica Brown (2) and Brandon Engleking (1), and family friend, Amanda Davis (12). Two days later, Davis' mother reported the group missing to police. A month later, their remains were found in shallow graves near the White River. Police searched the area after a nearby resident told them he had seen Bassett drive his truck down a lane leading to the river. Two years later, Bassett was charged with 4 Counts of Murder, based largely upon circumstantial evidence.

Bassett was previously convicted of Child Molesting in 1990 and was sentenced to 8 years imprisonment. Bassett had molested the daughter of a woman he had dated. When the woman reported the molestation, Bassett returned to her home, allegedly raped her and threatened to kill her and her children. He was on parole for this crime at the time of the murders.

Jamie Engleking had developed an intimate relationship with Bassett. The two met through Jamie's husband, Brandon Engleking, who had served time in the same prison cellblock shortly before Bassett's release from prison. Any sexual relationship by Barrett was required to be reported by Bassett to his parole officer and may result in revocation. Nine days before the disappearances, medical records confirmed Jamie had taken Jessica to the doctor for examination because she believed Jessica had been molested. Investigators also found a discarded letter from Jamie's apartment informing "Bob" that she might be pregnant. Fibers found at the scene where the bodies were recovered matched seat fibers from Bassett's truck. A shovel found at Bassett's home had soil on it very similar to that near the river. The soil did not match any dirt near his home.

**Request for LWOP Filed:****Conviction:** Murder (4 Counts)**Sentencing:** June 21, 2006 (LWOP, LWOP, LWOP, LWOP)**Aggravating Circumstances:** (b)(8) 4 Murders

(b)(9)(D) On Parole

b (12) Victim less than 12 years of age

**Mitigating Circumstances:****DIRECT APPEAL:** Bassett v. State, 795 N.E.2d 1050 (Ind. September 17, 2003) (03S00-0110-CR-548)

Conviction Reversed 5-0 LWOP Reversed 5-0

Opinion by Dickson; Shepard, Sullivan, Boehm, and Rucker concur.

(Admitted testimony from former victims' husband that she had told him that Bassett raped her and threatened to kill her family if she told; admitted testimony of prior rapes committed by Bassett 12,16 years earlier. Reversible error.)

For Defendant: J. Michael Sauer, Deputy Public Defender (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (S.Carter)

**On Remand:** Venued to Dearborn County (15C01-0507-MR-001)

Following a jury trial (04-24-06 to 05-22-06), Bassett was again found guilty of Murder (4 Counts), and on June 21, 2006 was again sentenced by Special Judge John A. Westhaver to 4 terms of Life without Parole.

**Direct Appeal:** Bassett v. State, 895 N.E.2d 1201 (Ind. 2008) (15S00-0611-CR-474)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by: Sullivan; Shepard, Dickson, Boehm, and Rucker concur.

For Defendant: Joseph M. Cleary, Indianapolis

For State: Kelly A. Miklos, Deputy Attorney General (S. Carter)

**PCR:** None.

**HABEAS:** None.

## **BAUMGARDT, ANTHONY L.**

DOB: 10/17/1996 White Male DOC# 273346 Location: Indiana State Prison

Boone County Superior Court #2 Judge Bruce E. Petit

**Trial Cause #:** 06D02-1803-MR-000501



**Defense:** Brent L. Westerfeld, Allan Reid

**Prosecutor:** Kent Thomas Eastwood, Chief Deputy Prosecutor

**Date of Murder:** March 2, 2018

**Victim:** Boone County Deputy Sheriff Jacob Pickett W / M / 34 (No relationship to Baumgardt)

**Method of Murder:** shooting with .9mm handgun

**Summary:** Baumgardt was a passenger in a car with two other men that fled from police on the morning of March 2, 2018. When that car slowed after a ten minute vehicle chase, Baumgardt fled on foot. Deputy Jacob Pickett and his K-9 partner Brik gave chase. Baumgardt turned around, pulled out his .9mm handgun and shot the officer multiple times, causing his death. Baumgardt was also shot by other officers, but sustained only minor injuries. Baumgardt evaded the other officers for a short time before being apprehended by police. At the jail, he was found in possession of marijuana and methamphetamine. At his initial Hearing, Baumgardt said he felt no remorse and asked "If I were to seek it out on my own, would that change anything? You know, enter my guilty plea now and seek the death penalty?"

The handgun used by Baumgardt was illegally obtained and it resulted in the prosecution and conviction of Dawn Rochon for making false statements in the purchase of a firearm. United States v. Rochon, 799 F. Appx 421 (7th Cir. 2020)

**Request for DP Filed:** April 24, 2018

**Conviction:** Count I: Murder, Count II: Possession of Methamphetamine (Level 5 Felony), Count VI: Resisting Law Enforcement (Class A Misdemeanor). All other Counts dismissed.  
Guilty Plea by Plea Agreement

**Sentencing:** May 29, 2019 (LWOP, 6 years imprisonment, 365 days imprisonment, concurrent)

**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer  
**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **BELL, ROY E.**

DOB: 06/11/1987 White Male DOC# 221837 Location: Indiana State Prison



Fulton County Superior Court Judge Wayne E. Steele

Trial Cause #: 25D01-1111-MR-755

**Defense:** Eric Koselke, Edward R. Ruiz

**Prosecutor:** Richard Allen Brown, Fulton County Prosecuting Attorney

**Date of Murder:** November 22, 2011

**Victim:** Wilma Upsall W / M / 81 (No relation to Bell)

**Method of Murder:** Shooting with Handgun

**Summary:** On November 22, 2011, Timothy and Deborah Richardson returned home from work to discover the lifeless body of Deborah's 81 year old mother, Wilma Upsall, who had lived with the couple for only a few months. Upsall was bound to a chair with a towel and telephone cord. She died from multiple gunshot wounds. The bedroom had been ransacked. Guns and a jewelry box was missing. The remainder of the house was largely undisturbed. Apparently, entry to the home had been gained by using a rock to smash a sliding glass door that opened onto the patio. Cohorts William Scroggs, Jason Miller, and Roy Bell quickly emerged as persons of interest.

Indiana State Police conducted surveillance on a home where they believed the men could be found. When three men left the house, they followed and eventually tried to stop the vehicle for a traffic violation. The men led police on a high speed chase through multiple counties. Eventually, the vehicle crashed in a ditch. Miller was arrested and Bell and Scroggs fled. Along the path of the chase and at the crash site police recovered a bag of jewelry, an extension cord, and several firearms, all taken from the Richardson home.

Two days after the murder, State Police executed a search warrant for the home the three men had been observed leaving. Michelle Rzepczynski lived there with her parents and kids. Rzepczynski had dated Bell's father and considered Bell one of her own children. Rzepczynski told police that Bell had come to the house in the early morning hours of November 23 and told her, "I've been here with you all f\*\*\*in' day; and if you say anything different, I'll kill you." When Rzepczynski pressed Bell to tell her what was wrong, he said, "I just f\*\*\*in' murdered someone, okay, bitch?" "I put two (2) clips in that bitch." Rzepczynski said Bell told her he killed Upsall because his mask came off while he was carrying items and Upsall recognized him. DNA testing of a later recovered homemade black mask revealed "Mr. Scroggs and Mr. Bell could not be excluded as having deposited the DNA on the mask."

After waiving his Miranda rights Bell gave a statement to the police, admitting to committing the burglary at the Richardson house and taking some guns, and admitted to tying up the woman, but claimed that he did not kill her.

On May 21, 2013, Bell and the State filed a document titled "Trial Stipulation and Agreement and Sentencing Agreement." In essence and in pertinent part the agreement provided that the State would withdraw its request for the death penalty and instead request a sentence of life without parole; Bell would agree to waive trial by jury; he also agreed that if convicted of murder he would receive a sentence of life without parole.

**Request for DP Filed:** March 14, 2012

**Conviction:** Count I: Murder, Count II: Murder, Count III: Murder, Court IV: Burglary (Class A Felony), Count V: Robbery (Class A Felony), and Count VI, Confinement (Class D Felony).  
Bench Trial by Agreement - August 28, 2013 - Guilty all Counts.

**Sentencing:** September 16, 2013 (LWOP on Count I: Murder, 20 years imprisonment on Count IV: Burglary (Class A Felony) , 8 years imprisonment on Count V: Robbery (Class A Felony) , all consecutive.

Accomplice William Scroggs pled guilty to Murder and Burglary (Class B Felony) and on March 31, 2015 was sentenced pursuant to a Plea Agreement to concurrent terms of 60 years and 20 years imprisonment in 25D01-1111-MR-000753. Accomplice Jason Miller pled guilty to Murder, Burglary (Class B Felony), and Confinement (Class D Felony), and on June 6, 2014 was sentenced pursuant to a Plea Agreement to consecutive terms of 55 years, 12 years, and 3 years imprisonment in 25D01-1111-MR-000753.

**Aggravating Circumstances:**  
b (1) Burglary  
b (1) Robbery  
b (13) Confinement

**Mitigating Circumstances:**

**DIRECT APPEAL:** Bell v. State, 31 N.E.3d 495 (Ind. May 20, 2015)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Rucker; Rush, Dickson, David, Massa concur.  
For Defendant: Edward R. Ruiz, Plymouth, Eric K. Koselke, Indianapolis  
For State: Ian McLean, Deputy Attorney General (Zoeller)

**PCR:** None.

**HABEAS:** None.

**BLAIZE, AUSTIN T.**

DOB: 05/26/1989 White Male DOC# 252565 Location: Pendleton Correctional Facility

Gibson County Circuit Court Judge Jeffrey F. Meade

Trial Cause #: 26C01-1301-MR-00001



**Defense:** Ivan Arnaez

**Prosecutor:** Robert D. Krieg, Prosecuting Attorney, Sharon Werne, Chief Deputy Prosecutor

**Date of Murder:** January 16, 2013

**Victim:** Terry Monier W / M / 47 (Father of Bell's ex-girlfriend)

**Method of Murder:** shooting with .25 handgun

**Summary:** Austin Blaize and Brittany Monier began dating in 2010 when she was 17 and he was 20. Their contentious and at times violent relationship produced two children, a daughter born in 2011 and a son born in 2012. A mostly unemployed Blaize failed to support his children. Instead his parents and Brittany's parents filled the void. In May 2012, ending the relationship and declining Blaize's marriage proposal, Brittany moved in with her father, Terry Monier. One of Terry's conditions on Brittany living at his house was that Blaize was not allowed to visit. And Brittany told Blaize not to come to Terry's house. According to Brittany, Blaize "went crazy" when she ended the relationship and told her that if she dated anyone else he would kill her, their children, and the person she was dating, adding, "if I can't have you, no one else can."

Seven months later, Blaize called Brittany and told her he had a new job and asked her if she would move back with him. Brittany declined, again telling Blaize their relationship was over. By this time, Brittany was in the early stages of a relationship with Josh Webb who was visiting her daily and in fact was visiting at the time Blaize called. Blaize and Webb had a brief conversation, with Blaize telling Webb they would meet "mano to mano."

Brittany later followed Webb into the attached garage where he intended to smoke a cigarette. When the light was turned on they saw Blaize standing there in a dark-colored hoodie. Following a brief exchange between Blaize and Webb, Blaize pointed a handgun at Webb's head and pulled the trigger. The handgun clicked but it did not discharge, and Blaize looked at it, exclaiming, "What the hell?" Webb ran back into the house, and hearing screams Terry, who was home at the time, ran towards the garage door. Terry and Blaize struggled over the weapon as Terry tried to keep Blaize out of the house. Blaize then fired two shots, killing Terry. An autopsy would later reveal that Terry suffered "two gunshot wounds, one to the back of the head behind his left ear and the other to the left side of his chest." "They were both fatal wounds."

The testimony at trial showed, among other things, two eyewitnesses to Blaize shooting the victim; a witness who saw Webb run into a house, panicked and stating that Blaize had shot the victim; a witness who saw Blaize walk by the window in a hoodie that was later recovered; a witness that gave testimony about a handgun Blaize possessed and the testimony of Blaize's grandfather that one of his handguns was missing, and an exhibit showing a white pickup truck, belonging to Blaize's grandfather driving through the area the night of the shooting.

**Request for LWOP Filed:** May 14, 2013

**Conviction:** Count I: Murder, Count II: Attempted Murder (Class A Felony), Count IV: Burglary (Class A Felony), Count V: Intimidation (Class C Felony), Count VI: Pointing a Firearm, and Count VII: Carrying a Handgun Without License (Class A Misdemeanor).

Jury Trial - August 19 to August 28, 2014 - Guilty all Counts.

LWOP Trial - August 28, 2014 - Recommend LWOP

**Sentencing:** October 2, 2014 (LWOP, 50 years, 20 years, 8years, 3 years, 1 year)

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:**

**DIRECT APPEAL:** Blaize v. State, 51 N.E.3d 97 (Ind. March 1, 2016)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Rucker; Rush, Dickson, David, Massa concur.

For Defendant: Ivan A. Arnaez, Evansville

For State: James B. Martin, Deputy Attorney General, Indianapolis (Zoeller)

Blaize v. Indiana, 137 S. Ct. 85 (2016) (Cert. denied)

**PCR:** None.

**HABEAS:** None.

**BLOUNT, CARL LE'ELLIS**

DOB: 07/29/1988 Black Male DOC# 263002 Location: Indiana State Prison



Lake County Superior Court, Criminal Division 4 Judge Samuel L. Cappas  
**Trial Cause #:** 45G04-1407-MR-00006

**Defense:** Richard Wolter, Robert Varga, Thomas Vanes**Prosecutor:** David Urbanski, Aleksandra Dimitrijevic, and Michael Toth, Deputy Prosecutors**Date of Murder:** July 6, 2014**Victim:** Gary Patrolman Jeffrey Westerfield W / M / 47 (No relationship)**Method of Murder:** Shooting with handgun

**Summary:** Gary Patrolman Jeffrey Westerfield was responding to a call of a shot fired during a domestic dispute where Blount was in a fight with his girlfriend. Blount shot Officer Westerfield as he sat in his squad car with the lights on and the engine running. The officer, who would have turned 47 years old that day, never even pulled his weapon before he was shot in the head. Blount would say later that he had an outstanding arrest warrant in Porter County and did not want to be arrested. Blount was already on probation for a domestic assault on a girlfriend and kicking an officer in Porter County last year. He was not arrested at the scene, and admitted very little when he was arrested.

**Request for DP Filed:** September 16, 2014**Conviction:** Count I: Murder.

Stipulated Plea Agreement filed 01-09-17, Request for LWOP filed.

**Sentencing:** February 8, 2017 (LWOP; Carrying a Handgun without License, Battery, and Theft dismissed)**Aggravating Circumstances:** (b) (6) Victim was Law Enforcement Officer  
(b) (9) On Probation**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** 09-28-18 Petition for Post-Conviction Relief filed.Carl Le' Ellis Blount vs. State of Indiana (45G04-1802-PC-000001)

Magistrate Natalie Bokota

(Alleging that prosecutors had threatened him with the filing of other charges unless he pled guilty)

Petitioner files Pro-Se Motion to Withdraw

04-18-19 Petition for Post-Conviction Relief is Dismissed Without Prejudice.

**HABEAS:** None.

**BRANUM, RICHARD A.**

DOB: 09/02/1975 White Male DOC# 106718 Location: Wabash Valley Level 4 Facility

Gibson County Circuit Court Judge Walter H. Palmer

**Trial Cause #:** 26C01-0002-CF-0007**Defense:** Timothy R. Dodd, John C. Hicks**Prosecutor:** George J. Ankenbrand, Prosecuting Attorney, Sharon H. Werne, Deputy Prosecutor**Date of Murder:** February 28, 2000**Victim:** Oakland City Police Officer Michael E. Deno W / M / 24 (No relationship to Branum)**Method of Murder:** shooting with .25 handgun**Summary:** On February 28, 2000 at 3:00 pm, Oakland City Police Officer Michael Deno made a traffic stop on Jackson Street, across the street from his mother's house. The driver was pulled over suspected of driving with a suspended license. An eyewitness watched as Officer Deno walked towards the pickup truck he had stopped, then buckle and go down after Branum pulled a .25 caliber handgun from his rear pocket and shot him in the head at near-point-blank range. Branum fled the scene immediately after the shooting, but was taken into custody about an hour after the incident.**Request for DP Filed:** March 30, 2000**Conviction:** Count I: Murder, Count II: Dealing in Schedule I Controlled Substance (Class B Felony), Count III: Possession of Marijuana (Class A Misdemeanor) - Fixed Plea Agreement filed 09-14-00**Sentencing:** December 12, 2000 (LWOP, 20 years, 1 year, concurrent)**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer**Mitigating Circumstances:** None.**DIRECT APPEAL:** None.**PCR:** Petition for Post-Conviction Relief filed 12-21-01. (26C01-0112-PC-0002 / 26C01-0002-PC-0002)  
No activity.**HABEAS:** None.**BRITT, EUGENE VICTOR**

DOB: 11/04/1957 Black Male DOC# 963641 Location: Indiana State Prison

Porter County Superior Court Judge Thomas Webber

**Trial Cause #:** 64D02-9511-CF-156**Defense:****Prosecutor:** James Douglas, Prosecuting Attorney**Date of Murder:** August 22, 1995**Victim:** Sarah Lynn Paulsen W / F / 8 (No relationship)

**Method of Murder:** Strangulation

**Summary:** On August 22, 1995 it was a warm summer morning when 8 year old Sarah Paulsen took off on her bike to find some frogs. The next day she was going to start second grade in Portage. Sarah didn't come home from the bike ride that morning. A neighbor walking her dog not far from the Paulsen's home found the little girl face down in the woods. She had been sexually assaulted and strangled to death.

At the time of the slaying, Britt was an employee at a local Hardee's restaurant. Witnesses told police they saw a large man riding a bicycle near the crime scene, but that was just one of many leads police had. A Hardee's security guard made the crucial connection that broke the case. He realized he had sent Britt home on his bicycle near the time the girl was killed, and police were called. A background check on Britt showed a prior rape conviction and police focused on him as a suspect. Scientific testing of Britt's Hardee's uniform confirmed a match with fibers recovered from the victim.

On November 7, 1995, Britt reportedly told police he wanted to confess. Victim by victim, Britt gave details of several murders and sexual assaults. Using his information, police were able to go out the next day and find a human skeleton hidden in brush. Three weeks later, they found another. Britt said he did most of the killing by surprising people from behind. He then described the killing of Sarah Paulsen, saying he was riding his bike and he saw her, and said "hello." She told him she was "looking for frogs." He laid his bike down and grabbed her and took her back into the woods. He told her "Don't say anything," but "this baby screamed," so he killed her.

For over eight hours, Britt, described a murder spree across Northern Indiana that lasted from May to September, detailing 10 murders and numerous rapes and sexual assaults. In almost every case, he would attack the victim, usually a woman or child, from behind, overpower them with his 6'1" 240 lb. frame, and drag them into a wooded or brush area nearby.

Britt's competency was a critical issue, as was the question of mental retardation, which would automatically make him not eligible for a death sentence.

**Conviction:** Count I: Murder, Count II: Criminal Deviate Conduct (Class A Felony) (2 Counts)  
Guilty But Mentally Ill Plea

**Sentencing:** May 23, 1996 (LWOP, 50 years, 50 years, consecutive)

Based for the most part on his confessions, Britt was later convicted in Lake County of Murder (4 Counts), and Rape (Class A Felony) and was sentenced by Lake County Criminal Court Judge Salvador Vasquez in 2006 to consecutive terms totaling 245 years imprisonment. At his sentencing, Britt burst into tears, expressing remorse for what he had done and asking for forgiveness from the victims family. (45G01-0505-MR-00005, 45G01-0505-MR-00006, 45G01-0505-MR-00007, 45G01-0505-MR-00008, 45G01-0505-MR-00009, 45G01-0505- FA-00025)

Britt was previously convicted of Rape (Class A Felony) in 1978 in Lake County and was sentenced to 30 years imprisonment, and was released in 1993. (3CR-87-578-395)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age

**Mitigating Circumstances:** None.

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**BROWN, JOSEPH WELDON**

DOB: 11/24/1954 White Male DOC# 112295 Location: Indiana State Prison



Vanderburgh County Circuit Court Judge Carl A. Heldt  
Trial Cause #: 82C01-0009-CF-01003

**Defense:** Barbara Coyle Williams, Barry L. Standley, John Andrew Goodridge  
**Prosecutor:** Stanley M. Levco, Prosecuting Attorney

**Date of Murder:** August 29, 2000

**Victim:** Ginger Gasaway W / F / 53 (Ex-girlfriend)

**Method of Murder:** Strangulation with shoelace

**Summary:** Ginger Gasaway met Brown at a Gambler's Anonymous meeting, and she became an intimate girlfriend of Brown. She had broken off the relationship and demanded the return of her car. At some point, she started dating her ex-husband. This infuriated Brown, who talked his way into her apartment and strangled her with a shoelace. He then went to a nearby Home Depot in Evansville to buy an electric saw. He unsuccessfully tried to dismember his victim's body, so he returned to the hardware store looking for advice, this time he was covered in blood. He told the clerk he was trying to cut up a deer and the saw he bought wasn't cutting it. With a new blade in hand, Brown returned to Gasaway's apartment to finish his work, then scattered the pieces at various locations in Posey, Gibson and Warrick counties.

Brown claimed to be a serial killer of more than 13 women, few of which could be verified. He had been convicted in 1977 in Gibson County of Kidnapping and Robbery resulting in a term of Life Imprisonment. (#CR77-53) While incarcerated, he was convicted of Felony Battery upon another inmate and received a 5 year term of imprisonment in 1980. (#14370) He was released in 1995 after serving 18 years. After returning to the Indiana Department of Corrections with a sentence of Life Without Parole in 2001, he was convicted of the murder of another inmate, Charles Miller, in Miami Correctional Facility and was sentenced to an additional 75 years imprisonment for Murder and Confinement in Miami Circuit Court. (#52C01-1106-MR-00002)

"Blood Trail, The Hunt for a Serial Killer," by Rick Reed (Former Evansville Homicide Detective) and Steve Walker (2012).

**Request for DP Filed:** September 18, 2000

**Conviction:** Murder  
Guilty Plea Without Plea Agreement, LWOP Trial

**Sentencing:** September 4, 2001 (LWOP) (Defendant waives appeal)

**Aggravating Circumstances:****Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**BROWN, LEVOHN HARRISON**

DOB: 02/01/1973 White Male DOC# 116470 Location: Wabash Valley Level 4 Facility

Huntington County Circuit Court Judge Mark A. McIntosh

**Trial Cause #:** 35C01-0002-CF-00008**Defense:** Robert Lee Lewis, Paul Jeffrey Schlesinger**Prosecutor:** Amy Christine Richison, Chief Deputy Prosecutor**Date of Murder:** February 4-11, 2000**Victim:** McKenzie Brown W / F / 3 (Daughter)**Method of Murder:** Beatings with paddle

**Summary:** Throughout the day on Friday, February 4, 2000, LeVohn Brown disciplined his three-year-old daughter, McKenzie by striking her repeatedly with a wooden paddle. Blows were administered to the middle of her back, her lower back and her bottom. Brown also struck McKenzie across the face with his hand and knocked on her head as one would knock on a door. When McKenzie did not respond in any way to this punishment, Brown became increasingly upset. That evening, when Brown struck McKenzie on the back of the head with the paddle, she fell to the floor and Brown yelled at her to get up and stop crying. The next day, after another blow, McKenzie's eyes failed to focus, her left side became numb, and she could neither walk nor control her bodily functions. Brown continued to beat McKenzie throughout the weekend, but left town on Monday, February 7th. When Brown returned on Thursday, February 10th, the violence resumed. Brown repeatedly struck McKenzie and let her fall when she was unable to stand. Throughout these events, Brown did not contact anyone regarding McKenzie's medical condition, but during the investigation told police that he thought she seemed "fine." McKenzie died on Friday, February 11, 2000.

**Request for LWOP Filed:** June 7, 2000**Conviction:** Murder

Jury Trial - LWOP Trial

**Sentencing:** July 5, 2002 (LWOP)**Aggravating Circumstances:** b (12) Victim less than 12 years of age**Mitigating Circumstances:** Honorable discharge from the military and lack of criminal history

The wife of Defendant Levohn Brown, April M. Brown, was tried by a jury and convicted of Aiding in Murder and Neglect of a Dependent Resulting in Serious Bodily Injury (Class B Felony) for failure to assist or seek medical attention for the child. On October 9, 2000 she was sentenced to consecutive terms of 65 years and 20 years. The conviction for Aiding in Murder was reversed on appeal and remanded for a new trial on that charge. Brown v. State, 770 N.E.2d 275 (Ind. June 17, 2002). On remand a plea agreement was entered and she pled guilty and was resentenced on January 2, 2003 to 50 years imprisonment, concurrent with the 20 years already serving.

**DIRECT APPEAL:** Brown v. State, 799 N.E.2d 1064 (Ind. December 10, 2003) (35S00-0107-CR-324)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Boehm; Shepard, Dickson, Sullivan and Rucker concur.

For Defendant: Gregory L. Lewis, Deputy Public Defender (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (S.Carter)

**PCR:** Brown v. State of Indiana (35C01-0410-PC-00003)  
10/25/2004 Petitioner, Levohn H. Brown, files Verified Petition for Post Conviction Relief.  
01/08/2004 State files Answer and Response to Verified Petition for Post Conviction Relief.  
For Defendant: Eric K. Koselke, Victoria L. Bailey  
02/26/2008 State by Deputy Prosecutor Andrew Kobe, files Motion to Set Hearing and Have Cause Submitted Upon Affidavit. Court enters Order to Submit Evidence by Affidavit  
03/11/2008 Petitioner, pro se, files Motion to Withdraw Petition For PCR Without Prejudice.  
Granted. Thomas M. Hakes, Judge

Brown v. State of Indiana (35C01-1806-PC-000006)  
For Defendant: Robert Lee Lewis, Paul Jeffrey Schlesinger  
06/29/2018 Petition for Post-Conviction Relief Filed  
06/29/2018 Answer Filed  
06/29/2018 Motion to Set Hearing and Have Cause Submitted Upon Affidavit  
05/14/2019 Judge Davin G. Smith - The Court notes on the record of multiple extenuating circumstances which prevented the Petitioner's physical and/or telephonic presence for today's hearing. Hearing on Petition for Post-Conviction Relief held. Testimony and evidence presented.  
07/19/2019 Proposed Findings of Fact and Conclusions by Defendant  
07/22/2019 Proposed Findings of Fact and Conclusions by State  
08/26/2019 Order Denying Petition for Post Conviction Relief

Brown v. State, 144 N.E.3d 213 (Ind. App. February 19, 2020) (Case No. 19A-PC-2189 2020)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Bradford; Robb and Altice concur.  
For Defendant: P. Jeffrey Schlesinger, Merrillville  
For State: Tyler G. Banks, Deputy Attorney General (Hill)  
Brown v. State, 149 N.E.3d 603 (Ind. 2020) (Trans. denied)

**HABEAS:** Brown v. Warden (N.D. Ind. May 21, 2021) (1:21-CV-201-HAB-SLC)  
May 21, 2021 - Petition for Writ of Habeas Corpus is summarily denied as untimely. A Certificate of Appealability is denied.  
Brown v. Finnan (S.D. Ind. June 6, 2011) (1:11-cv-413-JMS-MJD)  
June 6, 2011 - Petition for Writ of Habeas Corpus is summarily denied.

## **BURNS, CHRISTOPHER A.**

DOB: 01/03/1982 White Male DOC# 117063 Location: Wabash Valley Level 3 Facility

Delaware County Circuit Court Judge Richard Dailey  
Trial Cause #: 18C02-0102-CF-13



**Defense:** Mark Dewayne Maynard, Alan Kent Wilson, Linda Jo Clark Dague  
**Prosecutor:** Richard W. Reed, Prosecuting Attorney, Diane Frye, Deputy Prosecutor

**Date of Murder:** February 13, 2001

**Victim:** Tammie Craycraft Smith W / F / 30 (Ex-girlfriend)

**Method of Murder:** Stabbing with knife x32

**Summary:** On February 13, 2001 Tammiey Craycraft Smith was found dead in her Muncie Apartment. Her body was discovered by her Mother and her Aunt who had gone to the apartment to find out why she did not show up for work and would not answer her telephone. She had been stabbed 32 times and had been tied up before the stabbing. Cash and cards were taken, and her car and keys were missing.

Christopher Burns (19) used to work in the same restaurant alongside Tammie. The two had dated briefly, but the couple soon decided to part ways as friends. While investigating the murder, the police got a call from Christopher's mother, who said that her son had left town with Christy R. Shinnock Williams (22), who was his current girlfriend.

Tammie's stolen credit/debit cards showed activity in Phoenix, AZ, where police arrested Burns and Williams in possession of the cards and Tammie's vehicle. Burns told Arizona authorities that Christy was jealous of his ex-girlfriend and did not like it that Burns was still friends with her. Burns claimed that Christy had been persuading him for a long time to murder her. He also claimed that they had attempted to murder Tammie previously, but he had a change of heart at the very last minute. He backed out and had to bear the brunt of Christy's insults and abuses for not going through with the murder. Burns also told investigators that though Christy put him up to the murder, he enjoyed reading books on serial killers and that he had killed Tammie in as gruesome and bloody a manner as possible. He told them he wanted to shock the town. In his own words, he hoped to "set Muncie off." On the other hand, Christy claimed that she had no idea about the murder, and she thought that Burns was just going to rob Tammie.

The police discovered letters written by Williams (supposedly to herself) which had stated her hope that Burns would go through with the murder this time. "Hopefully, he'll go through with it so the stupid b\*\*\*\* will be dead, and we'll have each other, just the two of us," she wrote the day before Tammie died.

**Request for DP Filed:** April 23, 2001

**Conviction:** Count I: Murder; All other Counts dismissed - Count II: Conspiracy to Commit Robbery Resulting in Serious Bodily Injury, Count III: Auto Theft, Count IV: Theft.  
Guilty Plea - Plea Agreement

**Sentencing:** August 2, 2001 (LWOP)

Accomplice Christy R. Shinnock Williams was charged and convicted of Murder in the Delaware County Circuit Court #2 (18C02-0102-CF-000014), and on January 11, 2002 was sentenced pursuant to a plea agreement to 65 years imprisonment by Judge Richard Dailey.

**Aggravating Circumstances:** (b) (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** Case Nos. 18C03-1312-PC-000003 / 18C03-1208-MR-01  
12/20/2013: Petition for Post-Conviction Relief filed pro-se.  
All entries from this date forward to be recorded under 18C03-1208-MR-01 which is a transfer from 18C02-0102-CF-13.  
12/30/2013 State of Indiana's Answer filed.  
02/12/2014 Appearance filed by Kathleen Cleary, Deputy State Public Defender;  
Notice of Present Inability to Investigate filed.

**HABEAS:** None.

**CAIN, CRAIG**

DOB: 06/11/1984 White Male DOC# 120057 Location: Wabash Valley Long Term Segregation

Grant County Superior Court Judge Thomas R. Hunt

**Trial Cause #:** 27D02-0301-MR-000003

**Defense:** Joe Keith Lewis, David Stebbins

**Prosecutor:** James David Luttrull, Jr., Prosecuting Attorney, Bill Heck

**Date of Murder:** January 5, 2003

**Victim:** Karen Sue Toy W / F / 57 (No relationship to Cain)

**Method of Murder:** Stabbing with knife x20

**Summary:** The body of 57 year old Karen Sue Toy was found in her home on a Sunday night on January 5, 2004. Her body had more than 20 stabbing and slashing wounds to her face, neck, and torso. She had just moved to her new home the day before. There was no forced entry into the home and no strangers in the area. She had been killed by 19 year olds Craig Cain and Amanda Clark at the direction of her own granddaughter, Talia L. Riddle (13), who lived with her at that address. Talia had become upset with the discipline and rules set by her Grandmother, so she recruited two of her friends to kill her. She promised Cain the \$150 in her purse and told Cain that she was mad at her and wanted her dead.

Accomplice Talia L. Riddle was charged as an adult and pled guilty to Conspiracy to Murder (Class A Felony) pursuant to a Plea Agreement, and was sentenced by Grant County Judge Randall Johnson to a 30 year term of imprisonment. She also agreed to testify truthfully against Craig Cain. Riddle said during her plea hearing that on the day of her grandmother's death, she told Cain she was mad at her grandmother and wanted her to die. (27D02-0307-MR-76)

Accomplice Amanda J. Clark was sentenced on October 6, 2003 to a total term of 10 years imprisonment following her guilty plea to Theft (Class D Felony) and Assisting a Criminal (Class C Flony). (27D02-0301-FA-10 / 27D03-0211-FD-1042).

**Request for DP Filed:** June 11, 2003

**Conviction:** Count I: Murder, Count II: Conspiracy to Murder (Class A Felony), Count III: Armed Robbery (Class A Felony) Guilty Plea by Plea Agreement 09/21/04

**Sentencing:** October 18, 2004  
(LWOP, 50 years, 50 years)

**Aggravating Circumstances:** b (4) Hired to Kill

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**CAIN, JEFFERY W.**

DOB: 12/28/1957 White Male DOC# 209906 Location: Indiana State Prison

Dekalb County Superior Court Judge Kevin P. Wallace  
**Trial Cause #:** 17D01-0905-MR-1

**Defense:** Adam Christopher Squiller, Robert James Hardy  
**Prosecutor:** Clara Mary Winebrenner, Prosecuting Attorney

**Date of Murder:** May 15, 2009

**Victim:** Raymond Edward Morrow W / M / 63 (No relationship to Cain)

**Method of Murder:** Shooting with .44 handgun

**Summary:** In early May 2009, Cain was unemployed and living in Florida when he met Matthu Sanders. Sanders convinced Cain that there were job opportunities in Indiana, and the two of them traveled by motorcycle to Orland, Indiana. Cain and Sanders stayed at the mobile home of Matthew Nelson, a long-time family friend of Sanders. Cain was also introduced by Sanders to a childhood friend, Clinton Daniel Hess. Hess had a long-standing dispute with one Raymond Morrow, to whom Hess owed \$4000. Morrow owned and operated a flea market in DeKalb County.

On the afternoon of May 15, 2009, Morrow was found dead in his flea market. He had been shot three times: once in the back, once in the chest, and once in the head. Morrow's wallet had been taken, along with several money bags from the cash drawer and some collectible coins. A Ruger Super Red Hawk and a Meriden revolver were missing from a display, as was a 9mm pistol that Morrow was known to carry in a holster on his hip.

Three days later, an unrelated controlled buy of methamphetamine from Sanders took place at Nelson's trailer. A subsequent search warrant recovered two handguns, a .44 revolver which ballistics confirmed was the murder weapon, and the Ruger Super Red Hawk stolen from the Flea Market. Subsequent interviews with Sanders, Nelson, Hess, and others implicated Cain as Morrow's murderer. Cain fled to Florida, and upon arrest confessed to killing Morrow and robbing the flea market.

Accomplice Clint Daniel Hess pled guilty to a reduced charge of Assisting a Criminal (Class C felony) in exchange for dropping a pending charge of Murder, with a maximum 4 year sentence and a requirement to testify truthfully. In the Dekalb Superior Court #2 (17D02-0905-MR-00003).

Accomplice Matthu Sanders pled guilty to Robbery Resulting in SBI (Class A Felony) and on November 19, 2010 was sentenced pursuant to a Plea Agreement to 50 years imprisonment. In the Dekalb Superior Court #2 (17D01-0905-MR-00002).

Accomplice Matthew W. Nelson pled guilty to a reduced charge of Assisting a Criminal (Class C felony) in exchange for dropping a pending charge of Murder, with a maximum 4 year sentence and a requirement to testify truthfully. In the Dekalb Superior Court #2 (17D02-0905-MR-00004).

**Request for DP Filed:** August 17, 2009

**Conviction:** Count I: Felony Murder, Count: Armed Robbery Class mB Felony), Count III: Murder.  
Jury Trial July 19-23, 2010 - Aggravator #1 Found, Aggravator #2 Not Found,  
Recommend LWOP, Habitual Offender)

**Sentencing:** August 20, 2010 (Merged, 20 years, LWOP)

**Aggravating Circumstances:** (b) (1) (G) Robbery  
(b) (4) Hired to Kill

**Mitigating Circumstances:**

**DIRECT APPEAL:** Cain v. State, 955 N.E.2d 714 (Ind. October 8, 2011)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Shepard; Dickson, Sullivan, Rucker, and David, concur.  
For Defendant: Adam C. Squiller, Auburn  
For State: Henry A. Flores, Jr., Deputy Attorney General (Zoeller)

**PCR:**

03/29/2012 Petition for Post Conviction Relief filed.  
03/29/2012 Answer to Petition for Post-Conviction Relief filed.  
03/29/2012 Order setting hearing issued. Defendant to appear via video conference.  
04/25/2012 Hearing on Petition for Post-Conviction Relief (3:00 PM) (Judicial Officer Wallace, Kevin P)  
04/30/2012 State Public Defender's office appointed to represent the Defendant on PCR  
06/19/2012 Steven H. Schutte, Deputy State PD, files Verified Notice of Present Inability to Investigate.  
06/19/2012 Proceedings stayed until Petitioner's counsel notifies the Court of his ability to proceed.

**HABEAS:** None.

**CARDOSI, DERRICK T.**

DOB: 04/22/1992 White Male DOC# 220566 Location: Pendleton Correctional Facility

Newton County Superior Court Judge Daniel J. Molter  
**Trial Cause #:** 56D01-1608-MR-000002



**Date of Murder:** August 2016

**Victims:** Justin L. Babbs W / M / 20, Richard Thomas W / M / 23, Kimberly Spears W / F / 39  
(Neighbors)

**Method of Murder:** Stabbing with knife

**Summary:** Ricky Thomas, along with his girlfriend Kim Spears and friend Justin Babbs, lived with his 80 year old Grandma in Sumava Resorts. From time to time, Sebastian Wedding, another of Ricky's friends, lived there too. Wedding's friend Derrick Cardosi lived in an apartment across the street. Wedding and Cardosi hatched a plan to rob them of money and drugs. On the morning of August 28, 2016 Grandma awoke to discover the body of Justin Babbs in the living room. She flagged down a neighbor when her phone would not work. They checked a bedroom and found Ricky Thomas and Kim Spears in a bedroom. All three were covered in blood and dead from multiple stab wounds. Ricky's 1997 Mercury Grand Marquis was gone.

A police investigation included the seizure of telephones from both Cardosi and Wedding, revealing constant chatter and calls between the men for hours before and after the murders. Most of it dealing with a "go" time and hiding the stolen car and exchanging info about the police investigation. Some admissions were made. The vehicle was recovered very near Weddings house. Cardosi's main defense at trial was to blame the murders on Wedding. It did not work.

**Request for LWOP Filed:**

**Conviction:** Jury Trial January 29 - February 8, 2018  
Guilty all Counts - Count 1: Murder, Count 2: Murder, Count 3: Murder, Count 4: Assisting a Criminal (Level 5 Felony), Count 5: Assisting a Criminal (Level 5 Felony), Count 6: Auto Theft (Level 6 Felony), Count 8: Murder, Count 9: Murder. LWOP Trial - Recommend LWOP

**Sentencing:** February 15, 2018 (LWOP, LWOP, LWOP, 3 years, 3 years, 18 months.  
(Count 1 and Count 2 LWOP consecutive, all other Counts concurrent)

**Aggravating Circumstances:** (b) (1) Burglary  
(b) (1) Robbery  
(b)(8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** Cardosi v. State, 128 N.E.3d 1277 (Ind. August 7, 2019) (18S-LW-00181)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Massa; Rush, David, Slaughter, and Goff concur.  
For Defendant: Linda L. Harris, Harry J. Falk, Kentland  
For State: Lyubov Gore, Deputy Attorney General (Hill)

**PCR:** None.

**HABEAS:** None.

**CARMACK, AMANDA DAWN**

DOB: 09-27-1984 DOC# 286819 White Female Location: Indiana Women's Prison

Grant County Circuit Court Judge Mark E. Spitzer

**Trial Cause #:** 27C01-1909-MR-000008

**Defense:** David Payne, Nathan Meeks

**Prosecutor:** Evan K. Hammond, Chief Deputy Prosecutor

**Date of Murder:** August 31, 2019

**Victim:** Skylea Rayn Carmack W / F / 10 (Stepdaughter)



**Method of Murder:** Manual Strangulation / Ligature Strangulation (Leggings)

**Summary:** The body of 10 year old Skylea Carmack was discovered stuffed inside three trash bags along with dryer sheets in a shed at the family's home in Gas City with candles lit nearby to reportedly mask the smell. A pair of leggings were tied in a double knot around her neck. Police also located inside the bags the clothes that Skylea's stepmother, Amanda Carmack, described to police when she reported her stepdaughter missing. Upon further questioning by police, Carmack confessed to strangling Skylea with her hands before grabbing a ligature to tie around the 10-year-old's neck. The confession came about four days after Skylea Carmack was reported missing by Amanda Carmack, who earlier had failed a polygraph test regarding her knowledge of the incident.

Prosecutors say an argument over a charm bracelet that Skylea "stole" from another child in the home led Amanda Carmack to kill Skylea. Amanda claimed she did not know what happened to Skylea between about 3:30 p.m. until around 9 p.m. Saturday August 31, when she called her husband, Kevin Carmack, to tell him his biological daughter was nowhere to be found.

In the confession played at trial, Amanda spoke of images and "flashes" she'd seen involving a trash bag on the left hand side of the white shed along with visions of being on top of the child while strangling her. Police located the body in that exact spot before arresting her. Amanda also wrote letters to her family and husband to apologize for her actions.

The defense argued that Amanda Carmack did not plan the murder but instead acted in sudden heat since she provided 24/7 care and homeschooling to seven children and worked around the house while Kevin Carmack was a long-haul truck driver, often gone for long periods.

**Request for LWOP Filed:** September 6, 2019

**Conviction:** Murder

Jury Trial began on October 19, 2021, but was later recessed due to Covid-19, then a mistrial declared on November 4, 2020 over defense objection after "critical participant" infected.

Jury Trial August 4 to August 6, 2021; Verdict: August 6, 2021

Guilty of I - Murder, II - Neglect of Dependent Resulting in Death (Level 1 Felony), III - Domestic Battery Resulting in Death (Level 2 felony), and IV - Strangulation (Level 6 felony)

LWOP Jury Trial; Verdict August 9, 2021: Finds charged Aggravator, Recommends LWOP

**Sentencing:** September 15, 2021 (LWOP), no judgment of conviction or sentence on Counts II, III, IV.

**Aggravating Circumstances:** (b)(12 ) Victim less than 12 years of age

**Mitigating Circumstances:**

**Direct Appeal:** Pending in Indiana Supreme Court. (21S-LW-00471)

**PCR:** None.

**Habeas:** None.

## **CHAMORRO, BARNEY**

DOB: 05/31/1990 Hispanic Male DOC# 219250 Location: Pendleton Correctional Facility

Boone County Superior Court #2 Judge Rebecca Sue McClure

**Trial Cause #:** 06D02-1002-MR-0140



**Defense:** Brent L. Westerfeld, Mark Inman

**Prosecutor:** Todd Meyer, Prosecuting Attorney

**Date of Murder:** February 24, 2010

**Victims:** Alejandro Chamorro, Jr. H / M / 19 (Twin Brother)

Alejandro Chamorro, Sr. H / M / 51 (Father); Judy Schindler W / F / 55 (Stepmother)

**Method of Murder:** Stabbing/Slashing with large knife x37

**Summary:** Judy Schindler lived with Alejandro Chamorro Sr. in a home in Whitestown. Chamorro was a native of Nicaragua and brought his two twin sons, Alejandro Jr. and Barney, to Indiana to live in the home. On February 25, 2010 Judy did not show up to work at a Whitestown convenience store and did not answer her phone the following day. A co-worker went to the family's home, noticed a truck was missing and alerted police. Police went to her home and discovered a bloodbath. Schindler and Alejandro Jr. were apparently stabbed and slashed in their beds while asleep. Schindler staggered to the front room and fell next to Alejandro Sr., who was also stabbed and had suffered defensive wounds as well. All three were dead. There were a total of 37 stab wounds inflicted. Police recovered a 20" knife at the scene.

A vehicle was missing. Family told police that Barney had recently lost his job and gotten into some trouble and that his father wanted to send him back to his native Nicaragua. Tracing the vehicle and the use of credit cards, Barney was arrested at a truck stop near Midland, Texas and was returned to Indiana four days later. His right hand was bandaged, injured during the murders.

**Request for DP Filed:** July 30, 2010; Request for LWOP per Plea Agreement filed January 17, 2012.

**Conviction:** Murder (3 Counts); Burglary, Robbery, Theft, Auto Theft dismissed.  
Joint Statement of Plea Agreement filed January 17, 2012.

**Sentencing:** May 10, 2012 (LWOP, LWOP, LWOP, consecutive)

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**CLARK, DERRICK DARON**

DOB: 03/24/1981 Black Male DOC# 113973 Location: Pendleton Correctional Facility

Madison County Superior Court #1 Judge Dennis D. Carroll

**Trial Cause #:** 48D01-0104-CF-00184

**Defense:** Stephen Gray

**Prosecutor:** Bryan Williams, Deputy Prosecutor



**Date of Murder:** April 11, 2001

**Victim:** Kimberly Hester W / F / 28 (No relationship to Clark)

**Method of Murder:** Shooting with handgun

**Summary:** Jeff Phillips lived with his fiancé Kimberly Hester at the Courtyard Apartments in Anderson. Between 10 and 11 p.m. on April 11, 2001, Hester reported to Phillips that two people were loitering in the parking lot near Phillips's car, and one of them was sitting on the car. Phillips went outside, and after a brief exchange one loiterer returned to a group 20-25 feet away and the second drove off. Clark, who was among the group, then approached Phillips, and an argument broke out. After a brief exchange, Phillips returned to his apartment, and Clark retrieved his hooded jacket from the woman who had been holding it and told the group to go inside the apartment building. After Phillips had turned off most of the lights in the apartment, Phillips and Hester peeked out of their bedroom window. Phillips saw someone with a hood approach their apartment building and fire three shots into the apartment. One of the bullets struck Hester and she died a short time later. Clark was identified as the shooter by one member of the group. Two other witnesses, an adult and a nine-year-old boy, also implicated Clark in the shooting, and Clark confessed to the shooting in police interviews.

**Request for LWOP Filed:** October 15, 2001

**Conviction:** Jury Trial March 5-9, 2002; Verdict: Guilty Murder, Carrying a Handgun Without a License (Class A Misdemeanor), Attempted Murder (Class A Felony).

LWOP Jury Trial March 9, 2002 - Recommend LWOP

Class C Felony Handgun Enhancement April 9, 2002 (Jury Waived)

**Sentencing:** April 2, 2002 (LWOP, 8 years, 50 years, concurrent)

**Aggravating Circumstances:** (b) (15) Discharging a Firearm into an Inhabited Dwelling.

**Mitigating Circumstances:**

**DIRECT APPEAL:** Clark v. State, 808 N.E.2d 1183 (Ind. 2004) (48S00-0205-CR-00270)  
Conviction Affirmed 5-0 LWOP Remanded for Resentencing 4-1  
Opinion by Boehm; Shepard, Dickson, Sullivan, concur.  
Rucker concurs except that he would impose 65 year sentence instead of resentencing.  
(Trial court improperly included the intentionality of the murder as an aggravating factor)  
For Defendant: Stephen Gerald Gray, Indianapolis  
For State: Zachary J. Stock, Deputy Attorney General (S.Carter)

**PCR:** 07/13/2005 Petitioner's Petition for Post-Conviction Relief filed.  
06/19/2006 PCR hearing. Petitioner Derrick Clark appears in person and with counsel, Sarah Nagy.  
The State appears by Deputy Prosecuting Attorney Steve Koester. Petitioner presents  
evidence in part, but does not rest. Petitioner's counsel shall contact the Court to schedule  
an additional hearing date.  
05/14/2007 Additional evidence on Defendant's Petition for Post Conviction Relief. Petitioner appears  
in person and by counsel, Sara Nagy. State appears by Deputy Prosecuting Attorney  
Kevin Eads. Evidence heard and at request of counsel, record shall be left open for a  
period of 15 days to allow the State to provide additional evidence from Psychologist Dr.  
Jeffrey Wendt.  
03/17/2008 Defendant's Findings of Facts and Conclusions of Law received and filed.  
05/07/2008 This matter being under advisement, comes now the Court and denies Petition for  
Post-Conviction Relief, all as per Findings of Fact and Conclusions of Law.  
02/20/2020 Order Received from the Court of Appeals, Denying Successive Post-Conviction Appeal.

Clark v. State, Unpub. (Ind. App. Feb. 26, 2009) (48A05-0807-PC-407)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Baker; Najam, Kirsch concur.  
For Defendant: Sarah L. Nagy  
For State: Zachary L. Stock, Deputy Attorney General (Zoeller)  
Clark v. State, 2009 Ind. LEXIS 394 (Apr. 23, 2009) (Transfer denied)

**HABEAS:** Derrick v. Warden, (S.D. Ind. Dec. 8, 2020) (1:20-cv-02208-TWP-MJD)  
United States District Court for the Southern District of Indiana; Judge Tanya Walton Pratt  
(Petition for Writ of Habeas Corpus dismissed with prejudice as time-barred, and a Certificate of  
Appealability is denied.)

## CLARK, IAN JAMES

DOB: 02/13/1973 White Male DOC# 104092 Location: New Castle Correctional Annex

Kosciusko County Circuit Court Judge Michael W. Reed

**Trial Cause #:** 43C01-0705-FA-127



**Defense:** Bryon J. Berry

**Prosecutor:** R. Steven Hearn, Prosecuting Attorney

**Date of Murder:** May 25, 2007

**Victim:** Samantha Muchowicz W / F / 2 (Girlfriend's daughter)

**Method of Murder:** Beating

**Summary:** Clark was living in Pierceton with his fiancée Matara Muchowicz and her daughter Samantha. Samantha typically stayed with a friend while Clark and Matara were at work, but Clark had been laid off, so Clark cared for the child during the day.

When Matara arrived home on the afternoon of May 25th, she found Clark lying on the couch, apparently intoxicated, with Samantha on his chest, naked and blue. Matara approached the couch and noticed blood on the blanket that was covering up Clark. After being questioned about

the blood, Clark sat up and then fell and stumbled into the coffee table, dropping Samantha on the ground. Clark told Matara that Samantha was breathing. In fact, she was unresponsive and cold. Matara tried to call 9-1-1, but Clark fought her and grabbed the phone, saying that she was "brain dead and then lit a cigarette and turned on the television. Matara eventually managed to dial only after Clark had punched her in the back of the head with his fist. Responding police and paramedics could not revive her. She had a split lip, was limp, her jaw was crushed and swollen, and she had bruises all over her body and blood around her mouth. She had bruises on her chest area that resembled fingerprints. There was blood and spatter all over the house, and a large hole in the bathroom wall with Samantha's blood and hair in it. It was estimated that she had died 2-3 hours earlier. Clark threatened the police and said, "Fuck it. It's only a C felony. I can beat this."

The list of injuries was appalling. Before Samantha's death she suffered multiple contusions, lacerations, abrasions and or deformities to her mouth, ear, chin, forehead, eyes, neck, jaw, shoulders, cheeks, arms, ribs, chest, back, scapula, kidney areas, areas over vital organs, abdomen, arm pits, nipples, temple, nose, lips, wrists, hands, orbits, buttocks, and thigh; her ulna was broken, her wrist was broken, her lung was bruised, her jaw was broken or dislocated; she had a subdural hematoma, intra-abdominal wounds, including a torn colon, an atlanto-occipital dislocation (her head was "ripped off her neck,"—the ligaments were disrupted from the spinal column so that only "tissue and skin" held it to the body), and cerebral contusions or bruising of her brain.

Samantha suffered at least twenty separate injuries, more than one of which would be lethal, and she was still alive when she sustained many of them. An emergency room doctor described Samantha's "fresh" injuries as the worst he had observed in twenty years. Neither one fall, nor multiple falls, nor multiple household accidents, could possibly have caused Samantha's injuries.

At trial, the Defendant testified that at most he was guilty of Reckless Homicide, "a drunken, reckless act." The jury did not buy it.

**Request for LWOP Filed:** December 3, 2007

**Conviction:** Murder

Jury Trial March 3-7, 2008 - Guilty Murder.

LWOP Trial - (Stipulation murder victim was less than 12) - Recommend LWOP.

Insanity Defense filed, then withdrawn.

**Sentencing:** April 3, 2008 (LWOP)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age

**Mitigating Circumstances:**

**DIRECT APPEAL:** Clark v. State, 915 N.E.2d 126 (Ind. October 15, 2009) (43S00-0810-CR-00575)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Shepard; Dickson, Sullivan, Boehm, Rucker, concur.

For Defendant: J. Brad Voelz, Warsaw

Clark v. State, 2010 Ind. LEXIS 119 (Ind., Feb. 22, 2010) (Reh. denied)

**PCR:** 03/23/2010 Petition for Post Conviction Relief from Pro-Se Petitioner, Ian James Clark.

06/30/2011 Petitioner, by counsel, Kathleen Cleary, Deputy State Defender, files Verified Notice of Present Inability to Investigate. All proceedings stayed.

10/19/2015 The State of Indiana files Answer to Petitioner/Defendant's Amended PCR Petition

01/15/2016 Hearing held on the Amended Verified Petition for Post-Conviction Relief and the State's Answer to Petitioner/Defendant's Amended Petition for Post-Conviction Relief.

Petitioner in person and by counsel, Kathleen J. Cleary and John Pinnow. The State of Indiana appeared by Prosecuting Attorney, Daniel H. Hampton and Deputy Prosecuting Attorneys Christianne C. H. Hampton and Robert J. Bishop.

03/18/2016 State of Indiana filed State's Proposed Findings of Fact and Conclusions of Law.

03/18/2016 Petitioner filed Proposed Findings of Fact and Conclusions of Law.  
04/06/2016 The Court, having taken the matter under advisement, now enters its Order Denying the Defendant's Amended Petition for Post-Conviction Relief.

Clark v. State, 81 N.E.3d 697 (Ind. App. February 27, 2017)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by: Mathias; Baker, Pyle concur.  
For Defendant: Kathleen Cleary, Deputy Public Defender (Owens)  
For State: J.T. Whitehead, Deputy Attorney General (Hill)  
Clark v. State, 88 N.E.3d 1077 (Ind. 2017) (Transfer denied)

**HABEAS:** Clark v. Superintendent, (N.D. Ind. Sep. 29, 2017) (3:17-CV-475-JD-MGG)  
U.S. District Court, Northern District of Indiana  
Judge Jon E. DeGilio  
(Grants Clark until October 16, 2017 to file an amended Habeas Petition.  
If he does not respond by deadline, he will be required to proceed with his current petition.)  
Clark v. Warden, (N.D. Ind. April 2, 2018) (N.D. Ind. Sep. 29, 2017) (3:17-CV-475-JD)  
U.S. District Court, Northern District of Indiana  
Judge Jon E. DeGilio  
(Clark has filed his amended habeas petition, the respondent has been ordered to file a response brief by May 17, 2018. After that response brief is filed, Clark will have twenty-eight (28) days to file a reply brief. If at any point Clark needs additional time to comply with a deadline due to his pro se status or limited access to legal materials, he should request it at the appropriate time and outline the reasons why more time is needed. Again, if an evidentiary hearing is to be conducted Clark will be afforded counsel.)

Clark v. Warden, (N.D. Ind. July 10, 2019) (3:17-CV-475-JD-MGG)  
U.S. District Court, Northern District of Indiana  
Judge Jon E. DeGilio  
(Habeas Petition raises issues that have not been raised in state courts and are procedurally defaulted. The court DENIES this habeas corpus petition; DENIES a certificate of appealability; DENIES leave to proceed on appeal in forma pauperis pursuant to 28 U.S.C. § 1915(a)(3); and DIRECTS the clerk to close this case.)

Clark v. Warden, (N.D. Ind. Nov. 2, 2021) (3:21-CV-824-JD-MGG)  
Further filings from Defendant challenging his Murder conviction and LWOP sentence will not be recognized without prior permission from the U.S. Court of Appeals.

**Other:** Clark v. Marthakis, (N.D. Ind. Nov. 26, 2018) (3:18-CV-944-PPS-MGG)  
U.S. District Court, Northern District of Indiana - Judge Philip Simon  
(Clark pro-se filed this lawsuit against Doctor and others alleging he is being denied medical treatment for pain in his foot. For now, the case may proceed against some defendants.)  
Clark v. Wexford Ind., (N.D. Ind. August 7, 2020) (3:18-CV-944-PPS-MGG)  
U.S. District Court, Northern District of Indiana - Judge Damon R. Leichty  
(Summary Judgment GRANTED for the defendants and against the plaintiff. Case closed)

**CLIPPINGER, STEVEN JAMES**

DOB: 02/13/1971 White Male DOC# 871479 Location: Indiana State Prison



St. Joseph County Superior Court #3 Judge Jerome Frese

**Trial Cause #:** 71D03-1206-MR-000008**Defense:** Mark Steven Lenyo**Prosecutor:** Ken Cotter, Deputy Prosecutor**Date of Murder:** June 2, 2012**Victims:** Matthew Clippinger, W / M /43 (Brother) ; Lisa Clippinger W / F /43 (Brother's Wife)**Method of Murder:** Shooting with handgun

**Summary:** Clippinger was previously convicted of murder in 1990, at the age of 18, and served twenty years in prison, being released on parole in 2010. Just two years later, Clippinger's brother Matthew took from him a .38 caliber revolver and refused to give it back. Clippinger returned to Matthew's home later that night, and shot him in the driveway multiple times, including two crippling shots in the lower back. He then repeatedly pistol-whipped him in the head, causing multiple blunt force injuries and killing him. Clippinger then fired at Matthew's wife Lisa when she came to the garage to investigate. She then fled back into the house, and Clippinger chased after her and killed her with two shots to her head. Clippinger immediately fled to a waiting car driven by his girlfriend, with his infant son in tow. When police stopped him as they were driving out of the driveway he had the .40 Smith & Wesson that was used to kill his brother in one pocket, and the .380 Ruger used to kill his sister in law in the other.

**Request for LWOP Filed:** December 13, 2012

**Conviction:** Bench Trial by Agreement 10/01/14 - Court finds the Defendant guilty of Count I: Murder, Count II: Murder, and Count III: Serious Violent Felon in Possession of a Firearm (Class B Felony).  
LWOP Bench Trial 03/30/15

**Sentencing:** April 20, 2015 (LWOP, LWOP, 20 years imprisonment, consecutive)

Clippinger was previously convicted of Murder in the St. Joseph Circuit Court, and on April 10, 1990 was sentenced to a 45 year term of imprisonment. (71C01-8904-CF-286). Released on parole in 2010.

Clippinger was supplied the murder weapon by his girlfriend, Jennifer Leveque, who was convicted following a jury trial of Assisting a Criminal (Class C Felony) and Transferring a Handgun to a Convicted Felon (Class C Felony), and on October 3, 2014 was sentenced in the St. Joseph County Superior Court to a 12 year term of imprisonment. (71D01-1206-FC-000127)

**Aggravating Circumstances:** (b) (7) Convicted of Another Murder  
(b) (8) Committed Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** Clippinger v. State, 54 N.E.3d 986 (Ind. June 28, 2016) (71S00-1510-LW-00590)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Massa; Rush, Rucker, David, Slaughter concur.  
For Defendant: Thomas P. Keller, South Bend.  
For State: Kelly A. Loy, Deputy Attorney General (Zoeller)

**PCR:** None.**HABEAS:** None.

## **CONLEY, ANDREW**

DOB: 05/14/1992 White Male DOC# 218096 Location: Pendleton Correctional Facility

Ohio County Circuit Court Judge James D. Humphrey  
**Trial Cause #:** 58C01-0912-MR-000001



**Defense:** Leanna Kay Weissmann, Gary Wayne Sorge, John H. Watson  
**Prosecutor:** F. Aaron Negangard, Prosecuting Attorney, Lynn Marie Deddens

**Date of Murder:** November 28, 2009

**Victim:** Connor Conley W / M / 10 (Brother)

**Method of Murder:** Strangulation with hands

**Summary:** The undisputed facts are as follows. On Saturday, November 28, 2009, Conley was 17½ years old when he murdered his 10 year old brother, Conner. The murder took place between 8:30 p.m. and 10:00 p.m. His mother and adoptive father were at work that evening until the early morning hours. As was not uncommon, Conley was responsible for watching Conner that evening. Conley's mother told him he would have to find a babysitter for Conner if he wished to go out with his friends.

Conley wanted to go out that evening, so Conley drove Conner to their grandmother's house in Rising Sun, Indiana, but she was not home. He next asked his uncle to watch Conner but was told no. After they returned home, Conley and Conner began wrestling. At some point, Conley got behind his brother and choked him in a headlock with his arm until Conner passed out. Conner was bleeding from the nose and mouth. Conner was still breathing. Conley drug Conner into the kitchen, retrieved a pair of gloves, and continued to choke Conner from the front, around his throat. Conley choked Conner for approximately 20 minutes total.

Conley next got a plastic bag from a drawer in the kitchen and placed it over Conner's head. Conley used black electrical tape to secure the bag by wrapping the tape around Conner's head. Conner was still alive. In fact, Conner's last words were "Andrew stop." Conley then drug Conner's body to the steps that lead to the basement, drug him down the steps by his feet, across the floor, and outside the home. Conley slammed Conner's head on the concrete multiple times to ensure he was dead and then placed his body in the trunk of his car. Conley cleaned himself up and put on new clothes. He put the bloody clothes in his closet and hid the bloody gloves in a chair.

Conley next drove to his girlfriend's house. While there they watched a movie, and he gave her a "promise ring." Conley's girlfriend testified at the sentencing hearing that Conley was "[H]appier than I'd seen him in a long time." Conley spent two hours at his girlfriend's house, while Conner's body remained in the trunk of the car. After leaving his girlfriend's house, Conley drove to an area behind the Rising Sun Middle School. Conley decided to drag Conner's body into the woods and covered the body with sticks and vegetation.

Conley returned home during the early morning hours on Sunday the 29th when no one was home. He cleaned up the blood in the house. When his father returned home around 2:30 a.m., Conley was acting normal. Conley said that Conner was at his grandmother's house and Conley also asked his father for some condoms.

Conley's mother arrived home around 5:45 a.m., and Conley and his mother had popcorn, watched a movie together, and cracked jokes back and forth. His mother fell asleep. On two occasions that early morning, Conley went into his father's bedroom and stood over him with a knife. Conley said he had the intent to kill his father, but he decided not to. Later that same Sunday, Conley watched football with his father. Following football, Conley left home and drove to the park in Rising Sun where Conner's body had been discarded, but he never went to the actual location. Instead, Conley spoke to two friends and told them that he had killed Conner. Thereafter, around 8:00 p.m., Conley drove his car to the Rising Sun Police Department and

voluntarily reported he "accidentally killed his brother" or that he "believed" he had killed his brother. He pled guilty without a plea agreement and following a sentencing hearing was sentenced to Life Without Parole.

**Request for LWOP Filed:** July 2, 2010

**Conviction:** Guilty Plea to Murder September 13, 2010  
Notice of Insanity Defense filed January 4, 2010  
Sentencing Hearing September 16, 17, 21, 2010

**Sentencing:** October 15, 2010 (LWOP)

**Aggravating Circumstances:** (b) (12) Victim less than 12 years of age

**Mitigating Circumstances:** Age, Mental Health, Family Life

**DIRECT APPEAL:** Conley v. State, 972 N.E.2d 864 (Ind. July 31, 2012) (58S00-1011-CR-634)  
Conviction Affirmed 5-0 LWOP Affirmed 3-2  
Opinion by David; Dickson, Massa, concur.  
Rucker dissents with separate opinion in which Sullivan, J., concurs.  
(Conley was only 17 at the time of this crime. There is no question that juveniles have developmental issues that reduce their culpability for crimes. In this case, it seems clear that Conley "was still a teenager with a developing brain and impulse control issues made worse by his mental illness.")  
For Defendant: Leanna Weissmann, Lawrenceburg  
For State: Henry A. Flores, Jr., Deputy Attorney General (Zoeller)  
Conley v. State, 2012 Ind. LEXIS 869 (Oct. 22, 2012) (Rehearing denied)

**PCR:** 58C01-1302-PC-000002  
02/19/2013 Verified Petition for Post Conviction Relief filed.  
08/24/2017 State's Answer Filed.  
07/12/2018 Amendment to Petition for Post-Conviction Relief filed.  
10/12/2018 Second Amendment to Petition for Post-Conviction Relief.  
12/11-14/2018 Evidentiary Hearing.  
02/12/2019 State's Proposed Findings of Fact and Conclusions filed.  
10/30/2019 PCR Denied by Judge James D. Humphrey

Conley v. State, 164 N.E.3d 787 (Ind. App. February 23, 2021) (19A-PC-3085)  
Conviction Affirmed 3-0 LWOP Reversed 3-0  
Opinion by Tavitas; May, Pyle concur.  
(Trial counsel failed to adequately present mitigating evidence, especially with regard to the inmate's age (17), the application of Roper and Graham, and Indiana's historical treatment of juveniles, and also missed opportunities to present expert testimony on scientific evidence regarding the juvenile brain and diminished culpability of juveniles, and missed opportunities to zealously present evidence and challenge the State's evidence regarding the inmate's mental health.)  
For Defendant: Deidre R. Eltzroth, Steven H. Schutte, Deputy Public Defenders (Karozos)  
For State: Ellen H. Meilaender, Deputy Attorney General (Rokita)  
Attorneys for Amicus Curiae: Bernice Corley, Joel C. Wieneke, Indiana Public Defender Council.  
Conley v. State, 146 N.E.3d 333 (Ind. May 15, 2020) (Transfer denied)  
Transfer granted by, Opinion Vacated by, Conley v. State, 169 N.E.3d 854 (Ind. May 20, 2021)

Appeal Pending in Indiana Supreme Court Case No. 21S-PC-00256 .

**HABEAS:** None.

**COTTRELL, CHAD A.**

DOB: 07/21/1970 White Male DOC# 195185 Location: New Castle Correctional Annex

Hamilton Superior Court Judge William J. Hughes

**Trial Cause #:** 29D03-0605-MR-000166

Change of Venue from Parke County (61C01-0510-MR-240)

**Defense:** Eric Kosalke, Gary Stephen Germann, Jessie Cook**Prosecutor:** Steven A. Cvengros, Parke County Prosecuting Attorney**Date of Murder:** October 30, 2005**Victims:** Trisha Cottrell W / F / 29 (wife),

Brittany Williams W / F / 12 (wife's daughter), Victoria Williams W / F / 10 (wife's daughter)

**Method of Murder:** Shooting with handgun (Trisha and Brittany); Bludgeoned (Victoria)

**Summary:** Trisha Cottrell (29) and her two daughters Brittany Williams (12) and Victoria Williams (10) were found dead in their home in rural Parke County near Rockville on October 31, 2005. Grandparents of the girls discovered the bodies after 8:30 a.m. Chad Cottrell, Trisha's husband who lived at the home, could not be located. An early suspect in the case, he fled to Minnesota, where officers apprehended him November 1 after a high-speed chase. He was extradited back to Indiana. Cottrell was ultimately charged and pled guilty to the murders, admitting that he had molested or attempted to molest them, then killed the young girls and shot their mother while she slept.

A Death Sentence was requested in this case. As the expenses grew after the case was venued to Hamilton County, county officials felt compelled to pass a new local tax to pay for the trial. Parke County is a small county of ±17,000. A 0.25 percent increase in the Parke County Economic Development Income Tax was approved in April by the Parke County Council and went into effect Oct. 1 to pay for the capital trial. The tax was expected to last three years.

**Request for DP Filed:** November 10, 2005**Conviction:** Guilty Plea to Murder (3 Counts) as charged without Plea Agreement March 3, 2009  
DP/LWOP Trial to Court April 29-30, 2009**Sentencing:** May 29, 2009 (LWOP, LWOP, LWOP consecutive)**Aggravating Circumstances:** b (8) Multiple Murders  
b (12) Victim less than 12 years of age**Mitigating Circumstances:** History of mental problems and drug addictions  
Guilty Plea**DIRECT APPEAL:** None.**PCR:** (29D03-1907-PC-005515)

07/09/2019 Petition for Post-Conviction Relief Filed

07/17/2019 State's Answer to Petition for Post Conviction Relief

For Petitioner : Anne Murrav Burgess, John Pinnow, Deputy Public Defenders (Karozos)

07/31/2020 Pro se Petition for Post- Conviction Relief is withdrawn without prejudice. Cottrell does not wish to pursue his post-conviction relief rights at this time.

**HABEAS:** None.

**COVINGTON, RONALD, JR..**

DOB: 11/01/1974 Black Male DOC# 146060 Location: Pendleton Correctional Facility

Marion Superior Court Judge Robert R. Altice, Jr.

**Trial Cause #:** 49G02-0206-MR-157363**Defense:** Richard Kammen, Robert J. Hill**Prosecutor:** Michelle M. Sharpe, Ralph W. Staples, Carl Brizzi**Date of Murder:** June 1, 2002**Victims:** Maranda C. Wilson B / F / 22 (former girlfriend), Frederic Harris B / M / 22; Kevin Simmons B / M / 22 (her friends)**Method of Murder:** Shooting with handgun**Summary:** On June 1, 2002, Covington forced his way into the apartment of Maranda Wilson (the mother of his two children) by kicking in the front door at the Scarborough Apartments at 46th Street and High School Road. He began shooting the occupants of the apartment. Covington shot and killed Frederic Harris and Kevin Simmons who were visiting Wilson at the time. Covington then shot Jasmine West five times - three times in the chest, once in the arm and once in the hand. The bullet that struck West's hand passed through the hand and hit her in the face, ultimately lodging in her neck. Covington then took Wilson into a back bedroom where he shot and killed her.

Remarkably, West remained conscious throughout the ordeal and survived by pretending to be dead. After Covington left, she managed to call the police. When officers arrived, they discovered three bodies - Harris and Simmons in the living room and Wilson in a bedroom. These three individuals were pronounced dead at the scene. West was transported to a local hospital. During an interview with police several days later, West stated that Covington had shot her and the others. Based on that identification, and calls from Covington's parents suggesting his involvement in the crimes, the State charged Covington with three counts of murder, one count of Attempted Murder, and one count of Burglary. On June 6, 2002, Covington surrendered to the police.

**Request for DP Filed:** September 16, 2002**Conviction:** Murder (3 Counts), Attempted Murder (Class A felony), Burglary (Class B felony)  
Plea Agreement filed 08/25/04.**Sentencing:** October 22, 2004 (LWOP, LWOP, LWOP, 50 years, 10 years)  
Credit for pretrial incarceration 670 days from June 6, 2002.**Aggravating Circumstances:** (b) (1) Burglary  
(b) (8) Multiple Murders**Mitigating Circumstances:****DIRECT APPEAL:** Covington v. State, 842 N.E.2d 345 (Ind. February 14, 2006) (49S00-0501-CR-2)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Shepard; Dickson, Sullivan, Boehm concur.  
Rucker, J., concurs in Part I and concurs in result in Part II.  
For Defendant: Eric K. Koselke, Indianapolis, Indiana.  
For State: Matthew D. Fisher, Deputy Attorney General (S.Carter)

**PCR:** (49G02-1601-PC-00355)  
08/17/2015 Petition for Post-Conviction Relief filed.  
07/20/2016 State's Answer to Petition for Post Conviction Relief filed.  
11/20/2017 Amend Verified Petition For Post- Conviction Relief filed.  
06/04/2018 Order Granting Petition to Withdraw Post-Conviction Relief Without Prejudice.

**HABEAS:** None.

## **CRUZ, JOHNATHAN S.**

DOB: 07/30/1996 White Male DOC# 250449 Location: Wabash Valley Long Term Segregation

Marion Superior Court, Criminal Division 3 Judge Sheila A. Carlisle

**Trial Cause #:** 49G03-1606-MR-021170



**Defense:** Eric Koselke, Raymond Vincent Casanova

**Prosecutor:** Teresa Ann Hall, Lindsay Gedig, Deputy Prosecutors

**Date of Murder:** May 12, 2016; May 15, 2016

**Victims:** Billy Boyd W / M / 54 and Jay Higginbotham W / M / 40; Jose Alberto Ruiz H / M / 44  
(No relationship to Cruz)

**Method of Murder:** Shooting with .22 handgun and .357 handgun

**Summary:** On May 12, 2016 and on May 15, 2016, Cruz killed three people: Billy Boyd and Jay Higginbotham on May 12 and Jose Alberto Ruiz on May 15, all of whom he apparently chose at random. In texts and on social media after the murders, Cruz bragged that he had been out "purging," referring to a 2013 movie titled "The Purge" that portrays the police backing off one night each year and allowing people to commit murder for 12 hours. Cruz admitted to the following factual basis to support his guilty plea:

On May 12th, 2016, at approximately 12:48 am, Johnathan Cruz did intentionally kill Billy Boyd. He drove a gray Chevy Cavalier with black racing stripes to 3938 N. College Avenue. The vehicle was occupied with 3 other individuals. He attempted to rob Billy Boyd, but Mr. Boyd had nothing of value in his possession. Cruz then shot him twice with a .22 revolver. No casings were left at the scene and .22 caliber bullets were recovered from the autopsy of Billy Boyd.

On May 12, 2016 at approximately 4:23 am, Johnathan Cruz did intentionally kill Jay Higginbotham. Cruz drove in the same Chevy Cavalier, with three other individuals, to 928 N. Denny St. Johnathan Cruz got out of the vehicle and approached Jay Higginbotham, firing multiple times at Jay Higginbotham, striking him three times in the chest and once in the shoulder. Cruz then went through Jay Higginbotham's pockets and took a large sum of money. Part of the money taken from Jay Higginbotham was given to other individuals in the car, with Cruz keeping some of the money for himself. No casings were left at the scene and .22 caliber bullets were recovered from the autopsy of Higginbotham. Cruz later sold a .22 caliber revolver on May 12, 2016. to CF.

On May 14, 2016, at approximately 6:35 a.m. Johnathan Cruz did intentionally kill Jose Ruiz. Cruz and Rayvaughn Wood (aka Steven Clark) approached Ruiz at 16 N. Linwood, and attempted to rob him, then shot him in the neck, killing him.

When officers arrested Johnathan Cruz on a warrant, a black .357 revolver was recovered from his right front pant pocket. During a search of Chancee Coleman's apartment, Johnathan Cruz's property was seized. In that property were two extra barrels for the .357 revolver. Testing of those barrels determined the bullet recovered from Ruiz was found to have been fired from one of those barrels.

On May 15, 2016, at approximately 6:30 a.m. Johnathan Cruz and Rayvaughn Wood (aka Steven Clark) approached Larry Shaw at 10th and Linwood Ave. and demanded money and other items from Shaw, or they would shoot him. Cruz was armed with a revolver. Shaw handed over cash and two phones to both Cruz and Wood. A forensic examination of Cruz's phone uncovered a photograph of Larry Shaw's photo ID. During the commission of all of the above crimes, Johnathan Cruz was on probation out of Polk County, Florida.

**Request for DP Filed:** July 26, 2016

**Conviction:** Murder (3 Counts), Armed Robbery (Level 3 Felony). All other Counts dismissed.

Plea Agreement, Stipulated Factual Basis for Guilty Plea filed 04/28/2017.

**Sentencing:** May 11, 2017 (LWOP, LWOP, LWOP, consecutive, and 16 years concurrent)

**Aggravating Circumstances:**

- (b) (1) Robbery
- (b) (8) Multiple Murders
- (b) (9) On Felony Probation

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## DANIELS, MICHAEL WILLIAM

OFF DEATH ROW SINCE 01-07-05

DOB: 03-08-1958 DOC#: 13135 Black Male

Location: New Castle Psychiatric Unit

Marion County Superior Court Judge Patricia J. Gifford

**Trial Cause #:** CR78-47D



**Defense:** Merle B. Rose, William F. Wurster

**Prosecutor:** Thomas J. Young, Marcus C. Emery (Stephen Goldsmith)

**Date of Murder:** January 16, 1978

**Victim(s):** Allan H. Streett W / M / 43 (No relationship to Daniels)

**Victim Website:** <http://www.arlingtoncemetary.net/astreett.htm>

**Method of Murder:** shooting with handgun

**Summary:** Defendant and two other men drove around residential neighborhoods in Indianapolis stopping and robbing persons shoveling snow in front of their homes. At the residence of U.S. Army Chaplain Allan Streett, Daniels and another man confronted Streett and his 15 year old son who were shoveling snow at approximately 9:30 p.m. Two men came up from behind and said, "Don't move and no one will get hurt." The 15 year old turned and saw Daniels waving a gun at him. Daniels ordered Allen Streett and his son to hand over their wallets. When Allen Streett responded that he did not have his wallet with him, Daniels shot and killed him. The 15 year old handed over his wallet to the other intruder, who then fled with Daniels. Three other residents at other locations were victimized that same night in a similar fashion. In all, six eyewitnesses identified Daniels at trial. In addition, accomplice Kevin Edmonds testified for the State, also implicating Daniels.

**Trial:** Information/PC for Murder and Death Penalty Filed (01-27-78); Death Sentence Request Filed (05-17-78); Jury Trial (08-20-79, 08-21-79, 08-22-79, 08-23-79, 08-24-79); Verdict (08-24-79); DP Trial (08-24-79); DP Verdict (08-24-79); Court Sentencing (09-14-79).

**Conviction:** Felony-Murder, Robbery (A Felony) (4 counts), Attempted Robbery (A Felony)  
**Sentencing:** September 14, 1979 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** lack of education  
below normal IQ, slow learner

**Direct Appeal:** Daniels v. State, 453 N.E.2d 160 (Ind. September 9, 1983) (380-S-66)

Conviction Affirmed 5-0 DP Affirmed 3-2  
Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.  
For Defendant: Richard Kammen, Indianapolis  
For State: Palmer K. Ward, Deputy Attorney General (Pearson)  
Daniels v. Indiana, 109 S.Ct. 3182 (1989)

(Judgment Vacated and remanded for consideration of Gathers victim impact)

Daniels v. State, 561 N.E.2d 487 (Ind. October 19, 1990) (49S00-8601-PC-33)  
(Appeal after Remand, DP Affirmed 4-1)

Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: Richard A. Waples, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** Daniels v. State, 528 N.E.2d 775 (Ind. September 23, 1988) (49S00-8601-PC-33)

(Appeal of PCR denial by Special Judge Thomas A. Alsip)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.  
For Defendant: Richard A. Waples, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

11-16-92 Defendant files pro-se PCR Petition.

11-23-92 Judge Patricia J. Gifford denies as not in proper form.

03-15-93 Defendant files PCR Petition.

04-02-93 Judge Thomas Alsip denies motion.

11-22-93 Defendant files Form for Successive PCR Rule 1.

12-06-94 Defendant files Motion for Summary Judgment on death penalty claim.

03-29-95 Special Judge James R. Detamore denies Motion for Summary Judgment.

03-30-95 Defendant files Motion for Summary Judgment.

04-03-95 Defendant files Motion for Summary Judgment.

For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis

For State: Marc E. Lundy

06-26-95 Hearing held; Special Judge James R. Detamore granted Defendant's Motion for Summary Judgment, enforcing plea agreement for a term of years, and resentenced Daniels to concurrent terms of 60 years (Murder), 50 years (Robbery), 20 years (Robbery), 20 years (Robbery), 20 years (Robbery), for a total sentence of 60 years imprisonment.

State v. Daniels, 680 N.E.2d 829 (Ind. May 16, 1997) (49S00-9411-SD-1079)

(State's appeal of granting of partial summary judgment by Special Judge James R. Detamore on 2nd PCR - PCR Court directed to enter judgment for State on Plea Agreement issue; remanded on remaining issues)

Reversed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.

For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis

For State: Meredith J. Mann, Deputy Attorney General (P. Carter)

09-24-96 Sentence imposed on 06-26-95 set aside and original convictions and sentence reinstated.

02-10-97 Amended PCR Petition filed.

Hearing held on remaining issues 02-11-97, 03-04-97, 03-05-97.

For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis

For State: Marc E. Lundy

07-09-97 PCR Petition denied by Special Judge James R. Detamore.

Daniels v. State, 741 N.E.2d 1177 (Ind. January 12, 2001) (49S00-9411-SD-1079)

(Appeal of 2nd PCR denial by Special Judge James R. Detamore)

Conviction Affirmed 5-0 DP Affirmed 3-2

Shepard Opinion; Sullivan, Dickson, concur. Boehm, Rucker dissent as to DP.

For Defendant: Mark A. Earnest, Eric K. Kosek, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

**Habeas:** 09-26-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.

Michael W. Daniels v. Robert A. Farley, Superintendent (IP 93-C-0586- M/F)

Judge Larry J. McKinney

For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis

For State: Wayne E. Uhl, Deputy Attorney General (Freeman-Wilson)

03-18-94 Entry directing dismissal until state remedies exhausted.

05-01-01 Notice of Intent to Amend pro-se Petition for Writ of Habeas Corpus filed.

02-01-02 Amended Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District

Michael W. Daniels v. Daniel McBride, Superintendent (IP 01-C-0550-Y/K)

Judge Richard L. Young

For Defendant: Mark A. Earnest, Eric Kosek, Brent L. Westerfield, Indianapolis

For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General

07-02-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

12-04-02 Petitioner's Motion to Appoint Guardian Ad Litem

04-25-03 Petitioner's Motion for psychological examination.

10-07-03 Mr. Hailey appointed Guardian Ad Litem at \$125 per hour.

05-04-04 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

02-24-05 Amended Petition for Writ of Habeas Corpus filed.

04-07-05 Amended Petition for Writ of Habeas Corpus denied.

Daniels v. Knight, 476 F.3d 426 (7th Cir. 2007) (05-2620) (Habeas denial affirmed after Clemency)

**Clemency:** On January 7, 2005, outgoing Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels, the longest serving prisoner on Indiana Death Row. Daniels was sentenced to death on September 14, 1979. Governor Kernan showed less than courage in granting the clemency, without notice to the Indiana Attorney General, in his last days in office after being defeated in his bid for reelection. As reasons for the clemency, Governor Kernan basically stated that Daniels was "almost" retarded, "almost" entered into a plea agreement for a lesser sentence, and the case was "almost" reversed on appeal. Also the case was very old. This marked only the second time since the reinstatement of the Death Penalty in Indiana in 1977 that an Indiana Governor had commuted a death sentence. On July 2, 2004 Governor Kernan issued an Executive Order commuting the death sentence of Darnell Williams to Life Imprisonment Without Parole. <https://secure.in.gov/ipdc/files/Michael-Daniels-Kernan.pdf>

- ▶ CURRENTLY SERVING A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE.

**DAVIS, MAJOR P., II**

DOB: 05/28/89 Black Male DOC# 249215 Location: Indiana State Prison

Marion Superior Court, Criminal Division #2 Judge Marc T.Rothenberg

**Trial Cause #:** 49G02-1407-MR-034656**Defense:** Raymond V. Casanova, Eric Kiselke**Prosecutor:** Michelle Marie Sharpe, Jayson W. McGrath, Deputy Prosecutors**Date of Murder:** July 5, 2014**Victim:** IMPD Officer Perry Wayne Renn W / M / 51 (No relationship to Davis)**Method of Murder:** Shooting with Assault Rifle**Summary:** On July 5, 2014, IMPD Officers Perry Renn and Nicholas Gallico responded to a report of shots fired near the intersection of 34th Street and Forest Manor Avenue. They immediately encountered a man, later identified as Davis, who began firing with an assault-type rifle. Officer Renn was hit by three rifle rounds fired by Davis and was killed.

While awaiting trial, Davis frequently fought with his attorneys and tried to file motions on his own behalf. After being found incompetent to stand trial in October, his defense attorneys at the time said he suffered from paranoia and delusions. Following psychiatric treatments at a state facility, Davis was found competent to stand trial in February 2017. A plea agreement for LWOP followed soon after.

**Request for DP Filed:** August 19, 2014**Conviction:** Murder; Plea Agreement filed April 21, 2017.**Sentencing:** April 27, 2017 (LWOP) Credit for 1,027 days pretrial confinement.**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.**Civil Suit:** Davis v. City of Indianapolis, (S.D. Ind. May 26, 2017) (1:16-cv-00090-TWP-MPB)

(Civil suit for damages against City of Indianapolis, Mayor, IPD, and the estate of the murdered Officer Perry Renn, claiming that they shot him and he shot nobody)

Stayed until final disposition of criminal case by Judge Tanya Walton Pratt.

## **DELAROSA, ANTHONY D.**

DOB: 07/22/1983 White Male DOC# 13429149215 Location: Wabash Valley Level 4 Facility

Hamilton County Superior Court #1 Judge Steven R. Nation

**Trial Cause #:** 29D01-0704-MR-052



**Defense:** Brent Edward Eaton, John Lawrence Tompkins, , Alex Voils

**Prosecutor:** Sonia J. Leerkamp, Prosecuting Attorney, Cynthia Crispin, Chief Deputy

**Date of Murder:** April 5, 2007

**Victim:** Rebecca Payne W / F / 32 (Estranged wife), George Benner W / M / 35 (Her boyfriend)

**Method of Murder:** Shooting with handgun.

**Summary:** The bodies of Rebecca Payne and her boyfriend, George Benner, were discovered in her bedroom at her house in Home Place, near Carmel, Indiana, around noon of April 5, 2007. Police investigation quickly focused on Toby K. Payne, Rebecca's estranged husband against whom she had obtained a protective order a month earlier. Rebecca, who was in the final stages of divorcing Payne, had been living apart from him with their six-year-old son.

Juan Lucio told officers that Toby K. Payne, 30, had begun plotting the killings seven months before while he was in jail with Payne. Payne had given him the key to Rebecca Payne's home in October 2006 and asked him to kill his wife. Lucio told police he that the car stopped at a church parking lot behind Rebecca Payne's home, and that Anthony Delarosa got out with a key to the home and walked away. Kyle Duckworth, in the car with Lucio, told police that Delarosa returned 15 minutes later, climbed into the back of the car and said, "They're done . . . I shot them." Upon arrest, two keys to Rebecca Payne's home were found in the bedroom of Delarosa, and two keys to Rebecca Payne's home were found on Lucio's person and car.

Phone records led the police to arrest Juan Lucio, Kyle Duckworth, and Anthony Delarosa within two weeks of the murders. Tara Cassada, Lucio's girlfriend, testified that sometime in the fall of 2006, Payne began making plans with Lucio to kill Rebecca to get full custody of their son, and he gave Lucio a key and a map to Rebecca's house. Lucio originally planned to do the shooting himself, but hired Delarosa because "he would go in and be out quick." Lucio and Delarosa would then split Rebecca's \$100,000 life insurance policy. Duckworth testified at Delarosa's trial pursuant to a plea agreement. Duckworth testified that in late March or early April of 2007, Lucio asked him to help with the shooting. They were not to harm Payne's son, but would kill George if he was there. Duckworth would be the driver, and he would receive \$200 or a quarter pound of weed for his involvement. When Delarosa returned to the car, he said, "they're done," and recounted how he walked in on George performing oral sex on Rebecca in her bedroom. Delarosa said he emptied his clip, shot them both, and left her body on the bed and his body on the floor. Phone records confirmed a large amount of communication between Payne, Lucio, Duckworth, and Delarosa leading up to and following the murder, and allowed the officers to track the movements of the cell phones.

**Request for LWOP Filed:** December 20, 2007

**Conviction:** Murder (2 Counts), Conspiracy to Murder (Level 1 Felony)

Jury Trial March 2-6, 2009; Jury waived for LWOP Trial, March 9, 2009.

**Sentencing:** April 15, 2009 (LWOP, LWOP, 50 years, all consecutive)

Accomplice Juan Lucio was convicted of two counts of Murder and Conspiracy to Murder (Level 1 Felony) and sentenced on May 16, 2008 to LWOP, LWOP, 50 years consecutive imprisonment by Judge Steven R. Nation in the Hamilton Superior Court. (29D01-0704-MR-47).

Lucio also pled guilty pursuant to a plea agreement to Attempted Murder (3 Counts) in the Clinton County Circuit Court (12C01-0708-FA-212), and on February 18, 2009 was sentenced to 40 years imprisonment on each Count, to run concurrently with Hamilton Count sentences.

Accomplice Toby K. Payne was convicted of two counts of Murder and Conspiracy to Murder (Level 1 Felony) and sentenced on May 14, 2009 to LWOP, LWOP, 50 years consecutive imprisonment by Judge Steven R. Nation in the Hamilton Superior Court. (29D01-0704-MR-000053).

Accomplice Kyle L. Duckworth was convicted of Assisting a Criminal (Level 5 Felony) and sentenced on May 08, 2008 to 4 years imprisonment by Judge Steven R. Nation in the Hamilton Superior Court. (29D01-0704-FC-000054).

**Aggravating Circumstances:** (b) (4) Murder for Hire  
(b) (8) Multiple Murders  
(b) (9) On Parole

**Mitigating Circumstances:**

**DIRECT APPEAL:** Delarosa v. State, 938 N.E.2d 690 (Ind. December 21, 2010) (29S00-0911-CR-531)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by David; Shepard, Dickson, Sullivan, Rucker concur.  
For Defendant: John F. Crawford, Indianapolis  
For State: Ellen H. Meilaender, Deputy Attorney General (Zoeller)

**PCR:** (29D01-1110-PC-015029)  
10/05/2011 Petition for Post-Conviction Relief filed.  
10/25/2011 Appearance Filed by Kathleen Jan Cleary, Deputy State Public Defender  
10/26/2011 Appearance Filed by Jamie Thompson Campbell, Deputy Prosecutor  
10/26/2011 State's Response to Defendant's Amended Verified Petition for Post-Conviction Relief  
10/21/2015 Amended Petition for PCR filed.  
05/16/2016 Hearing on Amended PCR Petition.  
05/23/2016 Judge Nation enters Findings of Fact, Conclusion of Law denying PCR.

Delarosa v. State, 87 N.E.3d 56 (Ind. Ct. App. 2017)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Najam, Riley, Bradford concur.  
For Defendant: Kathleen Cleary, Deputy Public Defender (Owens)  
For State: Ellen H. Meilaender, Deputy Attorney General (Hill)  
De La Rosa v. State, 2017 Ind. LEXIS 749 (Ind., Oct. 5, 2017) (Transfer denied)

**HABEAS:** None.

**DICKENS, GREGORY, JR.**

DOB: 05/22/1981 Black Male DOC# 967141 Location: Indiana State Prison



St. Joseph County Superior Court #1 Judge William H. Albrlght

**Trial Cause #:** 71D01-9708-CF-00375**Defense:** Philip R. Skodinski, James F. Korpal**Prosecutor:** Scott H. Duerring, Deputy Prosecutor**Date of Murder:** August 24, 1997**Victim:** SBPD Officer Paul Richard Deguch W / M / 30 (No relationship to Dickens)**Method of Murder:** Shooting with handgun

**Summary:** On August 24, 1997, sixteen-year-old Dickens was riding bikes with Quinton Price, known as "Paulie." While patrolling the area, Officer Scott Hanley advised Corporal Paul Deguch by radio that Dickens was riding a valuable bicycle that he suspected was stolen. Later on that evening, Deguch spotted Dickens and Paulie and approached them in his patrol car. Paulie rode off, while Dickens rode up to the nearest house, 1024 Talbot Street, alighted from the bike, and went up on the porch. Deguch shined his spotlight onto the porch, exited his car, and followed Dickens onto the porch as Dickens was knocking on the door. Dickens then shot Corporal Deguch in his head and shoulder and killed him.

**Request for DP Filed:** August 26, 1997**Conviction:** Murder.

May 17-27, 1999 Jury selection conducted and completed. Jurors sworn and sequestered  
Jury Trial May 28 to June 5, 1999; Guilty Verdict  
Penalty Phase Trial June 7-8, 1999; Verdict: LWOP Recommended

**Sentencing:** July 9, 1999 (LWOP; 683 days credit for time served)**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer**Mitigating Circumstances:** Neglect by and absence of parents

- Parent's criminal activity, criminal training of Greg
- Family substance abuse
- Used as pawn in family battles; Seeing parental violence
- Not protected from dangerous environments
- Limited cognitive abilities; no services for learning problems
- Showed improvement in jail; Potential for rehabilitation in prison
- Young age; 16 when crime committed
- Residual Doubt
- No significant criminal history
- Love of his family
- Susceptibility to drug and/or alcohol addition
- Poor family (male) role models
- Cultural obstacles
- Overcrowding at home
- Even if incarcerated, family would benefit from their relationship

**DIRECT APPEAL:** Dickens v. State, 754 N.E.2d 1 (Ind. August 28, 2001) (71S00-9911-CR-00646)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Shepard; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Philip R. Skodinski, South Bend  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

**PCR:** (71D01-0208-PC-29)  
Dickens v. State, 997 N.E.2d 56 (Ind. App. October 24, 2013) (71A03-1304-PC-101)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion By Bradford; Bailey, May Concur.  
For Defendant: Steven H. Schutte, Deputy Public Defender (Owens)  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

**HABEAS:** Dickens v. Superintendent, (N.D. Ind. May 6, 2014) (No. 1:14-CV-117)  
United States District Court for the Northern District of Indiana, Fort Wayne  
Judge Rudy Lozano  
(Dismissed Habeas Corpus Petition as untimely, and denied a Certificate of Appealability)

**DICKEY, LEONARD WESLEY**

DOB: 05/18/1960 White Male DOC# 190101 Location: Wabash Valley Level 3 Facility

Wayne County Superior Court Judge

**Trial Cause #:** 89D01-0705-MR-001 / 89D02-0707-MR-001**Defense:** Jeffrey A. Baldwin, Timothy Mark Neal**Prosecutor:** Michael W. Shipman, Prosecuting Attorney, William C. Hoelscher**Date of Murder:** May 22, 2007**Victim:** Tarra Pickett W / F / 16 (No relationship to Dickey)**Method of Murder:** Strangulation

**Summary:** On May 22, 2007 at 10:30 pm, police found the body of 16 year old Tarra Pickett in a public wooded area in Cambridge City, near the corner of Walnut and South Fourth Street. Pickett was returning from a friend's home when she was abducted, strangled, and killed by a registered sex offender. Leonard Dickey (47) was arrested after he crashed his car ending a police chase. Dickey was free on bond from a January arrest by Wayne County sheriff's deputies on three felony charges of Child Molesting. In that case, Dickey posted a \$50,000 bail through a bondsman and was awaiting trial. Upon interrogation after arrest, Dickey admitted abduction and murder, and directed officers to the location of the body.

**Request for LWOP Filed:** November 8, 2007; Repeat Sex Offender Enhancement also filed.

**Conviction:** Murder; Criminal Deviate Conduct (Class B Felony), Confinement, Theft (Class D Felony), Theft (Class D Felony) - Guilty Plea by Plea Agreement filed June 5, 2008; Admit Habitual Offender

**Sentencing:** July 3, 2008 (LWOP, 20 years + 30 years for Habitual Offender, 3 years, 3 years, 3 years)  
To be served concurrently

Dickey was previously convicted of Rape (Class A Felony), and on July 2, 1982 was sentenced by the Fayette County Circuit Court to 40 years imprisonment in # C-81-91. He was released from IDOC on October 19, 2005.

**Aggravating Circumstances:** b (1) Criminal Deviate Conduct**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.**DUMAS, RONALD ELLIS**

DOB: 11/12/1960 Black Male DOC# 882103 Location: Indiana State Prison

Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 45G01-9808-CF-000187**Defense:** Richard Wolter**Prosecutor:** Stacey Speith, Tracy Reinholt, Deputy Prosecutors  
(Allen County Prosecutors brought in due to conflict)**Date of Murder:** July 7, 1998

**Victim:** John "Red" Fiss W / M / 56 (No relationship to Dumas)

**Method of Murder:** Shooting with Handgun

**Summary:** On July 7, 1998 Sandra Irving, Edrick Wheeler, and Ronald E. Dumas were present at Irving's home where Irving consumed a quantity of heroin. At some point the trio decided to proceed to a car lot. Wheeler drove and en route Dumas commented that this would be a good "hit," referring either to drugs or money. Dumas and Irving exited the car approximately a block away from B & R Motors and walked to that location.

Brian McCarty owns B & R Motors, a used car lot located in Lake Station. John Fiss worked for McCarty as a salesman and was known for wearing flashy jewelry, including necklaces and gold and diamond rings. At approximately one or two o'clock in the afternoon of July 7, both McCarty and Fiss were present at the car lot. As McCarty was preparing a bank deposit, which consisted of about \$750 placed in a small zipper bank bag, Dumas and Irving walked into the small office located on the lot. Irving inquired about a car, and when McCarty accompanied her to the lot Irving produced a handgun and pointed it at McCarty's head. Realizing "something was coming down" McCarty ran toward the office to warn Fiss. As McCarty did so he heard gunfire. Abandoning the idea of going inside the office, McCarty then ran toward his truck. Looking over his shoulder McCarty saw Dumas pointing a handgun in his direction and saw a flash from the gun. A bullet struck McCarty, and he stumbled to the ground.

Immediately before shooting McCarty, Dumas was in the office where two customers had arrived on the scene. Displaying a handgun, Dumas demanded money from Fiss. The record is unclear whether Fiss responded, but in any event Dumas fired several shots striking Fiss in the face. Shortly thereafter Irving entered the office and began rummaging through desk drawers eventually declaring "I found it. I got the bag." Dumas then said, "Get those damn rings because they're worth a lot of money." The pair then fled the scene. The record shows McCarty suffered severe internal injuries from the shooting, was in a coma for twenty-seven days, and is paralyzed from the waist down. Fiss died as a result of gunshot wounds to the head and neck. Dumas had accumulated no less than 21 prior felony convictions.

**Conviction:** Murder, Felony-Murder, Robbery (Class A Felony), Habitual Offender.

Jury Trial September 4-7, 2001; Verdict: Guilty all charges.

Phase II (Habitual Offender) and Phase III (LWOP) September 8, 2001

Finds Habitual Offender and Recommends LWOP.

**Sentencing:** November 1, 2001 (LWOP, merged, 30 + 30 = 60 years, all consecutive)

Accomplice Sandra Bonita Irving pled guilty to Murder and testified against Dumas. Pursuant to a plea agreement, on July 2, 1999, she was sentenced to 50 years imprisonment by the Lake Superior Court. (45G01-9807-CF-000141).

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** Residual doubt that Dumas was the shooter

LWOP disproportionate to other similarly situated defendants in Lake County

**DIRECT APPEAL:** Dumas v. State, 803 N.E.2d 1113 (Ind. February 26, 2004) (45S00-0203-CR-187)

Convictions Affirmed 5-0 LWOP Affirmed 4-1

Opinion by Rucker; Shepard, Dickson and Boehm concur. Sullivan concurs except as to sentence. (Finding sentencing order inadequate, he would impose term of 95years)

For Defendant: Mark A. Bates, Appellate Public Defender, Crown Point

For State: Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)

**PCR:** None.

**HABEAS:** None.

## DYE, WALTER L.

OFF DEATH ROW SINCE 06-29-01  
DOB: 10-02-64 DOC#: 987990 Black Male  
Location: Pendleton Correctional Facility

Marion County Superior Court Judge Patricia J. Gifford  
**Trial Cause #:** 49G04-9608-CF-112831



**Prosecutor:** Scott C. Newman, Prosecuting Attorney, Barbara J. Trathen, Stephanie J. Schankerman  
**Defense:** John F. Crawford Jr., Carolyn W. Rader, Kimberly Devane

**Date of Murder:** July 22, 1996

**Victim(s):** Hannah Clay, B / F / 14 (wife's daughter); Celeste Jones, B / F / 7 (wife's granddaughter); Lawrence Cowherd, B / M / 2 (wife's grandson)

**Method of Murder:** Jones & Cowherd (beaten and strangled);  
Clay (beaten with pry bar, strangled, and stabbed)

**Summary:** Dye was married to Myrna Dye, who was the mother of 14 year old Hannah Clay. Following marital arguments, Myrna and Hannah moved out of the marital home. One week later while Myrna was at work, Hannah was babysitting at their new residence for her 7 year old niece (Celeste Jones) and her 2 year old nephew (Lawrence Cowherd). Dye went to the residence and brutally assaulted the children in revenge for Myrna leaving him. He had a history of violence against Myrna and had threatened Hannah. Hannah was found beaten to death with a pry bar, strangled and stabbed. The bodies of the two young children were found beaten and strangled, stuffed into garbage bags in a nearby alley.

**Trial:** Information/PC for Murder filed (08-06-96); Amended Information for DP filed (08-22-96); Voir Dire (09-02-97, 09-03-97; 09-04-97); Jury Trial (09-05-97, 09-06-97; 09-07-97, 09-08-97, 09-09-97; 09-10-97, 09-11-97, 09-12-97; 09-13-97, 09-15-97, 09-16-97; 09-17-97); Verdict (09-17-97); DP Trial (09-18-97); Verdict (09-18-97); Court Sentencing (01-20-98).

**Conviction:** Murder (3 counts)

**Sentencing:** January 20, 1998 (Death Sentence on murder of Celeste Jones; other convictions "merged")

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:** Innocence

**Direct Appeal:** Dye v. State, 717 N.E.2d 5 (Ind. September 30, 1999) (49S00-9801-DP-55)  
Conviction Affirmed 5-0      Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Selby, Sullivan concur  
For Defendant: Teresa D. Harper, Bloomington  
For State: Janet Brown Mallett, Deputy Attorney General (Modisett)  
Dye v. Indiana, 121 S.Ct. 379 (2000) (Cert. denied)

**PCR:** PCR Petition filed 09-15-00. Amended PCR filed 01-16-01, 03-15-01.

State's Answer to PCR Petition filed 10-16-00, 02-15-01.

PCR Hearing 05-14-01, 05-15-01, 05-16-01, 05-17-01, 05-21-01, 05-22-01.

Marion Superior Court Judge Patricia J. Gifford (49G04-9608-PC-112831)

For Defendant: Laura L. Volk, Kathleen Cleary, Barbara S. Blackman, Deputy Public Defenders (Carpenter)

For State: Thomas D. Perkins, Timothy W. Beam, Deputy Attorneys General, Barbara J. Trathen.  
06-29-01 PCR Petition granted, vacating convictions and death sentence.

State v. Dye, 784 N.E.2d 469 (Ind. March 6, 2003) (49S00-0002-PD-112)

(State's appeal of granting of PCR on conviction and death sentence by Marion Superior Court  
Judge Patricia J. Gifford on grounds that juror failed to disclose information critical to defense -  
Affirmed.)

Conviction Reversed 5-0 DP Vacated 5-0

Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.

For Defendant: Laura L. Volk, Kathleen Cleary, Barbara Blackman, Deputy Public Defenders (Carpenter)

For State: Timothy W. Beam, Deputy Attorney General (S. Carter)

**On Remand:** On November 8, 2004, pursuant to a Plea Agreement, Dye pled guilty to Murder (3 Counts)  
and was sentenced to Life Without Parole.

- ▶ CURRENTLY SERVING A TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

## FLORES, DAVID ALEX

DOB: 10/22/1973 Hispanic Male DOC# 952290 Location: Indiana State Prison



Lake County Superior Court Judge Thomas P. Stefaniak, Jr.

Trial Cause #: 45G04-0909-MR-00008

**Defense:** Teresa Kay Hollandsworth, Noah L. Holcomb, Jr., Thomas W. Vanes

**Prosecutor:** Bernard Arnold Carter, Prosecuting Attorney, Peter Villarreal, Robert William Persin

**Date of Murder:** September 10, 2009

**Victims:** Jennifer Evans W / F / 28, Kristen Evans-Kennedy W / F / 25 (Sisters no relation to Flores)

**Method of Murder:** Stabbing with knife / Arson

**Summary:** Jennifer Evans had bought a house on North Lindberg Street in Griffith, and Flores happened to show up with a friend on September 10, 2009, at a small outdoor gathering she hosted. Flores, freed weeks earlier from prison, had been living nearby in the 200 block of Raymond Street. He went inside to use the bathroom, unlocked a window to the office across the hall, and returned after the women were in bed to rape, strangle and stab them. Before he left, he collected items he had touched, then covered them with bedding and set the bedding on fire while the women were still alive. Autopsies confirmed that the sisters were alive when the fire was started.

At Sentencing, Judge Stefaniak told Flores that he deserves the ultimate punishment. If he had received the death penalty, there was a three-in-five chance that it would have been overturned on appeal. However, the judge made clear that Flores deserved such a punishment. "As I live my life and talk to people, this is just the case in a perfect world that would justify the death sentence. I could pronounce a death sentence. The fact of the matter is you, Mr. Flores, are the devil among us. There are no redeeming qualities that you have and there is nothing you can offer society."

Lake Criminal Court records indicate a judge sentenced Flores in 1995 to 10 years in prison for raping a woman in East Chicago. Three months after his prison release, he raped a second woman in East Chicago in 2001. A judge sentenced him to 12 years in prison for that crime. He was released July 27, 2009 only two months before the murders.

**Request for DP Filed:** April 24, 2010

**Conviction:** Murder, Murder, Rape (Class B Felony), Rape (Class B Felony)  
Guilty Plea by Plea Agreement filed August 26, 2010

**Sentencing:** September 9, 2010 (LWOP, LWOP, 20 years, 20 years, all consecutive)

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**GAUVIN, MICHELLE DIANE**

DOB: 01/17/1972 Mixed Female DOC# 152955 Location: Indiana Women's Prison

Tippecanoe County Superior Court #2 Judge Thomas H. Busch

**Trial Cause #:** 79D02-0503-MR-000001



**Defense:** Kevin Robert O'Reilly, Lee Griffith, Thomas Joseph O'Brien

**Prosecutor:** Jerry Bean, Prosecuting Attorney

**Date of Murder:** March 15, 2005

**Victim:** Aiyana Emily Gauvin W / F / 4 (Stepdaughter)

**Method of Murder:** Beating

**Summary:** Aiyana Gauvin was born on December 12, 2000, to Christian and Cassandra Gauvin. Christian obtained custody of Aiyana on December 19, 2003, following a Child in Need of Services proceeding. Christian and Aiyana subsequently moved in with Michelle, who married Christian on February 18, 2005. Michelle usually cared for Aiyana during the day; Christian cared for her in the evenings. According to the Gauvins, Aiyana began exhibiting intermittent behavioral problems in summer 2004. They claimed that Aiyana sometimes acted defiantly or disrespectfully, would not stop picking scabs on her feet or pulling out her own hair, urinated and soiled herself or her bed, fell over and injured herself, and refused to eat or ate condiments out of the refrigerator during the night.

In response to Aiyana's behavior, the Gauvins resorted to a number of disciplinary measures. Michelle often tied up Aiyana and put duct tape over her mouth. At times, Aiyana was tied to a booster seat using "zip" ties. Michelle frequently struck Aiyana with her hand or with pieces of a wooden cutting board. Michelle once bit Aiyana after the child had bitten her. Aiyana slept in a small room adjacent to the garage with a plywood floor but no insulation or forced air heating. The room was "exceptionally cold," about ten to fifteen degrees colder than the rest of the house. To prevent Aiyana from leaving the room during the night, the door was sometimes tied shut and anchored to a chair in the next room. Aiyana's room contained a bed without bedding, and she was prevented at times from sleeping even on that. Instead, she was forced to sleep bound either in her booster seat or on a small plastic tray in the corner on the floor.

The Gauvins also photographed Aiyana in varying states of bondage and forced her to view these pictures of herself. In one of the photographs, Aiyana is tied to her bed, wearing an overflowing diaper and lying in excrement.

On March 15, 2005, Michelle again tied Aiyana in the booster seat, with her hands restrained behind her. Christian was particularly "fed up" with Aiyana that night, and while Michelle was out of the house, he beat her severely. When Michelle returned, Aiyana was still bound to the chair. Michelle attempted to feed her a blended rice concoction, but Aiyana had difficulty eating and

vomited. In response, Michelle covered Aiyana's mouth with duct tape and put her in her room to go to sleep, still strapped to the booster seat. Michelle admitted knowing that Aiyana "probably needed medical attention." Nonetheless, she left Aiyana in this condition all night.

The following morning, police and firefighters were called to the Gauvin home on a report that a four-year-old child was choking. On entering the home, emergency personnel found Aiyana not breathing, without a pulse, and cold to the touch. She had red marks and bruising on her face, arms, chest, and legs. Michelle explained to police that she had found Aiyana unresponsive on the floor. When the coroner arrived, she observed that Aiyana was "obviously deceased."

An autopsy revealed that Aiyana died from acute subdural hematoma [sic] caused by vigorous shaking or a blunt force injury to the head within twenty-four hours of her discovery. Numerous bruises, abrasions, and scratches covered Aiyana's body, varying in age from less than one day old to several days old. The pathologist estimated that Aiyana had been struck at least four or five times on her head and more than two dozen times on the rest of her body. Ligature marks were found on her wrists. She was malnourished and dehydrated.

In June 2005, as Michelle awaited trial for Aiyana's death, corrections officer Tammy Lynch of the Tippecanoe County Jail went to Michelle's cell to investigate a report that Michelle had attempted suicide. During their conversation, Michelle said she was "tired of all the shit and wanted to tell the truth." She then stated, "I killed the little bitch. The little bitch pissed me off and I killed her." Lynch asked Michelle "if she was [saying] she had killed that baby girl." Michelle responded, "Yes I killed the little bitch and she deserved it too."

**Request for LWOP Filed:** October 20, 2006

**Conviction:** Murder, Neglect of a Dependent (Class A Felony), Criminal Confinement (Class B Felony)  
Guilty Plea by Plea Agreement

**Sentencing:** October 26, 2006 (LWOP, 20 years, 20 years, all consecutive)

**Aggravating Circumstances:** b (11) Tortured Murder Victim While Alive  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:** Minimal prior criminal record  
Extreme Emotional Disturbance, Mental Illness, Borderline Personality  
Guilty Plea, Admitting Responsibility  
Only an accomplice; Husband received only 50 year sentence  
Loving mother of two exemplary children

**DIRECT APPEAL:** Gauvin v. State, 883 N.E.2d 99 (Ind. April 1, 2008) (79S00-0702-CR-65)  
Convictions Affirmed 5-0 LWOP Affirmed 4-1  
Opinion by Shepard, Dickson, Boehm, Rucker concur. Sullivan, J., dissents with separate opinion. (Would sentence only to 65 years considering that her husband Christian "brought violence into her life" and only received a 50 year sentence. LWOP not proportional.)  
For Defendant: Kevin R. O'Reilly, Lafayette  
For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

**PCR:** (79D02-0807-PC-00006)  
Gauvin v. State, Unpub., 10 N.E.3d 611 (Ind. App. April 17, 2014) (79A02-1306-PC-542)  
Convictions Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Robb; Barnes, Brown concur.  
For Defendant: Joanna L. Green, Deputy Public Defender (Owens)  
For State: James B. Martin, Deputy Attorney General (Zoeller)

**HABEAS:** None.

**GORBEA, JOSEPH LUIS, JR.**

DOB: 01/22/1977 Hispanic Male DOC# 984053 Location: Indiana State Prison

Lake County Superior Court, Criminal Division #1 Judge Richard Maroc  
**Trial Cause #:** 45G01-9610-CF-00191**Defense:** Daniel Toomey, Marce Gonzalez**Prosecutor:** Catherine Lake, Natalie Bokota, Deputy Prosecutors**Date of Murder:** October 19, 1996**Victim:** Alicia Rodriguez H / F / 6 (Daughter of girlfriend)**Method of Murder:** Strangulation

**Summary:** Joseph Luis Gorbea had been dating, then living with Marisol Rodriguez, along with her two children, 6 year old Alicia, and her 8 year old brother. On a Saturday, Gorbea was baby-sitting both children while Rodriguez was out of the home. When she returned, Gorbea initially told her that Alicia was just "missing." The police were called and Gorbea gave several versions of what happened. Initially, Gorbea told police the girl had run away, then under further interrogation admitted he had become angry with her and struck her, after which she stopped breathing. He said he took the body to the Liverpool Road bridge over Deep River and threw it in. Eventually, he admitted that at approximately 5 pm, he engaged in sexual intercourse with Alicia. He then took her to the car, hitting her several times while driving. He saw that she was not breathing. According to Gorbea, he knew he was going to kill Alicia when he put her in the car. He also knew that he had to get rid of her body, so he dumped her body in the Deep River near the Liverpool Road bridge.

The murder took place to cover up the sexual assault. The sexual assault apparently took place about 5 pm Saturday, and the girl's death occurred about four hours later - the result of blunt trauma to the neck. Emergency response crews pulled Alicia's body from Deep River early Sunday morning. An autopsy confirmed that she had been beaten, strangled, and molested.

**Request for DP Filed:** November 19, 1996

**Conviction:** Murder; Child Molesting (Class A Felony), Rape (Class A Felony)  
Guilty Plea by Plea Agreement filed February 2, 1997.

**Sentencing:** February 20, 1998 (LWOP, LWOP, LWOP)

**Aggravating Circumstances:** (b) 1 Rape  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.

**GRIFFITH, FERNANDO C.**

DOB: 06/16/1977 Black Male DOC# 105877 Location: Miami Correctional Level 3 Facility

Johnson County Circuit Court Judge K. Mark Loyd

**Trial Cause #:** 41C01-0005-CF-000114**Defense:** John P. Wilson**Prosecutor:** Bradley Cooper, Chief Deputy Prosecutor**Date of Murder:** May 19, 2000**Victims:** Lloyd Georges W / M / 60, Judy Georges W / F / 58 (Acquaintance / Employer of Griffith)**Method of Murder:** Stabbing with knife

**Summary:** The Greenwood Fire Department responded to a fire at the home of Lloyd and Judy Georges early on May 19, 2000. Investigators discovered the bodies of Lloyd and Judy inside, and autopsies confirmed that stab wounds were the cause of death. Investigators further determined the fire was intentionally set with an accelerant. Jewelry was missing from the house along with Lloyd's wallet. The Georges' car was also missing from the garage.

The Greenwood police learned that a witness saw a black male carrying a gas can in the front yard of the Georges' house and walking into the front door of their home. A neighbor informed police that he saw Georges' car pulling out of their garage the same morning around 5:05 a.m. Police went to Griffith's apartment building around 10:15 p.m. on May 21st, where they noticed that Griffith smelled of burnt smoke and had band-aids on his hands and fingers. While booking Griffith, a ring belonging to Lloyd Georges was found in Griffith's pocket. While in custody, Griffith confessed that he burglarized the residence of Lloyd and Judy Georges, murdered the couple, and set fire to their home.

Lloyd Georges taught at Greenwood public schools for 20 years. He resigned in 1982 after being charged with public indecency and battery for allegedly soliciting men in a public restroom. His wife, Judy, 58, was also a retired teacher. Griffith worked for Lloyd Georges' landscaping business and also performed as a dancer at an Indianapolis gay bar, The Unicorn Club. According to Griffith, Georges owed him money and he went there to collect. All he got from Georges was a heated argument and he left. He came back later that night, broke into the residence as they slept and stabbed them to death, then returned later to set fire to the bodies and the home.

**Request for LWOP Filed:** January 17, 2001**Conviction:** Murder; Murder, Arson (Class B Felony), Burglary (Class B Felony)

Jury Trial - Jurors selected from Sullivan County - August 15-24, 2001

Verdict: Guilty all counts; LWOP Trial August 28, 2001; Recommend LWOP.

**Sentencing:** September 18, 2001 (LWOP, LWOP, 18 years, 18 years, consecutive)**Aggravating Circumstances:** b (1) Burglary

b (8) Multiple Murders

b (11) Mutilated or Tortured Murder Victim While Alive

**Mitigating Circumstances:**

**DIRECT APPEAL:** Griffith v. State, 788 N.E.2d 835 (Ind. May 16, 2003) (41S00-0109-CR-438)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Shepard; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: John P. Wilson, Greenwood  
For State: Robin Hodapp-Gillman, Deputy Attorney General (S.Carter)

**PCR:** Fernando Griffith, Petitioner v. State of Indiana (41001-0405-PC-000001)  
Johnson County Circuit Court Judge Andrew S. Roesener  
Findings of Fact: Conclusions of Law: and Judgment filed June 8, 2021 - PCR DENIED.  
(The matter comes before the court regarding the Petitioner's "Petition for Post Conviction Relief" filed on April 26, 2004. Evidentiary hearings related to the surviving claims were conducted on July 27, 2020; September 28, 2020; and January 25, 2021. On each court date the Petitioner appeared in person, in custody, and pro-se, and the State of Indiana appeared by Johnson County Deputy Prosecuting Attorney Joseph Sayler. "Simply stated, Griffith has not come close to meeting his burden of proof relative to Wilson's trial or appellate counsel's performance.)

APPEAL PENDING IN INDIANA COURT OF APPEALS (21A-PC-01781).

**HABEAS:** None.

## **GRIFFITH, JAMES FRANCES**

DOB: 05/17/1979 White Male DOC# 117892 Location: Indiana State Prison

Grant County Superior Court Judge Jeffrey D. Todd

**Trial Cause #:** 27D01-1208-MR-000113

**Defense:** Pro Se, C. Robert Rittman, Standby Counsel.

**Prosecutor:** Jim Luttrull, Prosecuting Attorney, Bill Heck, Chief Deputy

**Date of Murder:** July 21, 2012

**Victim:** Duwayne Myron Lindsey W / M / 81 (No relationship to Griffith)

**Method of Murder:** Stabbing with knife

**Summary:** In his retirement, 81 year old veteran Duwayne Lindsey enjoyed collecting guns and coins and making daily trips to AMVETS, a local veteran's service organization. He lived alone, but was known to welcome others into his home to share his hobbies. At one point, Lindsey invited his friend's step-son Chris Hisey to come over and help him remodel a closet to fit his gun safe. Hisey obliged and allowed an acquaintance, Griffith, to tag along. Afterwards, Griffith told his girlfriend, Lacy Bradley, about Lindsey's valuable collections. The couple, who had just spent a month in Ohio living off bad checks, decided it was time for a robbery.

One morning, Griffith and Bradley pulled up to Lindsey's house in an Oldsmobile. Griffith asked Lindsey if he could spare a moment to inspect some coins. Lindsey welcomed them inside to a card table, where he had a coin magnifying glass set up. But shortly after he sat down, Griffith nodded to Bradley, who bashed Lindsey's head with a hammer, fracturing his skull. Griffith then pulled out his knife, stabbed Lindsey in the chest, and demanded the combination to his safe. Each time Lindsey answered incorrectly, Griffith cut his throat. Eventually, Griffith broke the dial off the safe and pried it open. Over the next hour and a half, Griffith and Bradley stuffed Lindsey's guns, coins, and cash into the Oldsmobile until the trunk "sat down a bit."

The couple then set out on an extended road trip, spending Lindsey's money and calling themselves the modern-day "Bonnie and Clyde." They picked up a friend in Fort Wayne and headed to Batesville to spend the night with Bradley's father, Brian. As Brian helped them unload numerous guns and heavy bags of coins, he thought the couple's behavior was strange. Although

Griffith insisted the property was his, he struggled to load a western-style revolver and plucked coins from their proof sets, decreasing their value.

The next day Griffith bought a van with Lindsey's money, moved the Oldsmobile's license plate onto the van, and ditched the Oldsmobile. They continued south to Kentucky and bought a motorcycle, again with Lindsey's cash. The group eventually pulled into a gas station, near where a pair of Kentucky State troopers were parked. Just as one of the troopers noticed the motorcycle's license plate was expired, Griffith walked up, map in hand, and asked for directions. The trooper asked for identification, and Griffith said he was "John Scott Griffith." When the trooper saw that name matched an Ohio felony arrest warrant for two counts of forgery, he placed Griffith under arrest.

Realizing her boyfriend was in trouble, Bradley stepped out of the van and claimed the motorcycle was hers. Suspicious, the troopers ran the van's license plate and saw it actually belonged to an Oldsmobile. At that point, Bradley asked if the troopers would leave if she just gave them "the drugs," and she handed over two pill bottles. Then, ignoring orders to stop, she started walking back towards the van to grab her purse—which contained a gun. As she reached for the purse, the troopers pulled her back and placed her under arrest. Soon after, the troopers looked through the van's back window and saw a bloody rifle. They searched the van and found at least fourteen guns and over \$25,000 in cash.

**Request for LWOP Filed:** August 9, 2013

**Conviction:** Murder; Robbery (Class C Felony), Conspiracy to Commit Robbery (Class C Felony)  
Jury Trial, Pro Se - April 11 to April 28, 2014 - Verdict Guilty Counts I-V  
LWOP Trial, Pro Se - April 28, 2014 - Recommend LWOP

**Sentencing:** May 23, 2014 (LWOP, 8 years, 8 years; 8 year terms concurrent with each other but consecutive to LWOP; Count II: Felony Murder and Count V: Aggravated Battery vacated)

Accomplice Lacy D. Bradley was convicted of Murder, Robbery, Conspiracy to Robbery, and Theft and on July 14, 2014 was sentenced by the Grant Circuit Court to concurrent terms totaling 65 years imprisonment. (27D01-1208-MR-000114)

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**DIRECT APPEAL:** Griffith v. State, 59 N.E.3d 947 (Ind. September 29, 2016) (27S00-1503-LW-145)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
(Pro Se issues; Meaningful Access)  
Opinion by Rush; Rucker, David, Massa, Slaughter concur.  
For Defendant Mark Small, Indianapolis  
For State: Ellen H. Meilaender, Andrew A. Kobe, Deputy Attorneys General (Zoeller)

**PCR:** None.

**HABEAS:** None.

**CIVIL SUIT:** Griffith v. Brannick (S.D. Ind. Feb. 5, 2020) (1:17-cv-00194-TWP-MJD)  
(Lawsuit seeking damages against prison officials for excessive force)  
Griffith v. Ind. Dep't of Corr., 122 N.E.3d 452 (Ind. App. February 5, 2019)  
(Lawsuit seeking damages against prison officials for lost property)  
Griffith v. Geo Grp., (S.D. Ind. Mar. 5, 2020) (1:18-cv-03416-JRS-DLP)  
Lawsuit seeking damages against prison officials for negligence and indifference to his serious medical needs)

## **GROSS, JEREMY DAVID**

DOB: 09/19/1979    White Male    DOC# 966498    Location: Pendleton Correctional Facility

Marion County Superior Court, Criminal Division #4 Judge Patricia J. Gifford

**Trial Cause #:** 49G04-9808-CF-141115

**Defense:** Robert Hill and Mark Earnest

**Prosecutor:** Richard Plath and Jeff Gill

**Date of Murder:** August 26, 1998



**Victim:** Christopher Beers W / M / 24 (Former co-worker with Gross)

**Method of Murder:** Shooting with handgun

**Summary:** In the early morning hours of August 26, 1998, J.J. Thompson was driving near a convenience store in Indianapolis when he saw a person later identified as Jeremy Gross raise his arm and fire a handgun at Christopher Beers, the store clerk. Thompson immediately drove away and called the police. In the meantime, after taking \$650 in cash, disabling the store's telephone lines, and grabbing the video recorder that served the surveillance cameras, Gross and his confederate, Joshua Spears, fled the scene.

When officers of the Marion County Sheriff's Department arrived, they found Beers' body outside the store near a payphone. He had died as a result of multiple gunshot wounds to the head, chest, and abdomen. Sheriff's deputies arrested Gross shortly thereafter. Gross gave a taped statement admitting that he entered the store to rob the cashier, and when the cashier refused to surrender the money, he shot him. Gross also admitted taking the security video recorder in order to conceal the crime.

That was how the Indiana Supreme Court on Direct Appeal described the murder of Christopher Beers. Here is a more complete and accurate version: At 2:40 a.m. on August 26, 1998, along a main drag on the west side of Indianapolis, 18-year-old Jeremy Gross approached a convenience store with a friend. They intended to rob it. He knew the store well, since he worked there part time, and he also knew the young man, Christopher Beers, who was the lone clerk that morning, working the graveyard shift for money to return to Purdue University.

Gross stood outside the glass doors, behind his accomplice, Joshua Spears. He held a small, black semiautomatic pistol at his side, out of sight. Beers buzzed them in. Gross took long, hurried strides into the store, raised his right arm and started shooting. It happened so quickly that Beers didn't have a chance to say anything. The first shot hit him in the abdomen. Gross continued to fire. Three shots missed, but a fourth hit Beers in the chest. "Oh, God, please, no," he pleaded. As Beers stumbled into the back office, Gross followed. From close range, Gross shot Beers in the face. With blood now gushing from his eyes, Beers reached out for Gross, as if he were asking for support. Gross pushed him away, and he crumpled to the floor. "Why, Jeremy, why?" Beers asked. Gross told him to shut up.

Gross's partner, Spears, had headed for another room to get the surveillance tape, but he couldn't get the eject to function, so he grabbed the VCR. Meanwhile, Gross emptied the cash register and office safe of \$650, then ripped the two telephone cords from the wall. This all happened in less than a minute. The two fled on foot, through a neighborhood of mobile homes to their trailer park not more than half a mile away. Along the way, Gross and Spears threw the gun and the VCR over a wire fence into a retaining pond.

After they left, Beers lifted himself off the floor and shuffled out the door to a pay phone, where he again collapsed and died. A passer-by who was a regular customer at the Convenient Food Mart had seen Gross and Spears enter the store. He gave the police a description, and another employee said that the description sounded like that of Gross. Less than 7 hours later, Gross confessed to detectives, steering them to the VCR and gun. They found the VCR lying in

shallow water, protruding from the mud; divers recovered the gun. FBI experts salvaged the videotape and it was shown to the jury, along with the recorded confession to police.

Strong mitigation on behalf of Gross was shown to the jury during the penalty phase which included his young age and a chaotic and abusive childhood with a neglectful home life. It was enough to convince a jury to spare his life.

**Request for DP Filed:**

**Conviction:** Murder, Conspiracy to Robbery (Class B Felony), Robbery (Class B Felony)  
Jury Trial - April 3-8, 2000 - Verdict: Guilty all Counts.  
DP Trial - April 10-14, 2000 - Verdict: Recommend LWOP

**Sentencing:** June 9, 2000 (LWOP, 10 years, 10 years)

Accomplice Joshua Spears was convicted of Murder and Robbery (Class C Felony) in the Marion Superior Court (49G03-9808-CF-141918), and was sentenced on August 6, 1999 by Judge Cale J. Bradford to concurrent terms of 65 years and 8 years imprisonment. See, Spears v. State, 735 N.E.2d 1161 (Ind. 2000).

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** Unstable childhood  
Pattern of parental abuse and neglect  
Attainment of a high school diploma  
Satisfactory adjustment while incarcerated at youth center and Boy's School  
Volunteering to tutor other inmates while in jail awaiting trial

**DIRECT APPEAL:** Gross v. State, 769 N.E.2d 1136 (Ind. June 18, 2002) (49S00-0009-CR-528)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Rucker; Shepard, Dickson, Sullivan, Boehm concur.  
(Vacated Gross' sentence for robbery as a Class A felony and remanded to trial court for a new sentencing order that imposes sentence for robbery as a Class B felony. In all other respects, judgment affirmed.)  
For Defendant: Patricia Caress McMath, Indianapolis  
For State: Cynthia L. Plouge, Deputy Attorney General (S.Carter)

**PCR:** (49A02-0510-PC-00928)  
On January 13, 2005, Gross filed his amended Petition for Post-Conviction Relief. The post-conviction court granted relief as to his conviction for conspiracy to commit robbery and ordered the trial court to issue a new sentencing order reflecting a class B felony for that conviction. His petition was denied as to all other claims. The trial court's denial of his petition for post-conviction relief was affirmed in Gross v. State, Unpub., 852 N.E.2d 656 (Ind. App. 2006). On December 14, 2006, Gross' petition for transfer was denied.

**HABEAS:** Gross v. Knight, (S.D. Ind. Aug. 31, 2007) (1:07-cv-547-RLY-WTL)  
United States District Court for the Southern District of Indiana  
Judge Richard L. Young  
(Federal courts can grant habeas relief only when there is a violation of federal statutory or constitutional law. This court's view is that he received all that the Constitution requires. IT IS THEREFORE ADJUDGED that the petitioner take nothing by his petition for a Writ of Habeas Corpus and this action is dismissed with prejudice.)  
For Defendant: Pro -Se  
For State: Kelly A. Miklos, Office of the Indiana Attorney General

**HALE, STEVEN A.**

DOB: 07/09/1976 White Male DOC# 102321 Location: Illinois Menard Correctional Facility in Chester

Daviess County Circuit Court Judge Gregory Smith

Trial Cause #: 14C01-9812-CF-000016

**Defense:** Tim J. Dant**Prosecutor:** G. Byron Overton, Prosecuting Attorney, Dean Sobecki, Deputy**Date of Murder:** April 1, 1998**Victims:** Jeremiah Miller W / M / 19 of Cannelburg;  
Marlin Knepp W / M / 26 of Loogootee;  
Pam Cook W / F / 36 of Farlen. (No relationship to Hale)**Method of Murder:** Shooting with handgun**Summary:** On April Fools Day 1998, Steven A. Hale (22) and Chalk A. Wessell (19) started their methamphetamine-fueled crime spree by fatally shooting Jeremiah Miller (18) of Montgomery, Ind. Later, Hale and Wessell shot and killed Marlin Knepp (26) of Loogootee, Ind. The two then went to the Odon, Ind., home of Pam Cook (36), where they shot and killed the mother of three children on her doorstep. The men then stole Cook's 1994 Chevrolet Camaro and drove to Illinois, where they shot local farmers Larry Sams (48) and David Chalcraft (48). After a seven-hour manhunt, officers arrested Hale near Albion, Ill. and found Wessell dead from a self-inflicted gunshot to his head.

In statements to police, Hale stated that Wessell was a maniac and with regard to the Mennonite farmer Merlin Knepp, Wessell told him to shoot Knepp or "he (Wessell) would kill me." I was scared to death of him. Hale eventually pled guilty to all three murders.

On July 15, 1999, Hale (22) was sentenced to life in prison without possibility of parole plus 30 years imprisonment by the Edwards County, Illinois Circuit Court following his 1st Degree Murder conviction entered by a jury related to the shooting death of David Chalcraft, 48, of Ellery, Ill. and the wounding of Larry Sams, 48, of Albion, Ill.

**Request for LWOP Filed:** March 11, 1999**Conviction:** Murder, Aiding Murder, Aiding Murder (Carjacking, Conspiracy to Murder dismissed)  
Guilty Plea by Plea Agreement filed March 10, 2000.**Sentencing:** July 31, 2000 (LWOP, 65 years, 65 years)**Aggravating Circumstances:****Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** (14C01-9812-CF-000016 / 14C01-2105-PC-000526)

03/10/2021 Defendant files Motion to Withdraw guilty plea 20 years after sentencing.

04/08/2021 Motion to Withdraw Guilty Plea summarily dismissed.

04/22/2021 State Public Defender of Indiana appointed to represent Petitioner

05/12/2021 Motion for leave to file PCR Petition.

05/20/2021 Motion for the Assignment of Post-Conviction Cause Number

05/04/2021 Motion to Correct Error filed to reinstate Petitioner's Motion and treat it as petition for PCR. 05/05/2021 Motion Granted.

05/12/2021 Petitioner filed pro-se Petition for Post-Conviction Relief.

**HABEAS:** None.

## **HALEY, CHRISTIAN RENE**

DOB: 02/02/1993 Black Male DOC# 256048 Location: Pendleton Correctional Facility

Hamilton County Superior Court Judge Steven R. Nation

**Trial Cause #:** 29D01-1312-MR-010619

**Defense:** Vincent L Scott, Kimberly Bacon

**Prosecutor:** D. Lee Buckingham, Prosecuting Attorney,

Andre Miksha, Jamie Thompson Campbell, Deputy Prosecutors



**Date of Murder:** December 20, 2013

**Victims:** Marilyn Erb W / F / 52; Kelly M. Erb W / F / 23 (Wife and Daughter of Former Employer)

**Method of Murder:** Beating with blunt force object

**Summary:** On December 20, 2013, Marylyn Erb, 52, and her daughter, Kelley Erb, 23, were found by police beaten and dead in their Westfield home. Police were called to the home at 4:42 p.m. by Todd Erb, who had returned home to find the bodies in the basement, and the family's Buick Enclave missing. Several items had been stolen from the home, including jewelry, an iPhone, credit cards and up to \$2,000 in cash. Autopsies confirmed the cause of death for each woman was from blunt force trauma. The weapon used to kill them is unknown, although court documents quote an acquaintance of Haley's who reported that Haley said he had "bashed their heads in with cement or something."

Christian Rene Haley, 20, was a former employee of Sundown Gardens, a lawn-care business owned by Todd Erb, the victims' husband and father. Haley worked for Sundown Gardens for about three months (from March to June), but was fired for poor attendance.

Police received a break in the case when a detective got a call from a Crime Stoppers tipster. Police traced fraudulent debit card use to a vehicle captured on video. That eventually led them to Haley's acquaintance, who told police that Haley had talked about robbing an ex-boss because he'd gotten fired. A cell phone tower in Westfield placed Haley close to the crime scene at the time of the murders. Haley's acquaintance told police that Haley gave him the cards, and that he used them at a CVS and a Crown Liquors store. He also said Haley withdrew \$500 using one of the cards. The man told police Haley admitted to him that Haley had killed Marylyn and Kelley Erb, but that Haley was laughing, so he didn't know if "he was for real."

**Request for LWOP Filed:** August 15, 2014

**Conviction:** Murder; Criminal Deviate Conduct (Class B Felony), Confinement, Theft (Class D Felony), Guilty Plea to Murder (2 Counts) Pursuant to Plea Agreement 02/24/2015;

Felony Murder, Felony Murder, Burglary, Robbery, Theft, Auto Theft dismissed.

LWOP Trial by Court 03/04-05/2015, 05/20/2015; Verdict by Court: LWOP, LWOP

**Sentencing:** May 22, 2015 (LWOP, LWOP)

**Aggravating Circumstances:** b (1) Burglary

b (1) Robbery

b (8) Multiple Murders

**Mitigating Circumstances:** No significant criminal history

Oppositional Defiant Disorder, not Extreme Emotional Disturbance

Major depression, Attention Deficit Hyperactivity Disorder

Mental Disease or Defect, not insanity

Post-Traumatic Stress. (The diagnoses began when he was 8 years old)  
Young age: 20 years, 10 months at crime  
Guilty Plea, Acceptance of Responsibility

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **HALL, JOHNNETTA RUTH**

DOB: 01/26/1973 White Female DOC# 283254 Location: Rockville Correctional Facility

Jennings County Superior Court Special Judge Jonathan W. Webster

**Trial Cause #:** 72C01-1510-MR-000002 (Scott)

40C01-2003-MR-000001 (Jennings)

Change of Venue to Jennings County March 24, 2020



**Defense:** R. Patrick Magrath, Ashley Eklund

**Prosecutor:** Chris A. Owens, Prosecuting Attorney, Matthew Lemme, Deputy

**Date of Murder:** September 27, 2015



**Victim:** Bill Reynolds W / M / 69 (stepfather)

**Method of Murder:** Shooting with Handgun

**Summary:** Bill Reynolds was a decorated Vietnam veteran and cancer survivor. He had recently been released from the VA hospital after several months of treatment before he was gunned down in his driveway on September 27, 2015. Reynolds was going through a divorce and property dispute with his estranged wife before he was murdered. The two also had protective orders out against each other and several civil disputes arose over property and vehicles. His stepdaughter, Johnetta Hall (43), had her own disputes with Reynolds and at some point decided that she might alleviate her problems and help her Mother if Reynolds was dead. She recruited her daughter Amaris Bunard (19) to help. Bunard and her Mother recruited her boyfriend, Kerry Heald (22) and his friend Jacob Mathis (21) to shoot Reynolds and supplied the gun. Heald later admitted to the plan and admitted the killing, telling officers that he confronted Reynolds at the gate and shot him once in the head.

Hall agreed to pay the men so that her Mother could inherit his property, including the home and classic cars, memorabilia and life insurance, before the divorce was final. Less than an hour after the crime, Hall was captured on surveillance video with Heald and Mathis at an Austin storage unit. There, the men were paid for the murder, given NASCAR memorabilia worth \$50-\$100,000 that belonged to Reynolds. Hundreds of phone text messages between Hall and the group before and after, confirmed the conspiracy.

**Information / PCA Filed:** October 5, 2015 - Murder, Conspiracy to Commit Murder (Level 1 Felony), Obstruction of Justice (Level 6 Felony)

**Request for LWOP Filed:** October 5, 2015

**Conviction:** Murder, Conspiracy to Murder (Level 1 Felony); Found Not Guilty of Obstruction of Justice.  
Jury Trial September 21-30, 2020 - Guilty Verdicts  
LWOP Trial October 1, 2020 - Verdict recommending LWOP

**Sentencing:** November 2, 2020 (LWOP, 35 years, concurrent - Credit for 1,861 days pretrial confinement)

Accomplice Kerry Ray Heald pleaded guilty to Murder pursuant to a Plea Agreement in the Scott Circuit Court, and on August 21, 2017 was sentenced by Special Judge Michael J. Hensley to 55 years imprisonment. (72001-1510-MR-000003 )

Accomplice Amaris Rose Bunyard pleaded guilty to Conspiracy to Murder (Level 1 Felony) pursuant to a Plea Agreement in the Scott Circuit Court, and on April 24, 2018 was sentenced by Special Judge Jonathan W. Webster to 30 years imprisonment with 10 years suspended. (72001-1602-MR-000001)

Accomplice Jacob Wayne Mathis was convicted of Conspiracy to Murder (Level 1 Felony) pursuant to a Plea Agreement in the Scott Circuit Court, and on October 27, 2020 was sentenced by Special Judge Roger L. Duvall to 32 years imprisonment. (72001-1510-MR-000001)

**Aggravating Circumstances:** b (5) Hiring Another to Kill

**Mitigating Circumstances:** College degree  
Gainfully Employed her entire adult life, truck driver

**DIRECT APPEAL:** Hall v. State, 2021 Ind. LEXIS 760 (December 17, 2021) (20S-LW-00660)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by David; Rush, Massa, Slaughter, Goff concur.  
For Defendant: Jane Ann Noblitt, Columbus  
For State: Samuel J. Dayton, Deputy Attorney General (Rokita)

**PCR:** None.

**HABEAS:** None.

**HALLIBURTON, TYRICE J.**

DOB: 05/28/1981 Black Male DOC# 128713 Location: Wabash Valley Level 3 Facility

Elkhart County Circuit Court Judge Terry C. Shewmaker

**Trial Cause #:** 20C01-1101-MR-00001**Defense:** Clifford R. Williams, Matthew W. Johnson, Public Defenders**Prosecutor:** Curtis T. Hill, Prosecuting Attorney, Vicki E. Becker, Chief Deputy**Date of Murder:** March 18, 2008**Victim:** Sheena Kiska W / F / 23**Method of Murder:** Stabbing x50 / Slashing with knife, Skull fracture

**Summary:** On March 18, 2008, responding to a 911 call, police discovered the lifeless body of Sheena Kiska in her apartment in Bristol, Indiana. The base of her skull was fractured, a stab wound of great force had gone through a rib and organs, and a knife wound had severed her carotid artery as well as the jugular veins on both sides of her neck. In all, Kiska had received more than fifty stab wounds. Multiple bloody knives were found in the apartment, and blood splatters, smears, and droplets were abundant. Two days later officers returned to the apartment to conduct further investigation but were unable to gain entry because other officers had changed the lock on the door for security reasons. Halliburton, who lived in the apartment next door, observed the officers having difficulty entering Kiska's residence and retrieved a tool from his own apartment that appeared to be "a little screwdriver that kind of had a bend on the top of it." With the officers' permission, Halliburton used the screwdriver to unlock the door in a manner the officers "had never seen" before.

Halliburton was interviewed by the police three different times in the days following Kiska's death. During the first and second interviews, Halliburton stated that he left for a veterinary appointment at 1:15 the afternoon of the killing but claimed to have seen Kiska and her daughter standing outside by a white truck when he left. During the third interview, Halliburton initially began by reiterating his prior story but then offered a different account of what he had seen that day. During this interview, Halliburton claimed that he saw another resident in the hallway exiting Kiska's apartment as he was leaving for the veterinarian. He further declared that he heard noises coming from Kiska's apartment at which point he "propped the door just a little bit," and "saw [the resident] in there cutting her up." Halliburton described the layout of Kiska's apartment and was "[v]ery detailed" about where the furniture was located and where the attack occurred. The officers determined that it would have been physically impossible for Halliburton to have seen the attack from a crack in the door; instead he had to have been at least "two to three feet" inside the apartment. Around this same time officers recovered from Halliburton's car a DVD player that had been taken from Kiska's apartment about a month earlier.

The investigation continued, and in August 2010, Halliburton sent a letter to the police saying, "I want to clear [the resident's] name. I didn't really see him doing it." At trial, Halliburton's former girlfriend testified that they lived next door, and that he admitted to her that he had entered Kiska's apartment when she was not there. However, Kiska came home unexpectedly, and a struggle ensued resulting in her brutal death. She helped dispose of his bloody clothes and with her mother, bandaged a wound on Halliburton's hand. For over three years DeFronzo did not reveal to anyone what Halliburton had told her about Kiska's death. Nor had she revealed her own complicity in helping get rid of evidence.

**Request for LWOP Filed:** January 5, 2012

**Conviction:** Murder

Jury Trial April 16-19, 2012 - Verdict Guilty Murder

LWOP Jury Trial April 19, 2012 - Verdict: Recommend LWOP - Admit Habitual Offender

**Sentencing:** May 17, 2012 (LWOP)

(The record is silent on the disposition of Halliburton's habitual offender adjudication. The State did not object to the trial court's sentencing order and makes no claim in this regard on appeal. Thus error, if any, is waived. Halliburton v. State, 1 N.E.3d 670 (Ind. December 19, 2013) (Footnote 1)

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:**

**DIRECT APPEAL:** Halliburton v. State, 1 N.E.3d 670 (Ind. December 19, 2013)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Rucker; Dickson, David, Massa, Rush concur.

For Defendant: Joel C. Wieneke, Cara Schaefer Wieneke, Plainfield

For State: Jodi Kathryn Stein, Kelly A. Miklos, Deputy Attorney General (Zoeller)

**PCR:** Halliburton v. State of Indiana (20C01-1403-PC-7)

03/05/2014 Pro-Se Verified Petition for Post-Conviction Relief filed

04/11/2014 Appearance Filed by State Public Defender Steven H. Schutte

06/22/2015 Petitioner, by counsel, files Amended Petition for Post-Conviction Relief;

08/25/2015 PCR Hearing - Evidence heard.

10/19/2015 Petitioner's Proposed Findings of Fact and Conclusions filed.

12/21/2015 State's Proposed Findings of Fact and Conclusions filed.

03/07/2016 Petitioner's Amended Petition for PCR is hereby denied.

Halliburton v. State, 65 N.E.3d 644, Unpub. (Ind. App. October 17, 2016) (20A03-1604-PC-685)

Conviction Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Brown; Brown, Robb concur.

For Defendant: Steven H. Schutte, Deputy Public Defender (Owens)

For State: Kelly A. Loy, Deputy Attorney General (Zoeller)

Halliburton v. State, 76 N.E.3d 142 (Ind. January 19, 2017) (Transfer denied)

**HABEAS:** Halliburton v. Superintendent, (S.D. Ind. August 7, 2017) (2:17-cv-115-LJM-MJD)

United States District Court for the Southern District of Indiana, Terre Haute Division

Judge Larry J. McKinney

(The Petition for Writ of Habeas Corpus is denied. The Certificate of Appealability is denied.)

## **HARBISON, NICHOLAS R.**

DOB: 04/12/1983 White Male DOC# 171967 Location: Wabash Valley Long Term Segregation

Pike County Circuit Court Judge Jeff Biesterveld

**Trial Cause #:** 63C01-0607-FA-000362



**Defense:** Nathan Aaron Verkamp, Steven Ripstra

**Prosecutor:** Darrin E. McDonald, Prosecuting Attorney

**Date of Murder:** July 17, 2006

**Victims:** Rebekah Acorn W / F / 17 of Evansville  
Keela Lynch W / F / 18 of Princeton  
Daniel "Spencer" White W / M / 21 of Francisco (Acquaintances)

**Method of Murder:** Shooting with rifle and Stabbing with knife

**Summary:** A two-week national manhunt for Nicholas Harbison ended when police found the 23-year-old and his girlfriend inside an abandoned house in southwestern Indiana, close to the field where the bodies of the three people he killed were found on July 17, 2006. Harbison was charged, pled guilty, and was sentenced for Murder (3 Counts) and Attempted Murder. He admitted to the fatal shooting and stabbing 17-year-old Rebekah Acorn of Evansville, and 21-year-old Daniel White of Francisco, and fatal shooting 18-year-old Keela Lynch of Princeton. White's brother, Cameron, was also shot in the leg and arm and stabbed numerous times in the attack, but survived for several hours at the isolated Pike County farm 35 miles north of Evansville before his cell phone call guided emergency workers to the scene.

According to Cameron, Harbison had come to the home of Cameron's brother, Daniel "Spencer" White, and told them that he had found some marijuana plants growing nearby and asked if they wanted to go harvest it with him. They agreed and accompanied by Rebekah Acorn and Keela Lynch, loaded into Harbison's vehicle, and went to the spot Harbison described. When they arrived, Harbison shot and stabbed all four of his companions. Cameron survived and called police.

Misty Davis was charged with helping Harbison escape the area, while his stepmother, Joyce Harbison, was also charged with helping him and lying to police. Davis faces charges of assisting a criminal and false informing in helping Harbison escape the area. His stepmother, Joyce Harbison, also faces charges of assisting a criminal and false informing. Both females are accused of helping Harbison while he was on the run.

Sue White asked Harbison how he could have murdered her son, and wounded her other son. "How could you, Nick?" she asked, holding a picture of Daniel 'Spencer' White. "You were part of our family half the time." Cameron White, the lone survivor of the attack, glared into Harbison's eyes when it was his turn to speak. His voice shaking, he whispered "Why did you do this? How could you do this?"

Authorities said Wednesday that Harbison and his girlfriend, 21-year-old Misty Davis, spent time in Missouri and Arkansas as police searched for them. The abandoned house where the two were found was about 500 feet from Harbison's Gibson County mobile home. Ringle said authorities believe the two had also been hiding in the nearby woods. Authorities have not released a motive for the killings, but Cameron White told the television show "America's Most Wanted" that Harbison became angry because he believed Davis was unfaithful.

Three months before the murders, Harbison pleaded guilty to a misdemeanor battery charge in the shooting of his brother-in-law, Aaron Bellamy, 35, of Winslow. Bellamy was wounded in the abdomen and leg. Harbison told authorities he acted in self-defense.

**Request for DP Filed:** August 21, 2006

**Conviction:** Murder, Murder, Murder, Attempted Murder (Level 1 Felony)  
Plea Agreement filed May 1, 2007  
Guilty Plea to Murder (3 Counts), Attempted Murder Level 1 Felony) May 24, 2007.  
Request for DP withdrawn, Request for LWOP filed. Aggravators stipulated.

**Sentencing:** June 22, 2007(LWOP, LWOP, LWOP, 50 years, consecutive)

Accomplice Misty D. Davis (Harbison's girlfriend) was convicted of Assisting a Criminal (Class C Felony) and False Informing (Class B Misdemeanor) following a jury trial in the Pike County Circuit Court, and on November 28, 2007 was sentenced by Judge Jeffery L. Biesterveld to 8 years imprisonment with 2 years suspended and probated. (63C01-0608-FC-405) Davis v. State, 892 N.E.2d 156 (Ind. App. August 11, 2008).

Accomplice Joyce Harbison (Harbison's stepmother) was convicted of False Informing (Class B Misdemeanor (2 Counts) in the Pike County Circuit Court, and on January 27, 2009 was sentenced pursuant to a plea agreement to 180 days with 172 days suspended on each count concurrent. (63C01-0607-FC-000379).

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **HARDY, THOMAS**

DOB: 12/21/1950 Black Male DOC# 973341 Location: Miami Correctional Level 3 Facility

Marion County Superior Court Judge Mark Stoner

**Trial Cause #:** 49G06-1101-MR-005128



**Defense:** Monica Foster, R. Casanova

**Prosecutor:** Denise Robinson, Greg Spencer, Deputy Prosecutors

**Date of Murder:** January 23, 2011

**Victim:** IMPD Officer David Moore W / M / 29 (No relationship to Hardy)

**Method of Murder:** Shooting with handgun

**Summary:** IMPD Officer David Moore pulled over a vehicle driven on North Temple Avenue by 61 year old Thomas Hardy. Officer Moore was aware that the vehicle had been reported stolen. Both men ended up outside the vehicles in a driveway when Hardy, apparently afraid of going back to prison, opened fire, shooting a handgun seven times. Four bullets struck Moore, twice in the head. The Officers gun was still in its holster. Three days later, he was taken off life support and died. His death was the city's first fatal police shooting in seven years.

Shell casings at the shooting scene were forensically matched to the gun found at the home where Hardy was taken into custody without incident. State correction officials admit that Hardy had been erroneously released from jail after a December arrest, since no notification was ever made that he was on parole. The parole agent involved in that mistake was suspended without pay pending the outcome of the DOC investigation. Hardy had accumulated 10 prior felony convictions.

**Request for DP Filed:** February 23, 2011

**Conviction:** Murder, Robbery (Class B Felony), Possession of Handgun by SVF (Class B Felony)  
Guilty Plea by Plea Agreement March 14, 2012; DP dismissed

**Sentencing:** April 5, 2012 (LWOP, 20 years, 20 years, consecutive) - Credit for 439 days confinement.

Hardy had accumulated 9 prior Felony Convictions that resulted in IDOC confinement:

Marion	Theft (Class D Felony)	08/28/2008	2.9 years	49F15-0807-FD-179791
Marion	Theft (Class D Felony)	01/04/2007	2.0 years	49F09-0611-FD-226470
Marion	Battery (Class A Misd)	01/04/2007	2.0 years	49F09-0611-FD-226470
Marion	Theft (Class D Felony)	01/04/2007	1.5 year	49F09-0608-FD-141556

Marion	Theft (Class D Felony)	11/19/2004	1.5 years	49G99-0409-FD-170265
Marion	Theft (Class D Felony)	07/16/2003	2.0 years	49G99-0112-FD-235772
Johnson	Theft (Class D Felony)	02/28/2000	2.5 years	41D01-0001-DF-00015
Marion	Theft (Class D Felony)	10/02/1998	2.5 years	98144792
Marion	Poss of Cocaine (Class D Felony)	02/13/1997	1.5 years	49F18-9603-DF-043912)
Marion	Burglary (Class B Felony)	08/30/1984	13 years	CR83-075F

**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **HATCH, RONRICO JOZAN**

DOB: 10/05/1980 Black Male DOC# 138169 Location: Indiana State Prison



Allen County Superior Court #5 Judge John F. Surbeck Jr.

**Trial Cause #:** 02D04-0208-MR-000009

**Defense:** Anthony Churchward,

**Prosecutor:** Steven Otis Godfrey, David Henry McClamrock, Deputy Prosecutors

**Date of Murder:** August 19, 2002

**Victim:** Cheri Sue Hartman W / F / 17 ("Friends" with Hatch)

**Method of Murder:** Shooting with .9 mm handgun

**Summary:** On August 19, 2002, 17 year old Cheri Sue Hartman was forcibly abducted from the front yard of her home by a group of what she thought were her friends, all between the ages of 19 and 21: Rheann Kelley, Chris Hovis, Brett Marks, Christine Johnston, and Ronrico Hatch. Hartman had apparently flirted with Chris Hovis, who was Rheann's boyfriend, or had made some comment about a previous murder that Hatch had committed. The plan was to abduct and drive her to a remote area in the country, strip her clothes, and "beat her ass" to teach her a lesson. After, she would be left to make her way back into town, naked. Things did not go exactly as planned. They made it to the remote location and gave her a beating, with the women leading the assault. When the group finished and returned to the car, Hatch suddenly pulled a handgun and shot her in the mouth after making her beg for her life. The group then left her, went to a nearby gas station and bought snacks and gasoline and a gas can. The attendant would later testify that the group acted happy and giddy, out partying. They drove back and doused Hartman's beaten body with the gasoline. Hovis lit a match and the body burned while Hatch urinated on the corpse. They jumped in the car and drove to Detroit, spending the night, but returned the next day. When they did, they were pulled over off I-69 and taken into custody.

**Information:** Count I: Murder, Count II: Felony Murder, Count III: Robbery (Class A Felony), Count IV: Criminal Confinement (Class B Felony), Count V: Criminal Gang Activity (Class D Felony), Count VII: Carrying a Handgun Without a License (Class A Misdemeanor).

**Request for DP Filed:** August 26, 2002, Amended October 24, 2003

**Conviction:** Murder, Felony Murder, LWOP (All other counts dismissed)  
Guilty Plea by Plea Agreement filed February 11, 2004 - Admit LWOP Allegations  
Defendant Motion to Withdraw Guilty Plea filed March 8, 2004; Denied March 10, 2004

**Sentencing:** March 12, 2004 (LWOP, 18 months, concurrent)  
Consecutive to Whitley County 65 year term of imprisonment imposed on October 31, 2003  
in 92C01-0212-MR-000200.

Accomplice Rheann Kelly was found guilty by a jury and convicted in Allen County Superior Court #4 of Murder, Criminal Confinement (Class D Felony), Criminal Gang Activity (Class D Felony), Abuse of Corpse (Class D Felony), and on June 6, 2003 was sentenced to terms of 65 years, 3 years, 3 years, and 3 years imprisonment. (02D04-0208-MR-000011).

Accomplice Christine K. Johnston was convicted in Allen County Superior Court #4 of Robbery (Class A Felony), and on April 12, 2004 was sentenced to 25 years imprisonment. (02D04-0208-MR-000007)

Accomplice Christopher W. Hovis pled guilty and was convicted in Allen County Superior Court #6 of Murder, Criminal Confinement (Class D Felony), Criminal Gang Activity (Class D Felony), Abuse of Corpse (Class D Felony), Assisting a Criminal (Class C Felony), and Carrying a Handgun Without License (Class C felony), and on November 24, 2003 was sentenced to consecutive terms of 60 years, 1.5 years, 1.5 years, 1.5 years, 3 years, 1.5 years imprisonment. (02D04-0208-MR-000010)

Accomplice Brett E. Marks was convicted of Robbery (Class A Felony) and Criminal Gang Activity (Class D Felony) pursuant to a plea agreement in Allen County Superior Court #4, and on April 19, 2004 was sentenced to concurrent terms of 1 year and 35 years imprisonment. (02D04-0208-MR-000008).

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**DIRECT APPEAL:** Hatch v. State, Unpub., 813 N.E.2d 445 (Ind. App. July 27, 2004) (92A03-0312-CR-479)  
Hatch v. State, 822 N.E.2d 976 (Ind. September 28, 2004) (Transfer denied)

**PCR:** (02D04-0208-MR-000009)  
02/07/2005 Verified Petition for Post-conviction Relief Filed by Defendant.  
02/23/2005 Answer of Respondent to PCR, filed by Deputy Prosecutor David H. Mcclamroc.  
04/18/2005 Notice of Present Inability to Investigate and Amend Petition for PCR filed by  
State Public Defender Jeffrey R. Wright.  
03/24/2014 Motion to Withdraw Petition for Post-conviction Relief Without Prejudice Filed Pro Se.  
PCR Petition Withdrawn Without Prejudice.

**HABEAS:** None.

**CIVIL SUIT:** Hatch v. Brita, Unpub., 5 N.E.3d 815 (Ind. App. February 21, 2014) (02A05-1307-SC-374)  
(Appeal of Small Claims action filed by Hatch against his friend, claiming that he pled guilty  
only upon her promise to pay costs of establishing paternity of child. He pled but she never  
paid for testing. His claim for fraud was dismissed since it was filed 9 years after alleged  
breach of the oral contract. - Affirmed)

**HATFIELD, RONALD ALLEN**

DOB: 07/21/1959 White Male DOC# 871098 Location: Miami Correctional Level 3 Facility

Delaware County Circuit Court #4 Judge John M. Feick  
**Trial Cause #:** 18C04-0412-MR-000002 / 18C04-0502-FB-04

**Defense:** Lon D. Bryan, Alan Kent Wilson**Prosecutor:** Diane Frye and Mark McKinney, Deputy Prosecutors**Date of Murder:** December 16, 2004**Victim:** Carolyn Goodwin W / F / 59 (No relationship to Hatfield)**Method of Murder:** Shooting with handgun

**Summary:** Ronald Hatfield was sentenced to 28 years in prison for Armed Robbery and Battery in 1987.(18CO1-8703-CF-12 / 18CO1-8703-CF-10) Notwithstanding 78 write-ups for conduct and disciplinary infractions while in prison, Hatfield was released on August 2, 2004. On December 16, 2004 — 136 days after his release — Hatfield walked into a Ricker's convenience store at 1300 W. Memorial Drive in Muncie, with a gun in his hand. He fired one shot into the ceiling as a clerk scrambled to the backroom and hid in the freezer, calling 9-1-1. A second clerk on duty, 59-year-old Carolyn Goodwin, did not have the same opportunity to run. Hatfield immediately walked back around the counter, reached over, grabbed a handful of money from the cash register and fired one shot that struck the Carolyn Goodwin in the chest. She died minutes later at Ball Memorial Hospital. After the shooting Hatfield ran from the store, across a lawn, down the street past homes and a church. Police cornered him in a yard about three blocks away. They found him hiding behind a bush and they found a gun next to the fence. Hatfield would claim that the gun went off "accidentally."

**Request for LWOP Filed:** July 12, 2005**Conviction:** Plea Agreement filed November 9, 2005

Guilty Plea to Count III: Murder in 18C04-0412-MR-000002.

Guilty Plea to Count I: Armed Robbery in 18C04-0502-FB-04. (All other Counts dismissed)

**Sentencing:** January 25, 2006 (LWOP in 18C04-0412-MR-000002) consecutive to (20 years for Armed Robbery, Class B Felony in 18C04-0502-FB-04)**Aggravating Circumstances:** b (1) Robbery**Mitigating Circumstances:** Mental History**DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.**CIVIL:** Hatfield v. Broglia,(N.D. Ind. October 3, 1990) (CIVIL No. S85-713)

United States District Court for the Northern District of Indiana, South Bend Division

Judge Robin D. Pierce

(Civil Suit filed by Hatfield during IDOC commitment in 1985, claiming he was wrongfully held in psychiatric unit and forced to take thorazine. Order in Favor of State. - Psychiatric Report: "This is a picture of a thorough-going personality disorder - antisocial type with a history of disturbance extending back into childhood. he is essentially an unsocialized individual currently with a lack of close relationship with others, low frustration tolerance, impulsive behavior, a desire for immediate pleasure

and gratification, inability to postpone gratification and poor judgment in future planning. Also, because of his undersocialized behavior with a rather immature view of the world, he is capable of dispensing hostility, including self-mutilation, and assaultive physical acts of destruction in many directions . . . It definitely appears he is paranoid schizophrenic with a great amount of hostility and danger to self and others."

## **HELSLEY, CHRISTOPHER M.**

DOB: 02/07/1978    White Male    DOC# 114564    Location: Pendleton Correctional Facility

Pike County Circuit Court Judge Lee F. Baker

**Trial Cause #:** 63C01-0104-CF-000231

**Defense:** Michael Keating, Donald R. Vowels

**Prosecutor:** Jeffrey L. Biesterveld, Prosecuting Attorney

**Date of Murder:** April 18 or 19, 2001

**Victims:** Brad Scott Maxwell W / M / 22; Marsha Kay Rainey W / F / 44 (Co-workers)

**Method of Murder:** Shooting with .45 handgun

**Summary:** In 2001 the defendant was an emergency medical technician for Pike County when he killed his coworkers Brad Maxwell and Marsha Rainey. The defendant fired multiple gunshots into the head and neck areas of both victims, and at least one gunshot wound to each of the victims was fired from close range, approximately one foot away. The bodies of Rainey and Maxwell were found in close proximity to one another, both seated in recliners in the living area of the building where emergency medical technicians wait for ambulance calls. Rainey had a defensive wound on her hand, indicating that she was shot after Maxwell and was aware that she was about to be killed.

Helsley and another EMT arrived at the EMS station Thursday to relieve Rainey and Maxwell at the end of a shift, and found their bodies in the "living quarters" of the ambulance station. Five spent .45-caliber shell casings from a semiautomatic gun scattered around the living quarters. Police later recovered part of a .45-caliber handgun in Helsley's car, which he drove to work Thursday. Helsley's home in Petersburg was searched and police recovered one spent .45-caliber casing, as well as unused rounds. The spent rounds taken from Helsley's home and from the scene of the murders were fired by the same gun, according to state ballistic experts.

**Request for LWOP Filed:** November 21, 2001; Amended LWOP June 21, 2002

**Conviction:** Murder; Murder

By agreement Jurors selected from Knox County

Jury Trial June 13-21, 2002; Verdict June 21, 2002: Guilty Murder (2 Counts)

LWOP Trial June 24, 2002: Verdict: Recommend LWOP

Retrial of LWOP Trial by Agreement May 13, 2014; Verdict: Recommend LWOP

**Sentencing:** September 16, 2002 (LWOP, LWOP); **Resentencing:** May 20, 2014 (LWOP, LWOP)

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:** Difficult childhood

Lack of criminal history

Mental illness - Borderline Personality Disorder

Severe anxiety, depression

**DIRECT APPEAL:** Helsley v. State, 809 N.E.2d 292 (Ind. May 25, 2004) (63S00-0303-CR-103)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Dickson; Shepard, Sullivan concur.  
Boehm concurs in result with separate opinion in which Rucker concurs in part.  
("The majority opinion can be read to imply that the trial court is bound by the jury's recommendation under all circumstances. I do not believe that is a correct reading . . . I agree that the defendant has established no prejudice from the error that occurred here.")  
For Defendant: Michael C. Keating, Evansville  
For State: Michael Gene Worden, Deputy Attorney General (S.Carter)

**PCR:** (63C01-0104-CF-000231)  
05/23/2005 Defendant files Petition for Post Conviction Relief.  
06/13/2005 State of Indiana and files State's Response to PCR Petition.  
12/13/2005 Thomas C. Hinesley, Deputy State Public Defender, files his Notice of Present Inability to Proceed and Motion to Stay Proceedings.  
10/05/2012 State of Indiana, by PA Darrin E. McDonald, files Response/Affirmative Defenses to Petition.  
05/09/2013 Before the Hon. William E. Weikert, Special Judge - Petitioner appears in person, in custody and with counsel. The matter scheduled before the Court is the Petition for Post Conviction Relief filed on May 23, 2005 and the Amendment to the Petition, filed on September 26, 2012. The following pleadings are filed on this date: Petitioner and Respondent's Stipulation of Fact, Agreement of the Parties, Petitioner and Respondent's Joint Submission for Findings of Fact and Conclusions of Law in Support of Partial Relief, and Petitioner's Motion to Dismiss Portions of Petition for Post Conviction Relief With Respect to Errors Alleged at the Guilt Phase. Petitioner/Defendant foregoes hearing. The Court recites the pleadings to the petitioner/defendant and he states he understands and agrees. (The State and the defendant entered an agreement in which the defendant would receive a new sentencing hearing with the right to appeal that sentence in exchange for dropping his remaining post-conviction relief contentions.)  
06/21/2013 By agreement of the parties: 1. The Re-Sentencing shall be held in Dubois County, Indiana; 2. The Jury shall be selected from Dubois County, Indiana  
05/13/2014 Trial by Jury for Retrial of LWOP Sentencing Hearing, by agreement.  
For Defendant: Steven R. Risprta and Nathan A. Verkamp.  
For State: Darrin E. McDonald, PA  
Special Judge William E. Weikert  
Jury Verdict: Finds Multiple Murder Aggravator outweighs mitigators, recommends LWOP.  
05/20/2014 The Court is required by law to follow the Jury's verdict of Life Imprisonment Without Parole. Therefore, the Court does sentence the defendant to Life Imprisonment Without Parole. The Court advises the defendant of his right to appeal. The defendant advises that he wishes to appeal the sentencing.

**DIRECT APPEAL OF RESENTENCING:**

Helsley v. State, 43 N.E.3d 225 (Ind. September 24, 2015) (63S00-1406-LW-440)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Dickson; Rush, Rucker, David, Massa concur.  
("In this case, the offense was a cold, calculated double murder of two coworkers without provocation. . . .We do not find that the defendant's claim of mental illness diminishes the gravity of his conduct in committing these murders.")  
For Defendant: Douglas S. Walton, James E. Stoltz, Evansville  
For State: Brian Reitz, Andrew Kobe, Deputy Attorneys General (Zoeller)

**HABEAS:** None.

**HIGHBAUGH, MICHAEL A.**

DOB: 10/09/1965 Black Male DOC# 902926 Location: Wabash Valley Level 4 Facility

Marion County Superior Court Judge Cale Bradford

**Trial Cause #:** 49G03-9712-CF-183229 / 49G06-9712-PC-183229**Defense:** David K. Margerum, Sean Burke**Prosecutor:** John D. Keiffner, Jennifer L. Haley**Date of Murder:** December 11, 1997**Victim:** David Hairston B / M / 29 (No relationship to Highbaugh)**Method of Murder:** Shooting with handgun

**Summary:** On the evening of December 11, 1997, David Hairston was at his home in Indianapolis, as were Khalalah Ector (20) and Michael Ector (15). When the doorbell rang, Khalalah answered and observed two men, one of whom was wearing a police uniform. She also observed a police car. The two men entered the foyer uninvited and requested to search Hairston's home, indicating that other officers were en route with a warrant. Hairston refused to let the men search his home until the warrant arrived and told them to wait outside. When they refused, Hairston demanded their names and badge numbers. The uniformed officer stated that his name was "Thompson." Hairston asked "Thompson" where his name badge was, to which the officer replied he was not wearing his badge. Hairston then brushed aside the officer's coat and saw a nametag that read "Powell."

The man wearing civilian clothing (later identified as Highbaugh) then pulled out a gun and put it to Hairston's head. After Hairston refused Highbaugh's demands to lie down on the floor, Highbaugh shot him in the head. He died as a result. In the meantime, Khalalah and Michael ran from the foyer into the kitchen. Highbaugh chased them and shot Michael in the head. The resulting wound was not fatal, and Michael lay motionless pretending to be dead. Highbaugh then placed the barrel of the gun against Khalalah's head and pulled the trigger. When it misfired, Highbaugh grabbed a knife and stabbed Khalalah in the neck approximately ten times. She survived. While motionless on the kitchen floor, Michael saw Powell run to the back of the house. After several minutes, he saw Powell run out the door carrying several bags.

**Request for DP Filed:** January 28, 1998**Conviction:** Murder; Attempted Murder (Class A Felony), Attempted Murder (Class A Felony)

Guilty Plea by Plea Agreement filed on February 4, 2000;

Charges of Felony Murder, Robbery, and Carrying a Handgun Without License dismissed;  
Sentencing enhancements of Habitual Offender and Death Penalty withdrawn; Penalty range 65 years minimum to LWOP maximum, to be decided by trial court.Trial court later denied Highbaugh's request to withdraw from Plea Agreement before sentencing.  
LWOP Trial to Court April 11, 2000 by agreement.

In addition, the Plea Agreement called for Highbaugh "to appear and be interviewed to give sworn and unsworn statements or testimony as required." Two days after his sentencing, Highbaugh refused to answer deposition questions and was found in contempt. He was sentenced to an additional 6 months imprisonment.

**Sentencing:** April 11, 2000 (LWOP, 50 years, 50 years)

50 year terms consecutive to each other, but concurrent to LWOP.

Accomplice Myron A. Powell was charged with Murder, Felony Murder, two counts of Attempted Murder, and Robbery. The State also sought the death penalty against Powell, but later amended its complaint and sought life without parole. After a jury trial, Powell was convicted of Felony Murder and acquitted of the remaining charges. The trial court thereafter sentenced Powell to 65 years imprisonment. (49G01-9712-CF-183028) Powell was a 7 year veteran of the Indianapolis Police Department. Highbaugh told police that he and Powell had been robbing drug dealers for years.

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** Victim was drug dealer and assumed risk of being murdered

Raised in dysfunctional family

Father involved in drugs and domestic abuse

Maintained steady employment

Loving relationship with his wife and children

Surrendered to police, pled guilty, accepted responsibility

Victim facilitated offense

Under the control of Accomplice Powell

Accomplice Powell received only 65 year sentence, found NG of robbery

**DIRECT APPEAL:** Highbaugh v. State, 773 N.E.2d 247 (Ind. August 15, 2002) (49S00-0008-CR-466)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Shepard; Dickson, Sullivan, Rucker concur.

Boehm concurs in part and dissents in part with separate opinion.

("I would reverse the trial court's finding of contempt and vacate Highbaugh's concurrent term of six months imprisonment.)

For Defendant: Kathleen M. Sweeney, Indianapolis

For State: Grant H. Carlton, Deputy Attorney General (S.Carter)

**PCR:** Highbaugh v. State, Unpub., 124 N.E.3d 656 (Ind. App. April 24, 2019) (49A02-1710-PC-2326)

Appeal from the Marion Superior Court (49G06-9712-PC-183229)

Judge Mark D. Stoner, Magistrate Jeffrey L. Marchal

(Highbaugh filed a petition for PCR in February 2003 and later withdrew it. He filed a second petition in May 2016, and amended it in June 2016 and March 2017. The post-conviction court held a hearing on Highbaugh's amended petition in May 2017. Highbaugh did not testify or call any witnesses.)

Conviction Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Pyle; Najam, Crone concur.

For Defendant: Pro-Se

For State: Ian McLean, Deputy Attorney General (Hill)

**HABEAS:** None.

**§1983:** Ector v. Powell, (S.D. Ind. Mar. 1, 2002) (IP00-0020-C-B/S)

(Civil suit for damages by survivors of Highbaugh /Powell attack, against Powell, City of Indianapolis and Police Dept. - Summary Judgment for City.)

**HILL, ASHER BEE**

DOB: 05/30/1966 Black Male DOC# 922526 Location: Wabash Valley Long Term Segregation

Marion County Superior Court Judge Grant W. Hawkins

**Trial Cause #:** 49G05-0005-CF-076761**Defense:** Pro-Se, with Standby Counsel**Prosecutor:****Date of Armed Robbery:** May 9, 2000**Victim:** Gary Barr B / M / 50**Method of Murder:** Shooting with handgun (not fatal)

**Summary:** On May 9, 2000, Gary Barr was working as a cashier at a liquor store on south Sherman Drive in Marion County. Mike Wagner was in the store talking to Barr at the counter. An African-American male ("the robber"), who was five feet, eleven inches tall and was wearing jean shorts, white tube socks, tennis shoes, and a long sleeve, hooded, white shirt or jacket, entered the store. Immediately upon entering the store, the robber shot Barr in the abdomen and grabbed Wagner from behind. The robber walked Wagner around to the back of the counter and insisted that Wagner open the cash register. However, Wagner did not know how to open the register because he did not work at the liquor store. After trying unsuccessfully to open the register, Wagner unplugged it and gave it to the robber. The robber ordered Wagner to get on the floor, a location from which Wagner was able to observe the robber's legs and clothing. The robber threw the cash register to the ground and began kicking it until it finally opened. When the robber left the store, Wagner telephoned the police. The police dispatch report indicated that Wagner's call came in at 9:43 p.m.

At 9:45 p.m. that same night, Earnest Rich saw a mid-sized gray Mazda came speeding up behind him and ran off the road into trees on Pleasant Run Parkway 1/2 mile north of the liquor store. Rich telephoned the police. Indianapolis Parks Department Ranger Jerald Knuckles noticed the Mazda against the trees as he was driving by on patrol. He opened the car door and saw a gun on the passenger seat, removed the bullets from the gun and placed the gun and bullets in his patrol car. A police K-9 dog was brought to the scene and tracked a scent from the car to Pleasant Run Drive near Gale Street.

Also around 9:45 that same night, Hill, knocked on the door at the Sterlings' house, which is on Gale Street near Pleasant Run Drive. When Mrs. Sterling saw Hill, he was "out of breath, and sort of frightened" and was wearing knee-length jean pants, tennis shoes and white socks. Hill told her that he had been carjacked and needed to use their phone. Because Hill had trouble using her phone, Sterling made a phone call for Hill. Sterling thought it was unusual that Hill was not calling the police to report the carjacking, so she went to her bedroom and called 9-1-1. At some point, Hill took off his shoes and socks so that he could wring the water out of his socks. The police arrived at the Sterlings' house within minutes. The police brought Wagner to the Sterlings' house for an ID and he was able to identify Hill's shoes and shorts appeared to be the same as those worn by the robber. In addition, Hill had in his pocket \$392.23, mostly in \$5 and \$10 bills.

Police found money in, and on the ground near the Mazda. A crime technician found Hill's fingerprint on the driver's side window. One month earlier, the police had conducted a traffic stop of the Mazda, at which time Hill was driving the car, which belonged to his ex-girlfriend. Ballistics tests confirmed that the gun found in the Mazda was the gun used to shoot Barr.

**Request for LWOP Filed:** The State charged Hill with Attempted Murder as a class A felony, Robbery as a class A felony, Criminal Confinement as a class B felony, Unlawful Possession of a Firearm by a Serious Violent Felon as a class B felony, Carrying a Handgun Without a License as a class A misdemeanor, and Carrying a Handgun Without a License as a class C felony. The State also filed Informations alleging that Hill

was a Habitual Offender subject to sentence enhancement pursuant to IC 35-50-2-8, and that Hill was an Habitual Offender subject to a sentence of life imprisonment without parole pursuant to IC 35-50-2-8.5.

**Conviction:** A jury found Hill guilty of Robbery (Class A Felony), Criminal Confinement (Class B Felony) and Carrying a Handgun Without a License (Class A Misdemeanor).

**Sentencing:** June 7, 2001 (LWOP, 10 years + 30 years, 1 year)

(The jury found that the State had proved that Hill was an habitual offender subject to either an enhancement of years or an enhancement to life without parole. The trial court sentenced Hill to 1 year for Carrying a Handgun Without a License, which was to be served concurrent with a 10 year sentence for Criminal Confinement. The trial court ordered that the Confinement sentence be served consecutive to a 30 year sentence for Robbery, which the trial court enhanced to life imprisonment without parole.)

Hill was previously convicted of Armed Robbery (Class B Felony) in Marion County, and on April 21, 1992 was sentenced to 9 years imprisonment. (49G03-9104-CF-045004)

**Aggravating Circumstances:**

**Mitigating Circumstances:**

**DIRECT APPEAL:** Hill v. State, 773 N.E.2d 336 (Ind. App. August 16, 2002) (49A02-0107-CR-440)

Conviction Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Sharpnack; Friedlander, Brook concur.

For Defendant: Katherine A. Cornelius, Marion County Public Defender.

For State: Cynthia L. Plouge, Deputy Attorney General (S. Carter)

Hill v. State, 777 N.E.2d 795 (Ind. Ct. App. 2002) (On Rehearing)

(Rule 4 calculations in error, but right to a speedy trial was not violated.)

Hill v. Indiana, 124 S. Ct. 79 (October 6, 2003) (02-10612) (Cert. denied)

**PCR:** None.

**HABEAS:** Hill v. McBride, (N.D. Ind. March 30, 2006) (2:04-CV-506 PS)

United States District Court for the Northern District of Indiana, Hammond Division

Judge Philip P. Simon

(Petition for Writ of Habeas Corpus alleging ineffective assistance of trial and appellate counsel, and repeating previous claims of insufficient evidence and Rule 4 violations - Denied.

For Defendant: Pro Se.

For State: Matthew D Fisher, Deputy Attorney General

Hill v. McBride,(N.D. Ind. June 26, 2006) (Certificate of Appealability granted, but only as to possible violations of self-representation)

Hill v. Wilson, 519 F.3d 366 (7th Cir. March 10, 2008) (06-2777)

Conviction Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Easterbrook, Bauer, Posner.

For Defendant: Fitzgerald T. Bramwell, Michael N. Turnage, Chicago, Ill

For State: Kelly A. Miklos, Deputy Attorney General (S.Carter)

Hill v. Wilson, 2008 U.S. App. LEXIS 8745 (7th Cir. Apr. 4, 2008) (06-2777)

(Petition for Rehearing, Rehearing en banc denied)

Hill v. Wilson, 555 U.S. 882, 129 S. Ct. 200 (2008) (08-42) (Cert. denied)

**Other:** Hill v. Littlejohn, 107 N.E.3d 496 (Ind. App. July 25, 2018) (49A02-1711-CT-2557)

(Action for damages against IDOC and Wabash Valley and Officers for violating his Eighth Amendment right against cruel and unusual punishment as well as his due process rights. specifically, he claimed IDOC allowed another inmate into his cell, who beat him in fight. Motion for summary judgment for Defendants granted.

Hill v. Snyder, (S.D. Ind. June 29, 2015) (1:13-cv-68-RLY-MJD)  
(§1983 action against IDOC and Wabash Valley alleging failure to protect him from offender Martin who allegedly threw feces on him on several different occasions - Summary Judgment for Defendants)

Hill v. Snyder, 817 F.3d 1037 (7th Cir. April 5, 2016) (15-2607)

Appeal of Southern District of Indiana Judge Richard Young

Opinion by Hamilton; Bauer, Easterbrook

(Accordingly, we VACATE the judgment of the District Court in part, with respect to the exhaustion ruling on the claim regarding the first incident of February 2011 and the third and fourth incidents of June and August 2012, and REMAND for further proceedings on those claims. In all other respects, the judgment is AFFIRMED.

For Defendant: Asher B. Hill, Pro Se

For State: Elizabeth Rahman, Deputy Attorney General (Zoeller)

Hill v. Nicholson, 829 F. App'x 141 (7th Cir. November 12, 2020) (20-2460)

Appeal of Southern District of Indiana

Before Diane S. Sykes, Joel M. Flaum, Michael B. Brennan

(Asher Hill, an Indiana inmate, sued Officer P. Stump and others at Wabash Valley Correctional Facility, alleging that Stump violated the Eighth Amendment by maliciously shutting off available hot water when Hill showered and turning off hot sink water to his cold cell for over one year. The district court dismissed his suit at screening. Because Hill's complaint states a claim that Stump's actions were "cruel and unusual," we vacate and remand; we otherwise affirm.

For Defendant: Asher B. Hill, Pro Se

Hill v. Bedwell, (S.D. Ind. Jan. 23, 2017) (1:17-cv-00173-TWP-MJD)

(§1983 action against IDOC and Wabash Valley officials alleging a denial of adequate food portions and poisoning of his food, in retaliation for filing previous grievances. and in violation of his constitutional rights.

Hill v. Byrd, (S.D. Ind. July 16, 2021) (2:21-cv-00200-JPH-DLP)

(Dismissed with prejudice as a sanction for his attempt to defraud the Court re: Indigency Affidavit)

Hill v. Meyer, (S.D. Ind. Sep. 23, 2021) (No. 2:19-cv-00079-JPH-MG)

(§1983 action against IDOC and Wabash Valley alleging denying necessary dental treatment - Summary Judgment for Defendants)

## **HOLLAND, KELLY K.**

DOB: 10/22/1971    White Male    DOC# 116194    Location: Indiana State Prison

Harrison County Superior Court Judge Roger D. Davis

**Trial Cause #:** 31D01-0003-CF-278

**Defense:** Michael J. McDaniel, Leah S. Fink, Lorinda Meier Youngcourt

**Prosecutor:** Ronald W. Simpson, Prosecuting Attorney, Cheryl Hillenburg, Deputy

**Date of Murder:** March 26, 2000

**Victims:** Donna Daley W / F / 49 (Mother in Law); Summer Holland W / F / 22 (Wife);  
Dillian Daley W / M / 4 (Her son); Marissa Meyer W / F / 3 (Her daughter).

**Method of Murder:** Shooting with .9mm handgun (Wife and Mother in Law)  
Smoke Inhalation (Kids)

**Summary:** At his guilty plea, Holland recounted the events of the early morning hours of Sunday, March 29, 2000: He had left his work at a Middletown warehouse, came home and was disgusted at the complete mess the house was in. He went to their bedroom, where his wife was in bed, and pulled a handgun from a drawer. He said his plan was to kill himself and thus make her suffer the pain he had experienced. But as he held her on the bed face down, he recalled wavering between shooting himself and shooting her. Finally, he shot her. He killed his mother in law moments later when she rushed in from a nearby bedroom, asking what had happened. He said he then ran outside and got a jug of gasoline, poured the gasoline around a linoleum entryway inside the front door and in the living room. He set it ablaze with a lighter. He said he did not realize the children were in their bedrooms.

He then drove back to work at the warehouse in Middletown, Ky. At the end of his shift, at 4:50 am, he called the Harrison County Police and asked that someone check the home, telling them he'd been unable to reach his wife. He said he tossed the gun into the Ohio River.

He said he went on medication for depression, which diminished their "love life." He said he also suffers from social anxiety and from an obsessive-compulsive disorder that causes him to become distracted if things around him aren't kept in order. He testified that on the Wednesday before the murders, his wife admitted to having had a brief affair. He recalled feeling angry and hurt. "I did my best to give her everything she wanted." Holland insisted that he had no intention of killing his wife when he called a friend from his reserve unit and arranged to borrow his 9mm handgun. They'd had trouble with rowdy neighbors, and he needed some protection at the house.

**Request for DP Filed:** October 27, 2000    **Request for LWOP filed:** April 10, 2001

**Conviction:** Murder, Murder, Murder, Murder, Arson (Class A Felony)  
Guilty Plea by Plea Agreement filed May 16, 2001 to all charges  
Holland admits Aggravating Circumstances for LWOP

**Sentencing:** May 16, 2001 (LWOP, LWOP, 65 years, 65 years, 50 years)

**Aggravating Circumstances:** b (1) Arson  
b (8) Multiple Murders  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:** Mental Illness, Depression, Anxiety

**DIRECT APPEAL:** None.

**PCR:** None.

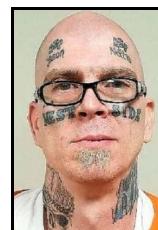
**HABEAS:** None.

## **HOLLAND, THOMAS "TOMMY"**

DOB: 01/02/1975    White Male    DOC# 138825    Location: Pendleton Correctional Facility

Marion County Superior Court Judge

**Trial Cause #:** 49G02-0311-MR-191548  
49G02-0311-MR-194323



**Defense:** Brent L. Westerfeld, Jodie Ann English, Ray Casanova

**Prosecutor:** David Wyser, Larry Sells

**Date of Murder:** March 24, 2003 (Mars Hills Grocery)  
November 2, 2003 (Marathon Gas Station)

**Victims:** Christopher David Larsen W / M / 36 (Marathon Gas station clerk)  
Dipak D. Patel A / M / 42 (Mars Hills Grocery owner)

**Method of Murder:** Shooting with handgun

**Summary:** In March 2015, a customer of the Mars Hill supermarket found the body of the owner, Dipak Patel, on the floor apparently shot and killed during an early morning robbery.

On November 2, 2002, at around 3:30 on a Sunday morning at a Marathon Gas Station on West Bradbury Avenue near the airport, store security cameras recorded the murder and the suspect on tape. Several armed men took the cash drawers, lottery tickets, and cigarettes and ran out. An eyewitness saw them jump into a maroon van and speed away. Left behind was 36 year old Christopher Larsen, an employee of the store, found in a pool of blood, dead from gunshot wounds. The video clearly showed the clerk cooperating with their commands, but was shot anyway. A motive or explanation for the murders are unknown and were apparently random. Thomas Holland was identified as the shooter in both of these cases and would later admit to the murders and plead guilty.

**Request for DP Filed:** December 10, 2003 in 49G02-0311-MR-191548 & 49G02-0311-MR-194323

**Request for LWOP Filed:** September 14, 2005 in 49G02-0311-MR-191548 & 49G02-0311-MR-194323

**Charges Filed in 49G02-0311-MR-191548:** Count I: Murder, Count II: Murder, Count III: Robbery (Class A Felony), Count IV: Carrying Handgun without License (Class A Misdemeanor), Count V: Robbery (Class B Felony), Count VI: Criminal Confinement (Class B Felony), Count VII: Robbery Class B Felony), Count VIII: Criminal Confinement (Class B Felony), Count X: Carrying Handgun without License (Class C Felony).

- Plea Agreement filed, Guilty Plea to Count II: Murder December 9, 2005. (All other Counts dismissed)

**Charges Filed in 49G02-0311-MR-194323:**

Count I: Murder, Count II: Murder, Count III: Robbery (Class A Felony), Count IV: Carrying Handgun Without License (Class A Misdemeanor), Count V: Carrying Handgun without License (Class C Felony).

- Plea Agreement filed, Guilty Plea to Count II: Murder December 9, 2005. (All other Counts dismissed)

**Conviction:** Murder (49G02-0311-MR-191548); Murder (49G02-0311-MR-194323)

**Sentencing:** December 9, 2005 (LWOP, consecutive) (49G02-0311-MR-191548)

December 9, 2005 (LWOP, consecutive) (49G02-0311-MR-194323)

While serving these LWOP sentences in the IDOC Pendleton Correctional Complex in Madison County, on August 9, 2019 Holland attacked and killed another inmate by stabbing him with a sharp object. He was later convicted in the Madison County Superior Court (48C03-1912-MR-002950) and was sentenced on May 3, 2021 to his third LWOP sentence plus 6 years concurrent for Possession of a Dangerous Device (Level 5 Felony). The victim, Clifford Baggett, was serving an 8 year sentence for Aggravated Battery and Battery, imposed in Rush County in 2015. (70C01-1502-F3-086 / 70D01-1303-FD-190). Holland at first rejected this plea agreement, saying; "I will continue to drop bodies until you give me the death penalty."

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **HOLLAND, THOMAS “TOMMY”**

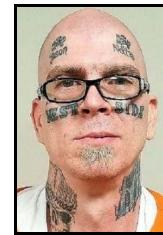
DOB: 01/02/1975 White Male DOC# 138825 Location: Pendleton Correctional Facility

Madison County Circuit Court #3 Judge Andrew Hopper

**Trial Cause #:** 48C03-1912-MR-002950

**Defense:** Bryan Williams

**Prosecutor:** T. Grey Chandler



**Date of Murder:** August 9, 2019

**Victim:** Clifford S. Baggett W / M / 28

**Method of Murder:** Stabbing with sharp instrument

**Summary:** On December 9, 2005 Holland was convicted of Murder in two separate cases pursuant to a plea agreement in the Marion County Superior Court and was sentenced to Life Imprisonment Without Parole on each case, to run consecutively. (49G02-0311-MR-191548 / 49G02-0311-MR-194323)

While serving these LWOP sentences in the Indiana Department of Corrections at the Pendleton Correctional Complex in Madison County, on August 9, 2019 Holland attacked another inmate from behind, stabbing him with a sharp object and killing him. The victim, Clifford Baggett, was serving an 8 year sentence for Aggravated Battery and Battery, imposed in Rush County in 2015. (70C01-1502-F3-086 / 70D01-1303-FD-190).

Video Cameras and eyewitnesses confirmed that the stabbing happened at about 3:30 p.m. as Baggett was walking through the dining hall of the prison near a stairwell. Holland approached and used a hand-crafted weapon to carry out the attack, which resulted in him stabbing Baggett multiple times. Immediately after the attack, prison staff rushed in as Holland dropped his weapon and surrendered. An autopsy revealed 10 “sharp force injuries” were located on Baggett’s lower back, buttocks, upper right arm, right underarm, right ear, right neck, right chest, left chest, left forearm, and left palm,

In Court, Holland at first rejected this LWOP plea agreement, saying; “I will continue to drop bodies until you give me the death penalty.”

**Request for LWOP Filed:** September 15, 2020

**Conviction:** Murder, Possession of a Dangerous Device (Level 5 Felony)

Guilty Plea by Plea Agreement filed February 9, 2021

**Sentencing:** May 3, 2021 (LWOP, 6 years concurrent)

**Aggravating Circumstances:** b (7) Convicted of another Murder in 49G02-0311-MR-191548

b (7) Convicted of another Murder in 49G02-03 I-MR- 194323

b (9)(A) In Custody of IDOC

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **HOOTEN, RICHARD CARLEY, JR.**

DOB: 12/22/1963 White Male DOC# 225558 Location: WV Level 3

Clark County Circuit Court Judge #4 Vicki L. Carmichael

**Trial Cause #:** 10C04-1303-MR-000002



**Defense:** Brent L. Westerfeld, Andrew Adams

**Prosecutor:** Steven D. Stewart, Prosecuting Attorney, Jeremy Mull, Deputy

**Date of Murder:** March 2, 2013

**Victim:** Tara Rose Willenborg W / F / 17



**Method of Murder:** Strangulation

**Summary:** The body of 17 year old Tara Willenborg was found on the bedroom floor of her apartment at Cambridge Square in Clarksville, with massive bruising to her upper chest and a Subway apron tied around her neck. She lived at the apartment with her fiancé, who arrived home from work after midnight to find her body. She had just started a new job at Subway. Richard Hooten lived across the hallway from her. Hooten was a registered sex offender, having been convicted of Rape in Georgia, where he received a 15 year sentence. He had also been convicted of Assault and Escape in Kentucky, where he also served prison time. An arrest warrant was outstanding for his failure to register as a sex offender. Hooten had gone to a local bar with friends that night, but had left early and alone, then returned to the apartment. After being advised of his constitutional rights, Hooten admitted that he had forcibly raped, sodomized, and strangled to death Tara Willenborg. DNA testing on semen found at the scene confirmed his statements.

**Request for LWOP Filed:** March 22, 2013

**Conviction:** Murder, Rape (Class B Felony), Criminal Deviate Conduct (Class B Felony)

Guilty Plea by Plea Agreement (Withdrawal of DP, filing of LWOP)

Admits Habitual Offender - 9 prior Felony convictions in Georgia, Kentucky, Indiana

**Sentencing:** May 19, 2014 (LWOP, 20 years, 50 years, consecutive)

Hooten was previously convicted of Assault II Under Extreme Emotional Distress in the Jefferson Circuit Court in Louisville, Kentucky in Case #84CR1049, and on January 10, 1985 he was sentenced to a 2 year term of imprisonment at the Kentucky Department of Corrections, probated for 5 years after serving 60 days in jail.

Hooten was previously convicted of Assault II Under Extreme Emotional Disturbance in the Jefferson Circuit Court in Louisville, Kentucky, in Case #85CR1189, and on November 14, 1985 was sentenced to a 5 year term of imprisonment at the Kentucky Department of Corrections, enhanced to a maximum of ten 10 years to serve as a Persistent Felony Offender.

Hooten was previously convicted of Escape in the Jefferson Circuit Court in Louisville, Kentucky, in Case #87CR79, and on November 18, 1987 was sentenced to a five 5 year term of imprisonment at the Kentucky Department of Corrections.

Hooten was previously convicted of Rape, Aggravated Sodomy (2 Counts), and Aggravated Assault in the Spalding County, Georgia Superior Court, in Case #308239, and on January 8, 1993 was sentenced to 15 + 15 + 15 years imprisonment at the Georgia Department of Corrections.

Hooten was previously convicted of Sexual Battery (Class D Felony) and Residential Entry (Class D Felony) in the Clark County Circuit Court #3 in Case #10C03-0901-FD-000023, and on March 10, 2009 was sentenced to 3 year fixed term of imprisonment at the Indiana Department of Corrections, suspended and probated.

Hooten was previously convicted of Possession of a Narcotic Drug (Class D Felony) in the Clark County Circuit Court #2, in Case #10C02-1107-FB-000114, and on June 6, 2012 was sentenced to a 3 year fixed term of imprisonment at the Indiana Department of Corrections, with 1 1/2 years suspended and probated.

**Aggravating Circumstances:** b (1) Rape  
b (1) Criminal Deviate Conduct  
b (9) On Felony Probation

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**HOUSER, DONALD EARL**

DOB: 02/15/1970 White Male DOC# 923239 Location: Indiana State Prison

Noble County Superior Court #1 Judge Stephen Spindler

**Trial Cause #:** 57D01-0010-CF-000020

**Defense:** Kevin Likes and Anthony Kraus

**Prosecutor:** Steven Clouse, Prosecuting Attorney, Joe A. Rowe, Chief Deputy

**Date of Murder:** September 9, 1996

**Victim:** Julia Gaerte H / F / 86 (No relationship)

**Method of Murder:** Smothering with pillow

**Summary:** In September 1996, Houser, and his girlfriend, Angela Stone, broke into the home of 86-year-old Julia Gaerte in rural Noble County. Before entering Gaerte's home, Houser had cut the phone line. He entered the home through a back window, which he had broken to gain entry. (Houser's blood was found on curtain/DNA match) Houser went through the home taking a television, a VCR, and silverware, as well as various credit cards and checks. At some point during this episode, he suffocated Gaerte by placing a pillow over her face. Her body was found the next day by her daughter-in-law.

Houser eluded apprehension for these crimes for four years. On October 26, 2000, Angela Stone implicated Houser in the burglary and murder during police questioning with Indiana State Police Detective Mark R. Heffelfinger. The same day, police recovered silverware taken from Gaerte's home after executing a search warrant at Houser's mother's home in LaGrange County; Houser had given the silverware to his mother as a Christmas gift. The next day, Detective Heffelfinger questioned Houser who had been brought to Noble County from Otter Creek Correctional Facility in Kentucky where he was serving a sentence for burglary. During the interrogation, Houser confessed that he had burglarized Gaerte's home and killed her by suffocating her with a pillow. Stone testified at trial against him, stating that Houser would constantly listen to the heavy metal song "Night Prowler," and constantly talked about killing. Houser testified at his trial that he was under the influence of LSD when he confessed and he did not kill Julia Gaerte. Houser was also linked to the crime after experts matched blood found at the murder scene to Houser's DNA.

**Request for LWOP Filed:** May 8, 2001

**Conviction:** Murder, Burglary (Class B Felony)

Jury Trial November 7-12, 2002; Jury Verdict: Guilty Murder, Burglary (Class B Felony)

10 minute deliberations

LWOP Jury Trial November 13, 2002; Jury recommends LWOP

**Sentencing:** February 4, 2003 (LWOP, 20 years, consecutive)

And consecutive to the Houser's 10 year sentence for Burglary in Allen County  
on March 17, 2000 (02D04-9903-CF-107)

Accomplice Angela Stone was convicted of Burglary (Class A Felony) in the Noble County Superior Court #1, and on August 10, 2001 was sentenced to 30 years imprisonment. (57D01-0011-CF-21).

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:** Suffered through an emotionally abusive childhood

An alcoholic father who constantly belittled him.

Diagnosed as having an Anti-Social Personality Disorder

He had a long-standing history of alcohol and drug abuse

**DIRECT APPEAL:** Houser v. State, 823 N.E.2d 693 (Ind. March 10, 2005) (57S00-0310-CR-433)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Sullivan; Boehm concurs.

Shepard concurs with separate opinion in which Dickson joins.

Rucker concurs except as to Part IV, from which he dissents.

(Should require proof beyond a reasonable doubt that aggravators outweigh mitigators)

For Defendant: David P. Freund, Deputy Public Defender (Carpenter)

For State: Andrew A. Kobe, Deputy Attorney General (S.Carter)

**PCR:**

05/05/2005 Defendant, pro se, files Petition for Post Conviction Relief.

The Court appoints the State Public Defender to represent the Defendant herein.

05/17/2005 Case Exchanged: 57D01-0010-CF -0000020 to 57D01-0505-PC-000005 0001

03/10/2010 Defendant pro se files Verified Petition For Permission To File A Belated Notice of Appeal pursuant to Rule PC 2. The Court now finds that the Defendant is not an "eligible Defendant" because the Defendant is not seeking by his motion to challenge on direct appeal "a conviction or sentence" but rather Defendant's request is for the production of documents which the Court responded to in its CCS entries dated 11-02-07 and 12-24-08. The Court would further note that the Defendant has not attached a copy of the proposed notice of appeal as an exhibit to his petition as required by Rule PC 2(1)(b). Notwithstanding the foregoing the Court further finds that the Defendant has not been diligent in requesting permission to file a belated notice of appeal. Therefore, for the reasons set forth above, the Defendant's petition is denied.

12/06/2018 Defendant Pro Se files motion of complaints and demands. This filing or pleading is not a recognizable post-conviction remedy petition. Defendant's motion does not comply with Ind. Post-Conviction Rule 1. Defendant's pleading is therefore not accepted. If defendant wishes to file a petition for Post-Conviction Relief he must file a petition in substantial compliance with the standard form appended to the Rules of Post-Conviction Relief. Closed file.

**HABEAS:** None.

**INMAN, MICHAEL E., JR.**

DOB: 03/29/1976 Black Male DOC# 984424 Location: Wabash Valley Long Term Segregation

Marion County Superior Court Judge Robert Altice  
**Trial Cause #:** 49G02-1004-MR-029733

**Defense:** Allan Reid, David Shircliff, Victoria Bailey**Prosecutor:** Denise Robinson, Matt Savage**Date of Murder:** April 9, 2010**Victim:** Dave Pedigo W / M / 55 (no relationship)**Method of Murder:** Shooting with .38 handgun

**Summary:** On April 9, 2010, Inman went to the Fountain Square jewelry store of Dave Pedigo. When Inman arrived at the store, Pedigo showed him a \$2000 ring from a case near the front of the store. A customer placed Inman at the store at 4:45 p.m. Besides this customer and Inman, there were no other customers in the store at that time. Shortly before 5:00 p.m., a friend of Pedigo's entered the store and found Pedigo dead near a safe in the store's back room.

Pedigo had been shot in the head above his left ear from less than a foot away. The bullet was later determined to have been fired from Pedigo's own Rossi .38 revolver. Additionally, there was evidence of blows to Pedigo's chest and the back of his head. Investigators observed no signs of a struggle in the back room, although in the front of the store a counter was disturbed and a vase had been knocked to the floor. Later the same day, Inman gave his girlfriend Katie Sowders a ring taken from Pedigo's store. He explained his broken nose to her as the result of getting hit playing basketball.

The following day, police arrived at Inman's apartment. Not yet a suspect in Pedigo's killing, Inman was a suspect in an investigation into an April 3, 2010, robbery of a Circilla lingerie store. Inman instructed Sowders not to open the door. When the police walked away, Inman and Sowders exited the apartment. A neighbor observed Inman toss a gun into a bush. Still nearby, police apprehended Inman, located the gun, and discovered nine rings from Pedigo's store in his pocket. The gun was determined to be Pedigo's Rossi revolver.

When asked by the lead homicide detective assigned to Pedigo's case about his whereabouts the day of the murder, Inman failed to mention his presence at Pedigo's store. Further, he claimed that he bought the nine rings and the gun for twenty-five dollars on April 9, 2010, from "a guy named Wayne Head." Efforts to locate Head were unsuccessful.

**Request for LWOP Filed:** July 14, 2010

**Conviction:** Murder, Robbery (Class C Felony), Possession of Firearm by Serious Violent Felon (Class B Felony); Habitual Offender

Jury Trial May 14-17, 2012 - Jury Verdict: Guilty Murder, Murder, Robbery

Defendant waives jury trial on remaining 3 phases - Finding: Habitual Offender, SVF

LWOP Bench Trial May 18-19, 2012 - Verdict: LWOP

**Sentencing:** June 13, 2012 (LWOP, 4 years, 9 Years, concurrent)

Sentence to be served consecutive to 18 year sentence for Robbery by the Marion Superior Court on May 11, 2011 in 49G02-1004-FB-029178.

Due to Habitual Offender finding, LWOP is enhanced by 30 years.

**Aggravating Circumstances:** b (1) Robbery  
b (9) On Parole

**Mitigating Circumstances:** LWOP disproportionate to other punishments imposed in other cases  
Residual doubt that the killing was a result of self-defense  
He had an alcoholic mother  
He had a physically and emotionally absent father  
His grandmother, who adopted him, died in 1997  
He earned a GED  
He obtained a four-year college education  
He maintained an ongoing, non-violent relationship with Katie Sowders  
He took responsibility for the shooting.

**DIRECT APPEAL:** Inman v. State, 4 N.E.3d 190 (Ind. February 11, 2014) (49S00-1207-LW-000376)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by David; Dickson, Rucker, Rush concur. Massa concurring in result.  
For Defendant: Matthew D. Anglemeyer, Ruth Ann Johnson, Indianapolis  
For State: James B. Martin, Deputy Attorney General (Zoeller)

**PCR:** (49G02-1004-MR-029733)  
11/03/2014 Petition for Post-Conviction Relief filed  
11/06/2014 Defendant found indigent for PCR hearing. Public Defender appointed.  
11/06/2014 Appearance Filed by State PD Campbell, Clarke Cameron  
11/14/2014 State's Motion for Summary Disposition Pursuant to Ind. P-C Rule 1, 4(g)  
01/30/2015 Verified Request for Relief from Court's Order of January 7, 2015, and Request that the Court Add Pro Se Allegations to Michael Inman's Petition for Post-Conviction Relief  
02/02/2015 Order Granting (Amy J. Barbar, Nagistrate)  
06/04/2015 Notice of Substitution of Counsel Volk, Laura Lynn  
02/13/2018 Evidentiary Hearing scheduled for 09/05/2018 at 9:00 AM cancelled.

(49D28-1706-PC-022916)  
06/30/2017 Pro Se Petition for Post-Conviction Relief filed  
06/30/2017 Answer filed  
06/29/2018 Defendant's Motion to set for hearing on 11/03/2014 Petition for PCR  
09/11/2018 Petitioner's motion to withdraw his Petition without prejudice - Granted.  
03/23/2021 Petitioner advised in Court that when new PCR Petition filed, he must indicate in the Petition his readiness for EV Hearing and Court will set Hearing w/in 60 Days

(49G02-1901-PC-001260)  
01/11/2019 Pro Se Petition for Post-Conviction Relief re-filed  
01/14/2019 Dismissed with Prejudice

(49D28-2109-PC-028287)  
09/13/2021 Pro Se Petition for Post-Conviction Relief Filed  
09/13/2021 State's Answer and Request for Discovery Filed  
11/05/2021 Case management schedule entered, Set for Status hearing 12/14/21  
12/16/2021 Dismissed with prejudice.

**HABEAS:** Inman v. Butts, (S.D. Ind. January 3, 2012) (1:11-cv-1680-JMS-MJD)  
United States District Court for the Southern District of Indiana  
Judge Jane Magnus-Stinson  
(Habeas Corpus action challenging a prison disciplinary proceeding - Summarily Dismissed)

**CIVIL:** Inman v. Neal, (N.D. Ind. February 23, 2018) (3:18-CV-005-JD-MGG)  
United States District Court for the Northern District of Indiana, South Bend Division  
Judge Jon E. Deguiio  
(Civil suit against ISP officials alleging he was raped by a fellow inmate)

Inman v. Neal, (N.D. Ind. April 11, 2018) (3:18-CV-70 RLM-MGG)  
United States District Court for the Northern District of Indiana, South Bend Division  
Judge Jon E. Deguiio  
(Civil suit against ISP officials alleging he was subjected to sexual abuse by Corrections Officer. Mr. Inman is transgender and was transitioning.)

Inman v. Neal, (N.D. Ind. Apr. 13, 2018) (3:18CV248-PPS/MGG)  
United States District Court for the Northern District of Indiana, South Bend Division  
Judge Jon E. Deguiio  
(Civil suit against ISP officials alleging he was exposed to pigeons, mice, roaches, their droppings and dander causing him ill health under unsanitary and inhumane conditions)

## **ISON, DAVID EARL**

DOB: 08/27/1965 White Male DOC# 905813 Location: Wabash Valley Level 4 Facility

Franklin County Circuit Court Judge Steven J. Fox  
**Trial Cause #:** 24C01-1110-MR-000064



**Defense:** Hubert Branstetter

**Prosecutor:** Melvin F. Wilhelm, Prosecuting Attorney

**Date of Murder:** September 25, 2011

**Victims:** Roy D. Napier W / M / 50  
Angela Napier W / F / 47  
Melissa L. Napier W / F / 23 (Acquaintances)  
Jacob L. Napier W / M / 18  
Henry X. Smith W / M / 43

**Method of Murder:** Shooting with .380 handgun

**Summary:** On September 25, 2011 authorities first got a call from people concerned about a 4 year old girl wandering near the street along Stipps Hill Road near Laurel, in eastern Indiana about 50 miles southeast of Indianapolis. Police were alerted. This led to the discovery of a dead man at one address and four other fatalities – two males and two females – at a mobile home across the street., Roy D. Napier, Angela Napier, Melissa L. Napier, Jacob L. Napier, and Henry Smith were murdered in Franklin County. All five were residents of Laurel, Indiana. The Napiers all had been shot in the head. Angela Napier also had suffered blunt-force trauma to the head. Henry Smith had been shot in the chest and also suffered blunt-force trauma to the head.

Shortly thereafter, Ison became a suspect when blood and DNA evidence were recovered from his home, as well as a .380 handgun and an AK-47 assault rifle from his car, that had been used in the shootings. Also found in his home were bloodstained clothes, a pair of shoes with imprints that matched those found at the crime scene, and a victim's cell phone. The shootings were apparently linked to Ison's efforts to buy prescription painkillers. Roy Napier had raised the price of oxycodone pills he was selling to Ison because Medicaid was no longer going to pay for Napier's prescription.

At the time of the killings, Ison was on probation for unrelated convictions on ten counts of Burglary. In total, Ison had twenty prior felony convictions. At the time of his arrest, Ison was wearing a wig, fake beard, glasses and a hat.

**Request for LWOP Filed:** February 3, 2012

**Conviction:** Murder (5 Counts); Guilty Plea, Court Sentencing Hearing

**Sentencing:** March 14, 2012 (LWOP, LWOP, LWOP, LWOP, LWOP)

**Prior IDOC Commitments:**

Ison was previously convicted of Burglary (Class C Felony)(6 Counts), and on April 11, 2008 he was sentenced by the Franklin County Circuit Court to 2 years imprisonment on each count. (24C01-9001-CF-787)

Ison was previously convicted of Conspiracy to Commit Forgery (Class C Felony), and on January 3, 2008 he was sentenced by the Franklin CountCircuit Court to 6 years imprisonment. (24C01-0710-FC-00908)

Ison was previously convicted of Burglary (Class B Felony), and on October 31, 1997 he was sentenced by the Fayette County Circuit Court to 6 years imprisonment. (21CO1-9001-CF-003)

Ison was previously convicted of Armed Robbery (Class B Felony) and Criminal Confinement (Class B Felony), and on October 17, 1997 he was sentenced by the Franklin County Circuit Court to 16 years and 5 years imprisonment. (24C01-9602-CF-076)

Ison was previously convicted of Burglary (Class B Felony), and on September 27, 1990 he was sentenced by the Franklin County Circuit Court to 10 years imprisonment .  
(24C01-9001-CF-787)

Ison was previously convicted of Armed Robbery (Class B Felony), and on May 21, 1991 he was sentenced by the Ripley County Circuit Court to 5 1/2 years imprisonment on each count. (69C01-9001-CF-057)

Ison was previously convicted of Armed Robbery (Class B Felony), and on May 14, 1990 he was sentenced by the Shelby County Circuit Court to 8 1/2 years imprisonment. (73D01-9001-CF-3)

**Aggravating Circumstances:** b (8) Multiple Murders  
b (6) On Probation

**Mitigating Circumstances:** Ison was under the influence of drugs at the time of the Murder  
Murder victims had supplied him with the drugs

**DIRECT APPEAL:** None.

**PCR:** Franklin Circuit Court (24C01-1407-PC-630) Judge J. Steven Cox  
06/26/2014 PCR Petition filed Pro Se.  
10/19/2015 Petitioner's Motion to Amend PCR Petition filed.  
04/15/2016 Petitioner files "Supplemental Motion and Verified Amended PCR"  
06/29/2016 PCR Hearing held.  
07/01/2016 Post-Conviction Relief denied.

Ison v. State, 71 N.E.3d 1174 (Ind. App. March 14, 2017) (24A04-1607-PC-1618)

Conviction Affirmed 3-0 LWOP Remanded 3-0

Opinion by Altice; Riley, J. and Crone concur.

(Ison, pro se, filed a Motion to Amend his PCR petition, alleging for the first time that his trial counsel was ineffective and that his plea was not made knowingly, intelligently, and voluntarily. These issues were not addressed in the Court's Order of denial, which specifically stated that it would not consider any of Ison's claims raised in filings made after the original PCR petition filed in 2014 - Remanded with instructions for the court to make all necessary findings and conclusions relating to the allegations of the Amended PCR Petition.)

For Defendant: Pro se

For State: Ian McLean, Deputy Attorney General (Hill)

Ison v. State, (Ind. App. May 8, 2017) (24A04-1607-PC-1618)

(The State seeks rehearing and asks that we delete footnote three of our opinion. In that footnote, we erroneously concluded that Ind. Code § 35-50-2-9 contains a technical error. We agree that rehearing is appropriate and therefore grant rehearing to delete the second paragraph of footnote three. In all other respects the original opinion is affirmed.)

**On Remand:** On June 9, 2017, the post-conviction court entered findings of fact, conclusions thereon, and an order again denying Ison post-conviction relief.

Ison v. State, Unpub., 95 N.E.3d 217 (Ind. App. December 28, 2017) (24A05-1706-PC-1510)

Conviction Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Bailey; Kirsch, Pyle concur. (After remand)

For Defendant: Pro se

For State: Ian McLean, Deputy Attorney General (Hill)

Ison v. State, 96 N.E.3d 578 (Ind. February 21, 2018) (Transfer denied)

**HABEAS:** Ison v. Warden, (S.D. Ind. November 7, 2018) (2:18-cv-0094-WTL-DLP)

United States District Court for the Southern District of Indiana, Terre Haute Division

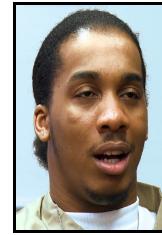
Judge William T. Lawrence

(Mr. Ison's petition for a writ of habeas corpus is denied and the action dismissed with prejudice because it is time-barred.)

Ison v. Brown, 140 S. Ct. 483 (November 24, 2019) (No. 19-5900) (Cert. denied)

## **JETER, DARRYL JOSEPH**

DOB: 11/03/1984 Black Male DOC# 160155 Location: Wabash Valley Level 3 Facility



Lake County Superior Court, Criminal Division #4 Judge Thomas P. Stefaniak, Jr.

**Trial Cause #:** 45G04-0312-MR-000010

**Defense:** Paul Jeffrey Schlesinger, Catherine Lake, Alexander Woloshansky

**Prosecutor:** Clare Eve Bradley-Lubek, Jerome Ezell, Mary Kathryn Ryan, Deputy Prosecutors

**Date of Murder:** December 23, 2003

**Victim:** Indiana State Trooper Scott Patrick W / M / 27 (No relationship to Jeter)

**Method of Murder:** Shooting with .380 handgun

**Summary:** In the early morning hours Darryl Jeter was driving a stolen car along Interstate 80/94 in Gary, Indiana. The car was missing a front tire. En route to visit his girlfriend, Ms. Young, Jeter was on parole from the state of Illinois and was not permitted to travel outside of that jurisdiction without prior permission from his parole officer. Seeing the car and the sparks that were coming from the missing front tire, a motorist called the Indiana State Police. Jeter exited 80/94 onto the Grant Street exit ramp, which was near the house where he planned to visit his girlfriend. The car ended up stuck in a grassy area off the side of the ramp. Walking along the exit, Jeter called Young at approximately 4:15 a.m., told her he had a flat tire, that he would grab his compact discs, and he would get another car and be on his way.

In the meantime, responding to a dispatch of a vehicle in distress, Indiana State Trooper Scott Patrick arrived on the scene. The record is silent as to what occurred immediately thereafter. In any event, following is the summarized testimony of Karl Dickel, an over-the-road truck driver. Pulling his rig onto the Grant Street exit, Dickel saw a state patrol car with its emergency lights flashing and observed two people struggling and wrestling with one another at the rear of the car. The two were later identified as Jeter and Trooper Patrick. As they broke apart, Jeter faced Dickel's truck and Dickel turned on his high beam headlights in order to aid the trooper by blinding Jeter. According to Dickel he saw part of Jeter's face and profile. Jeter then walked around the right front hood of the police car and pulling a handgun fired twice at Trooper Patrick, who was on the other side of the car also near the hood. According to Dickel, although the trooper appeared to have been hit, he nonetheless returned fire, striking Jeter. After exchanging additional gunfire Jeter ran from the immediate area. He dropped his handgun and compact discs along the way. Trooper Patrick lay bleeding on the ground.

Immediately thereafter State Trooper Geoffrey Gruber arrived on the scene and began assisting Trooper Patrick. As he did so, Dickel saw Jeter returning to the area and alerted Trooper Gruber, "That is the guy that shot him." Jeter climbed into the cab of a truck that was parked nearby and appeared to be attempting to drive away. Trooper Gruber removed Jeter from the truck and placed him in handcuffs.

Paramedics arrived on the scene. Both Jeter and Trooper Patrick were transported to an area hospital. Trooper Patrick died as a result of a gunshot wound to the neck. While at the hospital being treated for a gunshot wound to his shoulder, Jeter told the emergency room nurse to "[t]ell the officer he was sorry, he didn't mean to shoot him . . . . But [he] just didn't want to go back to jail." Informed that would be difficult to do because the officer was dead, Jeter "sprang up from a reclining position and said, 'He's dead? He's dead?'" to which the nurse responded affirmatively.

**Request for DP Filed:** January 9, 2004

**Conviction:** Murder, Auto Theft (Class D Felony)

Jury Trial - Jury Selection: May 2-6, 2006 - Guilt Phase: May 8-18, 2006

Found Guilty of Murder and Auto Theft (Class D Felony)

LWOP Jury Trial: May 19-24, 2006 - Jury recommends LWOP, rejects DP Request

**Sentencing:** July 14, 2006 (LWOP, 3 years, consecutive; 936 actual credit days)

**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer

**Mitigating Circumstances:**

**DIRECT APPEAL:** Jeter v. State, 888 N.E.2d 1257 (Ind. June 28, 2008) (45S00-0608-CR-298)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Rucker; Shepard, Dickson, Sullivan, and Boehm concur.

For Defendant: P. Jeffrey Schlesinger, Deputy Public Defender (Carpenter)

For State: Kelly A. Miklos, Deputy Attorney General (S.Carter)

**PCR:** (45G04-0911-PC-000012

11/02/2009 PCR filed as to defendant, Darryl Jeter. Petition ordered forwarded to IPD.

01/26/2010 DPA Sabrina Haney files State's Answer.

05/31/2013 Darryl Jeter files a motion to withdraw PCR without prejudice, which is granted.

**HABEAS:** None.

## **JONES, BRIAN E.**

DOB: 09/03/1976 White Male DOC# 102703 Location: Wabash Valley Level 4 Facility

Knox County Superior Court #1 Judge W. Timothy Rowley

Trial Cause #: 42D01-9907-CF-034



**Defense:** Scott Danks, Dirk Camahan / Shawna Dillon removed 8 months before trial

**Prosecutor:** John Sievers, Prosecuting Attorney, Harold R. Johnston, Chief Deputy

**Date of Murder:** September 7, 1997

**Victim:** Brook Elizabeth Baker W / F / 19 (no relationship to Jones)

**Method of Murder:** Stabbing with knife x12

**Summary:** The evidence and reasonable inferences favorable to the judgment are as follows. The victim, Brook Baker, was continuously with other persons until shortly after 1:30 A.M. Sunday morning, September 7. Her lifeless nude body with multiple stab wounds was found on the mattress in the bedroom of her rented home by her younger brother at 8:15 P.M. Sunday evening. A pathologist found that she was likely strangled, but ultimately died from loss of blood after suffering a stab wound to her left breast and eleven stab wounds to her back. Bruising on her wrists, hand, legs, pelvis, and the back sides of her elbows were consistent with a person being physically restrained against her resistance. Police found a knife in soapy water in her kitchen sink. The defendant had visited Brook Baker's house with friends about three months before her death.

On the night of the murder, the defendant was at a party with Vincennes University fraternity brothers at a house two blocks away from the victim's house until about 2:00 A.M., and his friends could not specifically recall whether the defendant returned to their house with them or not. The defendant was seen the day after the murder with a scratch on his face. When initially interviewed by police, the defendant denied ever having sex with Brook Baker, but DNA from semen recovered from vaginal swabs, from the sheet on her mattress, and from under her fingernails was consistent with the defendant's DNA. The defendant had recently rented the movie "Curdled," that depicted a homicide in which a man stabbed a victim numerous times in the back and then cleaned the knife in the victim's kitchen sink.

Beyond the evidence the State highlights, we further note evidence that the victim's lifeless body was found nude with multiple stab wounds on her back and chest, that the defendant was acquainted with the victim, that he had visited her home, that he was near her home at the probable time of her death, and that the defendant initially lied to investigating police. We conclude that, from the evidence presented at trial, a reasonable jury could find beyond a reasonable doubt that the defendant committed the charged rape and murder.

**Request for LWOP Filed:** August 25, 2000

**Conviction:** Murder, Rape (Class B Felony)

Jury Trial Jury Selection in Lawrence County November 29-30, 2000

Jury Trial December 4-13, 2000; Verdict Guilty Both Counts

LWOP Jury Trial December 14, 2000; Jury recommends LWOP

**Sentencing:** January 12, 2001 (LWOP, 20 years, consecutive)

In a similar but unrelated case, Jones pled guilty to Murder pursuant to a Plea Agreement in the Knox Circuit Court in #42C01-9912-CF-053, and on September 8, 2000 was sentenced by Judge Sherry L. Biddinger Gregg to 60 years imprisonment. (Murder of another Vincennes University student, Erika Norman, in her campus home - This conviction used as an aggravator to support LWOP sentence here)

**Aggravating Circumstances:** b (1) Rape

b (8) Convicted of another Murder

**Mitigating Circumstances:**

**INTERLOCUTORY APPEAL:**

State ex rel. Jones v. Knox Superior Court, 728 N.E.2d 133 (Ind. 2000) (42S00-0004-OR-258)

Opinion by Randall T. Shepard, Chief Justice of Indiana. All Justices concur.

(The petitioner was charged with murder and rape. A week before the trial the State provided DNA evidence to the petitioner. In a motion to reconsider the admissibility of that evidence or the denial of a continuance, the petitioner's attorneys made remarks the respondent trial judge found insulting. In that motion the petitioner's attorneys sought to withdraw if the motion was not granted. The respondent judge removed the attorneys from the case for their remarks. The petitioner sought a writ of prohibition and mandamus from the court to reinstate his attorneys. The court held that because the petitioner's attorneys had requested withdrawal from the case if the motion to reconsider was not granted, the respondent judge's removal of them accomplished something they had sought; therefore the writ of prohibition and mandamus to reinstate petitioner's attorneys was denied.

**DIRECT APPEAL:** Jones v. State, 780 N.E.2d 373 (Ind. December 23, 2002) (42S00-0103-CR-00154)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.

For Defendant: David P. Freund, Deputy Public Defender (Carpenter)

For State: Robin Hodapp-Gillman, Deputy Attorney General (S.Carter).

**PCR:** None.

**HABEAS:** None.

**KIDD, WILLIAM T.**

DOB: 04/01/1959 White Male DOC# 943337 Location: Indiana State Prison

Elkhart County Circuit Court Judge Gene R. Duffin

**Trial Cause #:** 20C01-9403-CF-018**Defense:** Kenneth R. Martin, PD**Prosecutor:** Terry Shewmaker, Deputy Prosecutor**Date of Murder:** March 9, 1994**Victims:** Charles H. Vanover W / M / 50 (Father in Law)

Bonnie L. Vanover W / F / 42 (Mother in Law)

Christine F. Vanover W / F / 16 (Sister in Law)

**Method of Murder:** Stabbing with knife (Charles and Christine); Strangulation/Drowning (Bonnie)

**Summary:** In October 1982, William T. Kidd was convicted of Kidnapping, Robbery, and Confinement in Marion County. He was released in June 1992 after serving almost 10 years imprisonment. Dawn Vanover had met Kidd through the mail after she joined a church group that corresponded with prison inmates. They were married by the Reverend Greg Morris of that church in January 1993, while Kidd (33) was still on parole and Dawn was 19. The Vanover family was active in this church.

In the early evening of March 10, 1994, a relative discovered the bodies of 16 year old Christine Vanover (Dawn's sister), Charles Vanover (Dawn's Father), and Bonnie Vanover (Dawn's Mother) in their rural Goshen home. While burglarizing the Vanover home, William Kidd was interrupted by Christine when she returned from school at about 4 pm. Kidd stabbed her to death. Charles Vanover returned from work soon after and was also stabbed to death. Next was Bonnie, who made her way home from work only to be confronted by Kidd and choked with an electrical cord, then drowned in the bathroom.

When police arrived at the scene, Kidd's vehicle was still at the home, but the family's 1985 Chevrolet was missing, along with about \$300 cash. After the killings, Kidd picked up his wife Dawn at her work in Elkhart, then picked up his other sister-in-law, Angela Vanover, 17, at her job. Neither knew of the killings. Kidd told them he needed to go to Indianapolis because he had won money in the Hoosier Lottery. The three spent Wednesday night in South Bend and Thursday night in Indianapolis before Kidd dropped the young women off near their home Friday morning. Kidd finally came forth voluntarily and was arrested on Saturday.

The Reverend Greg Morris gave no explanation for why his group of teenagers was allowed to even correspond with violent prisoners, or why no background checks were done, saying only that he assumed prison officials would not allow it if there were significant risks. Morris stated, "We can't give up reaching out. That is what God has called us to do."

**Request for LWOP Filed:****Conviction:** Murder (3 Counts)**Sentencing:** May 12, 1994 (LWOP, LWOP, 60 years)**Aggravating Circumstances:** b (8) Multiple Murders**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.

**KNAPP, RANDY L.**

DOB: 05/26/1959 White Male DOC# 970191 Location: Out of State Facility

Greene County Circuit Court Judge Erik A. Allen

**Trial Cause #:** 28C01-1108-MR-000001**Defense:** Kimberly A Jackson, David G. Hunter, Jacob Fish**Prosecutor:** Jarrod D. Holtsclaw, Prosecuting Attorney**Date of Murder:** August 19, 2011**Victim:** Stacey Jo Lawson W / F / 28 (Acquaintance)**Method of Murder:** Striking her head with large rock

**Summary:** Defendant was a de facto stepfather to Jeffrey Sims (having lived with Sims' mother for a number of years). Both men were methamphetamine addicts, and were living in a house (and living off of money) Sims had inherited. But in early August 2011, Sims committed suicide after his girlfriend, victim Stacey Lawson, broke up with him. Knapp blamed Lawson for Sims' death, and his anger and grief intensified after Sims' family excluded him from a memorial service and blocked his access to Sims' finances. Ever since Sims' death, he had been trying unsuccessfully to find (or at least contact) Lawson.

On August 19, 2011, he was able to contact her and make arrangements to meet her on the pretext of having money that Sims left for her. Before meeting her, Defendant told one person that he was "going to kill that bitch," and left a voicemail for another detailing his plans: "I'm gonna go meet somebody right now. You wouldn't believe who I'm gonna go meet. I won't say over the phone in case something happens." He continued, "I'm f—kin' raged and crazed and I'm gonna see this motherf—ker right now and I might beat her f—kin' brains out." The message concluded: I ain't done, and . . . I don't care if I get half of what I want done done, as long as I get half of it done and, and I've done my f—kin' part. But I'm ready to go down, with bullets or whatever. If that's how they want to take me down, I'm ready today to go. . . . I'm headed to Greene County about six. . . ." [call abruptly drops].

Both people recognized that Defendant was high on methamphetamine, consistent with his own declaration of being "raged and crazed." At about 4:00 p.m., Lawson got into a black Ford Taurus with Knapp, and was never seen alive again. About twenty minutes after leaving Lawson's home, Knapp called one of his friends and said, "[Y]ou'll never guess who I got with me. . . . The blonde haired bitch that [Sims] was dating. . . . I've got her up at the cemetery out in Newark and I'm going to get to the bottom of this." Through the rest of the day and the first part of the following day, Knapp told two friends that he had killed Lawson—and to one of them, smiled as he pantomimed beating her head with a large rock.

The next afternoon, Lawson's body was found at a cemetery in Newark. She had been struck in the head with tremendous force, caving in a portion of her skull and causing a "hinge fracture" at the base of the skull—a type of injury that requires so much force that it usually occurs only in auto accidents, and results in near-instant death. Indeed, her head struck the ground hard enough to leave a divot in the dry August soil beneath her. Police arrested Defendant that same evening. During several interviews conducted intermittently over the course of about eight hours, he admitted picking up Lawson, but claimed he was at his Bloomington home at 4:00 and only picked up Lawson about 9:00 (and not from her home). Defendant said he and Lawson had driven around for awhile, and he then dropped her off at the roadside somewhere. The jury did not buy it.

**Request for LWOP Filed:**

**Conviction:** Murder

Jury Trial October 22-31, 2012; Verdict: Guilty to Murder  
LWOP Jury Trial October 31, 2012; Verdict: Recommend LWOP

**Sentencing:** November 15, 2012 (LWOP)

**Aggravating Circumstances:** b (9) On Felony Probation (Possession of Methamphetamine - D Felony)

**Mitigating Circumstances:**

**DIRECT APPEAL:** Knapp v. State, 9 N.E.3d 1274 (Ind. June 12, 2014) (28S00-1305-LW-327)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Rush; Dickson, Rucker, David, Massa concur.

For Defendant: Kimberly A. Jackson, Indianapolis

For State: Angela N. Sanchez, Deputy Attorney General (Zoeller)

Knapp v. Indiana, 574 U.S. 1091, 135 S. Ct. 978 (2015) (Cert. denied)

**PCR:** (28C01-1506-PC-000003)

06/09/2015 Petition for Post-Conviction Relief Filed

11/27/2018 Pursuant to Ind. Post-Conviction Rule 9(b) the Court hereby orders that this case shall be submitted on affidavit. Petitioner is given to and including February 27, 2019, to submit affidavits or other proper evidence in support of the Petition. If Petitioner does not timely submit affidavits or other proper evidence then the Court will issue an order on the merits denying the Petition. If Petitioner does timely submit affidavits or other proper evidence then the Court will consider all proper evidence and issue an order on the merits of the Petition.

02/12/2019 Petitioner's Motion to Withdraw Post-Conviction Petition Without Prejudice.

02/13/2019 Order Granting Motion to Withdraw Post Conviction Petition.

**HABEAS:** None.

## **KOVAK, BORIS LYNDON**

DOB: 07/11/1965 White Male DOC# 995398 Location: Wabash Valley Level 4 Facility

Elkhart County Circuit Court Senior Judge Gene R. Duffin

**Trial Cause #:** 20C01-9807-CF-000038



**Defense:** Neil Eugene Holbrook, Joseph F. Rubin

**Prosecutor:** Michael A. Christofeno, Chief Deputy Prosecutor

**Date of Murder:** February 23, 1998

**Victim:** Nicholi Hoffman W / M / 3 (Stepson)

**Method of Murder:** Beating

**Summary:** Kovak was convicted of beating to death his 3 year old stepson, Nicholi Hoffman. The mother of the child, Michelle Hoffman, and Kovak claimed initially that the child's injuries were caused by a fall down a flight of stairs. Elkhart police had been searching for Kovak for several days before he was arrested in a Cedar Lake motel after taking an overdose of sleeping pills. The apparent suicide attempt was not successful. Kovak also had pending charges of criminal confinement in connection with a July 26 attack on Michelle Hoffman.

**Request for DP Filed:** October 6, 1998

**Conviction:** Murder

Plea Agreement filed June 15, 1999

**Sentencing:** August 26, 1999 (LWOP)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **KUBSCH, WAYNE D.**

DOB: 10/31/1967 White Male DOC# 108000

OFF DEATH ROW SINCE 02-11-19

Location: Wabash Valley Level 3 Facility

St. Joseph County Superior Court Judge Jerome Frese

**Trial Cause #:** 71D02-9812-CF-00592

**Prosecutor:** Scott H. Duerring, Joel V. Williams

**Defense:** James F. Korpal, Neil Wiseman

**Date of Murder:** September 18, 1998

**Victim(s):** Beth Kubsch W / F / 31 (wife);

Rick Milewski W / M / 35 (Beth's Ex-Husband);

Aaron Milewski W / M / 10 (Son of Beth & Rick)



**Method of Murder:** Stabbing with knife, Shooting with handgun

**Summary:** September 18, 1998 was the 31st birthday of the defendant's wife Elizabeth Kubsch. It was also the day she was found dead by her 13 year old son under the stairs in the basement of the home she shared with the defendant. She had been stabbed numerous times, and was hogtied with duct tape. Also discovered in the basement were the bodies of Elizabeth's former husband, Rick Milewski, and their 10 year old son from that marriage, Aaron Milewski. Aaron had been stabbed 21 times and shot once in the mouth. Rick had been stabbed in the heart and shot twice in the head. Kubsch claimed to have worked all day, then went straight to pick up his other son in Michigan. However, cell phone records put him in the vicinity of the murder at the time of the murders. Duct tape from Elizabeth was matched to a wrapper in his vehicle. A receipt that was received by Elizabeth two hours before the murder was also found in his vehicle. He was overheard bragging about the murders at a local restaurant. He was over \$400,000 in debt and 2 months before the murders had taken out a life insurance policy on the life of Elizabeth for \$575,000.

**Trial:** Information/PC for Murder filed (12-22-98); Amended Information for DP filed (04-07-99); Voir Dire (05-15-00, 05-22-00, 05-23-00, 05-24-00, 05-25-00, 05-26-00, 05-30-00, 05-31-00); Jury Trial (06-01-00, 06-02-00, 06-03-00, 06-05-00, 06-06-00, 06-07-00, 06-08-00, 06-09-00, 06-10-00, 06-12-00, 06-13-00, 06-14-00, 06-15-00); Deliberations 10 hours, 22 minutes; Verdict (06-15-00); DP Trial (06-16-00); Deliberations 1 hour, 30 minutes; Verdict (06-16-00); Court Sentencing (08-28-00).

**Conviction:** Murder (3 counts)

**Sentencing:** August 28, 2000 (Death Sentence)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age  
b (8) Multiple Murders

**Mitigating Circumstances Raised:** No significant criminal history  
Neglect by parents, poor and deprived childhood  
Poor family (male) role models  
Defendant's "good character"  
Absent parents  
Substance abuse in family  
Multiple parent figures  
Seeing parental violence  
Residual doubt  
Disorganized chaotic families  
Even if incarcerated for the rest of his life,  
the defendant's family would benefit from their relationship.

**Direct Appeal:** Kubsch v. State, 784 N.E.2d 905 (Ind. March 14, 2003) (71S00-9904-DP-239)  
Conviction Reversed 5-0 DP Vacated 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
(In violation of Doyle v. Ohio, the State presented videotaped interrogation where Kubsch asserted right to remain silent.)  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
Amicus Curiae: Kenneth J. Falk, Indiana Civil Liberties Union Marshall L. Dayan,  
NC Commission on Social Action of Reform Judaism  
For State: James B. Martin, Deputy Attorney General (S. Carter)

**On Remand:** Following a new jury trial, on March 19, 2005 Kubsch was again found guilty of 3 counts of Murder. After the verdict, Kubsch fired his lawyers, who remained only as standby counsel for the abbreviated sentencing hearing. On March 21, 2005 the jury recommended a death sentence. On April 18, 2005, St. Joseph County Superior Court Judge William H. Albright sentenced Kubsch to death in accordance with the jury verdict.  
For State: Deputy Prosecutors Scott H. Duerring, Frank E. Schaffer.  
For Defendant: Philip R. Skodinski, Brian J. May.

Retrial: Jury Panel Present to Complete Questionnaires (02-07-05, 02-08-05); Small Group Voir Dire (02-23-05, 02-24-05, 02-25-05, 02-28-05, 03-01-05, 03-02-05); Regular Voir Dire (03-03-05); Trial (03-04-05, 03-05-05, 03-07-05, 03-08-05, 03-09-05, 03-10-05, 03-11-05, 03-12-05, 03-14-05, State Rests, 03-15-05, 03-16-05, 03-17-05, 03-18-05, Defendant Rests, (03-19-05); Deliberations and Verdict (03-19-05); DP Trial (03-21-05); Deliberations and Verdict (03-21-05); Court Sentencing (04-18-05).

The case against Kubsch was entirely circumstantial. There were no eyewitness, no DNA evidence, no fingerprint testimony, indeed no forensic evidence at all that linked Kubsch to the murders. There was, however, moderately strong evidence of motive and opportunity. But most damning to Kubsch was a series of lies, inexplicable omissions, and inconsistencies in what Kubsch told the police and later testified on the witness stand, and these statements — in conjunction with a few pieces of circumstantial evidence — are what almost assuredly got Kubsch convicted.

At sentencing, Kubsch fired his lawyers and proceeded pro se. He told the jury that if they thought he did the heinous crimes for which he was convicted — and they obviously did since that was the verdict they just reached — then he deserved the death penalty. Since there was

no evidence presented to contradict the State's request for the death sentence, that is precisely what the jury recommended, and that is what the judge imposed in April of 2005.

**Direct Appeal:** Kubsch v. State, 866 N.E.2d 726 (Ind. May 22, 2007) (71S00-0507-DP-333)

Conviction Affirmed 5-0 DP Affirmed 5-0

Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.

For Defendant: Eric Kosek, Brent L. Westerfeld, Indianapolis

For State: James B. Martin, Deputy Attorney General (S. Carter)

Kubsch v. Indiana, 128 S.Ct. 2501 (May 27, 2008) (Cert. denied)

**PCR:** PCR denied January 7, 2009 by St. Joseph Superior Court Judge Jane Woodward Miller.

Kubsch v. State, 934 N.E.2d 1138 (Ind. October 05, 2010) (71S00-0708-PD-335)

(Appeal of denial of postconviction relief)

Conviction Affirmed 5-0, DP Affirmed 5-0

Rucker Opinion; Shepard, Dickson, Sullivan, Boehm, concur.

For Defendant: Steven H. Shutte, Laura L. Volk, Deputy Public Defenders (Carpenter)

For State: James B. Martin, Deputy Attorney General (Zoeller)

**Habeas:** 01-27-11 Notice of Intent to file Petition for Writ of Habeas Corpus filed.

04-27-11 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Wayne Kubsch v. Superintendent (3:11-cv-00042-PPS)

Chief United States District Judge Philip P. Simon

For Defendant: Joseph M. Cleary, Indianapolis, Marie F. Donnelly, Chicago, IL

For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)

09-14-11 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

02-29-12 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.

08-21-12 Oral Arguments heard.

09-14-11 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

02-29-12 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.

08-21-12 Oral Arguments heard.

Kubsch v. Superintendent, Ind. State Prison, (N.D.Ind. December 2, 2013) (3:11CV42-PPS)

United States District Court for the Northern District of Indiana, South Bend Division

Chief United States District Judge Philip P. Simon

(Kubsch has not shown that any constitutional error had a substantial and injurious influence in determining the jury's verdicts. Writ of Habeas Corpus denied.)

For Defendant: Joseph M Cleary, Indianapolis, IN; Marie F Donnelly, Chicago, IL.

For State: James B Martin, Stephen R Creason, Deputy Attorneys General (Zoeller)

03-24-14 Petitioner's Motion to Alter and Amend Judgment is denied. Fed.R.Civ.P. 59(e)

Neal v. Kubsch (U.S., May 22, 2017) (Cert.denied)

Kubsch v. Neal, 800 F.3d 783 (7th Cir. Ind., Aug. 12, 2015) (No. 14-1898)

Appeal from the United States District Court for the Northern District of Indiana, South Bend (No. 3:11-cv-42-PPS)

Conviction Affirmed 2-1 DP Affirmed 2-1 Opinion by Hamilton; Tinder concurs; Wood Dissents.

(Kubsch's three principal arguments on appeal are that his conviction and sentence are unconstitutional because (a) the Indiana trial court excluded evidence of a witness's exculpatory but hearsay statement to police, (b) he was denied effective assistance of counsel in seeking admission of the witness's hearsay statement, and (c) his waiver of counsel and choice to represent himself at the sentencing phase of trial were not knowing and voluntary. We reject all three claims. Accordingly, we affirm the denial of relief as to both Kubsch's convictions and the death sentence.) (Wood, Chief Judge, dissenting. My colleagues are prepared to send Wayne Kubsch to his death on the basis of a trial at which the jury never heard critical evidence that, if believed, would have

shown that Kubsch was not the man responsible for the horrible murders of his wife Beth, her son, Aaron Milewski, and her ex-husband, Rick Milewski. I am not. They concede that the evidence against Kubsch was entirely circumstantial. While there is nothing wrong with circumstantial evidence, it is impossible to have any confidence in a verdict rendered by a jury that heard only part of the story.)

For Defendant: Alan Michael Freedman, Marie F Donnelly, Evanston, IL.

For State: James B Martin, Stephen R Creason, Deputy Attorneys General (Zoeller)

Kubsch v. Neal, 838 F.3d 845 (7th Cir. September 23, 2016) (No. 14-1898) (*En banc*)  
Denial of Habeas Writ Reversed and Remanded 6-3.

Opinion by: Wood; Posner, Flaum,, Kanne, Rovner, Williams Concur.  
Hamilton, Easterbrook and Sykes, Dissent.

(We thus conclude that the Indiana Supreme Court's conclusion that Chambers did not require the admission of this critical evidence was either contrary to, or an unreasonable application of the Chambers line of Supreme Court precedent. We therefore Reverse the judgment of the district court and Remand for issuance of the Writ of Habeas Corpus, unless the state within 120 days takes steps to give Kubsch a new trial)

For Defendant: Alan Michael Freedman, Marie F Donnelly, Evanston, IL.

For State: James B. Martin, Andrew A. Kobe, Stephen R. Creason, Deputy Attorneys General  
(Zoeller)

Neal v. Kubsch, 2017 U.S. LEXIS 3345 (U.S., May 22, 2017) (Cert. denied)

**On Remand:** On September 10, 2018 the State withdrew its request for a death sentence, instead seeking only Life Without Parole. On February 11, 2019, the day jury selection was set to begin, Kubsch pled guilty to Count I: Murder (Beth Kubsch) and Count III: Murder (Rick Milewski) pursuant to a Plea Agreement which called for a sentence of Life Without Parole. Count II: Murder (Aaron Milewski) was dismissed. On March 8, 2019 he was sentenced to two consecutive terms of Life Without Parole in accordance with the Plea Agreement by St. Joseph County Superior Court Judge Jane Woodward Miller, with 7,381 days credit for time served. (71D01-9812-CF-00592)  
For State: Christopher Fronk, Eric Tamashasky, St. Joseph County Deputy Prosecutors.  
For Defendant: Mark Lenyo, Thomas Keller.

- ▶ CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## LAUX, FREDRICK ALLEN

DOB: 04/01/1965 White Male DOC# 125893 Location: Pendleton Correctional Facility

Grant County Superior Court Judge Gary L. Thompson

Trial Cause #: 27D01-0202-MR-000028

**Defense:** Jerry R. Shoup

**Prosecutor:** Billy P. Heck

**Date of Murder:** February 16, 2002

**Victim:** Heidi S. Laux W / F / 37 (Ex-Wife)

**Method of Murder:** Striking with crowbar, Strangulation

**Summary:** In June 2001, Heidi Laux separated from her husband Fred Laux, moved with her two daughters from Anderson to Marion, and began divorce proceedings. Soon thereafter, Laux also relocated to Marion, and moved into a house situated less than one mile from Heidi. On November 19, 2001, the divorce became final. On the following Valentine's Day, Laux personally delivered a rose and card to Heidi at her place of work. Heidi gave the rose to a friend, disposed of the card, and told Laux what she did with his offerings.

The next day, Heidi and Laux agreed to attend a dance sponsored by Heidi's employer. Laux had the daughters for weekend visitation and brought them with him to the dance. During the dance, Laux became increasingly suspicious that Heidi was involved with a co-worker. Laux left the dance around 8:00, went home, and played cards with his daughters before going to bed. Around 3 a.m. the following morning, Laux awoke and decided to "fix" Heidi. He dressed in two pairs of sweatpants, a sweatshirt, gloves, a hat, and a ski mask. He collected a flashlight and a crowbar and ran to Heidi's house. Upon arrival, Laux used the crowbar to pry open a coal chute and gain entrance to Heidi's house. He entered the basement through the chute and made his way upstairs. Laux proceeded to Heidi's bedroom, struck her three times with the crowbar, strangled her, and left. She died from her injuries within twenty minutes.

**Request for LWOP Filed:** August 6, 2002

**Conviction:** Murder, Murder, Burglary (Class B Felony)  
Jury Trial (3 days); Verdict: Guilty all counts.  
LWOP Jury Trial; Verdict: Recommend LWOP

**Sentencing:** November 18, 2002 (LWOP, LWOP, 20 years consecutive - Felony Murder merged)

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:** Devoted Catholic, father, and husband  
His beliefs about divorce under Catholicism  
His lack of criminal history, his employment history, work ethic  
Graduate of Purdue University  
Obtaining a new job to move closer to his children.  
Moderately severe major depression  
Anti-social personality disorder.  
Extreme mental or emotional distress  
Remorse

**DIRECT APPEAL:** Laux v. State, 821 N.E.2d 816 (Ind. February 2, 2005) (27S00-0303-CR-104)  
Conviction Affirmed 5-0 LWOP Affirmed 3-2  
Opinion by Baker; Riley, Barnes concur.  
Opinion by Shepard; Dickson and Boehm concur.  
Sullivan dissents with separate opinion. (Would revise sentence to 65 years)  
Rucker, J., dissents from Part I of the majority opinion. In all other respects I fully concur.  
(Aggravators should outweigh beyond a reasonable doubt)  
For Defendant: C. Robert Rittman, Marion  
For State: Nicole M. Schuster, Deputy Attorney General (S. Carter)

**PCR:** (27D01-0503-PC-53) Judge Jeffrey D. Todd  
03/16/2005 Defendant, pro se, files Petition for Post Conviction Relief.  
03/17/2005 State of Indiana, by Bill Heck, files State's Response To Petition For PCR  
04/07/2005 Written appearance of Laura Volk for defendant; Motion to Continue Hearing and Notice  
of Present Inability to Investigate and Amend - Granted  
05/12/2011 Petitioner ,by counsel Laura Volk, files Petition for Post-Conviction Relief.  
09/20/2011 Petitioner, by counsel, files an Amended Petition For Post-Conviction Relief.  
12/01/2011 The State of Indiana appeared by Jim Luttrull; Defendant appeared in custody and by  
counsel, Laura Volk; all for post-conviction relief hearing. Cause submitted.  
01/27/2012 Petitioner files proposed Findings of Fact and Conclusions of Law.  
02/16/2012 State of Indiana, files the State's Proposed Findings of Fact and Conclusions of Law  
05/01/2012 Court enters its Findings of Fact & Conclusions of Law Denying Post-Conviction Relief.

Laux v. State, 985 N.E.2d 739 (Ind. App. February 20, 2013) (27A04-1205-PC-269)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Baker; Riley, Barnes concur.  
For Defendant: Laura L. Volk, Deputy Public Defender (Owens)  
For State: Henry A. Flores, Jr., Deputy Attorney General (Zoeller)  
Laux v. State, 987 N.E.2d 521 (Ind. May 7, 2013) (Transfer denied)

**HABEAS:** Laux v. Zatecky, 890 F.3d 666 (7th Cir. May 7, 2018) (16-3282)  
(Appeal of denial of Writ of Habeas Corpus by United States District Court for the Southern District of Indiana, Indianapolis Division. No. 14-CV-340 — Sarah Evans Barker, Judge)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Hamilton; Ripple, Kanne concur.  
For Defendant: Nina N. Shah, Attorney, New York, NY.  
For State: Kelly A. Loy, James Blaine Martin, Deputy Attorneys General (Hill)  
Laux v. Zatecky, 139 S. Ct. 286 (2018) (Cert. denied)

## LEONARD, BOB W., JR.

DOB: 12/12/1958 White Male DOC# 935747 Location: Wabash Valley Level 3 Facility

Allen County Superior Court #5 Judge Frances C. Gull  
Venued from Marion County

**Trial Cause #:** 02D05-1502-MR-000001

**Defense:** Theodore J. Minch, Mark Inman, Eric Koselke  
**Prosecutor:** Denise Robinson, Mark Hollingsworth, Deputy Prosecutors



**Date of Murder:** November 10, 2012

**Victims:** John "Dion" Longworth W / M / 34 (Neighbors)  
Jennifer Longworth W / F / 36

**Method of Murder:** Arson fire, gas explosion

**Summary:** On November 10, 2012, at 11:08 p.m., the Marion County Sheriff's Office received its first 911 call describing confusion, a huge bang, and homes shaking on Indianapolis's southeast side. Over the following minutes and hours, 281 more 911 calls would be placed describing the impact from a home explosion in the Richmond Hill subdivision. Firefighters, located at a nearby station, were among those first to arrive. They observed at least one home "completely flattened" and many others with significant damage, substantial gas-fed fires, debris scattering the streets, and many residents wandering outside their homes, emotional and watching the chaos unfold around them. Tr. at 461. Investigators would later conclude that a natural gas explosion with the force of roughly three tons of TNT, originating from Monserrate Shirley's home at 8349 Fieldfare Way, was to blame for the devastation and total destruction that occurred that night.

Shirley was a nine-year resident of the neighborhood and lived in her home with her boyfriend, Mark Leonard, her teenaged daughter, and her daughter's cat Snowball. Shirley and Mark first met in November 2011, but their lives quickly melded. Indeed, a month after meeting and two weeks after moving in together, Mark suggested that Shirley increase her home contents insurance from \$150,000 to \$300,000. Shirley also insured vehicles. Then in February 2012, Mark pitched the idea of burning Shirley's house to collect the insurance proceeds. Mark told Shirley about a friend of his, Gary Thompson, who had started a fire in the home of another friend for the same purpose, and the insurance quickly paid the claim. Although Shirley thought the idea was "crazy," Mark assured her it would "be a small fire, [and she didn't] have to worry about it."

In late October 2012, Mark and Shirley invited Thompson over to Shirley's house and told him they were "ready to do the small fire" so they could "get the insurance money." That same day, Shirley overheard Mark and Thompson discussing the home's thermostat and fireplace, which could be used to start the fire. Mark told Shirley they planned to set the fire on Saturday, October 27, 2012. In preparation, Shirley removed sentimental items that she didn't want destroyed, and Mark placed them in his white van, which Thompson took for safekeeping. Shirley also made overnight arrangements for her teenaged daughter, boarded Snowball at the kennel, and reserved a room at the Hollywood Casino in Lawrenceburg, Indiana for her and Mark to stay in. Everything was set to go, but on the way to Shirley's house Thompson was pulled over by police, and was unable to set the fire. They tried and failed again the next week.

They tried for a third time a few days later after conducting some research at the library. They spoke with a former gas company employee about gas fires/explosions. Like before, Shirley made a hotel reservation for that night. Shirley once again made arrangements for her daughter, boarded Snowball, and reserved a room at the Hollywood Casino. Before leaving for the casino, Shirley and Mark removed their valuables from Shirley's home, and met with Leonard to give him money to purchase the remaining parts needed to set the fire. Leonard accepted the money, and left in Mark's white van. The next night, while sitting at the Hollywood Casino bar, Shirley received a phone call informing her there had been a huge explosion in her neighborhood and her house was completely gone.

Next door to Shirley's home lived John "Dion" and Jennifer Longworth. As a result of the explosion, their home was reduced to rubble, with John trapped underneath in the home's basement. Although he survived the initial explosion and could communicate with those nearby, as the fire intensified, firefighters were forced to step away, and John was burned to death in the ensuing flames. Jennifer was in an upstairs bedroom, and died quickly from "blast injuries," which result from "a tremendous change in energy that causes [the very dense skull and inner ear bones] to fracture." Due to extensive charring to their bodies, both John and Jennifer had to be identified by their dental records.

**Request for LWOP Filed:** October 22, 2015

**Conviction:** Murder, Murder, Conspiracy to Commit Arson (Class A Felony),  
Arson (Class A Felony) (7 Counts), Arson (Class B Felony) (25 Counts)  
Jury Trial January 19 - March 4, 2016 (34 days); Verdict:  
"We, the jury, find the Defendant guilty of Counts 01 - 03, Counts 05 - 50, Counts 53 and 54."  
Motion to Dismiss Counts 53 and 54 denied.

Motion to Dismiss the State's Request for Life Sentence Without Parole denied. Defendant waives jury trial. Phase 2 - LWOP Proceeding is conducted. Court finds that the State has proven, beyond a reasonable doubt, the existence of the aggravating circumstances as stated in Request for Life Sentence Without Parole.

Defendant was also convicted of Arson (Class B Felony) (2 Counts) and was sentenced by the Allen County Superior Court #5 on November 10, 2012 to 20 years imprisonment on each Count. (02D05-1502-MR-1)

In exchange for her testimony at Leonard's trial, accomplice Monserrate Shirley entered into an agreement with the State in which she pleaded guilty to one count of Conspiracy to Commit Arson (Class A Felony) and one count of Conspiracy to Commit Arson (Class B Felony). All remaining charges were dismissed. The agreement called for a sentence of between 20 and 50 years. The Court sentenced Shirley to a 50 year term of imprisonment. (State v. Shirley, 49G03-1212-MR-085548)

Accomplice Mark Leonard was found guilty and also sentenced to LWOP (2 Counts) in the St. Joseph Superior Court, Division 2 (venued) by Judge John M. Marnocha. (71D02-1408-MR-000009) He died in January 2018 of natural causes while serving that sentence.

**Aggravating Circumstances:** b (2) Use of Explosives  
b (8) Multiple Murders  
b (11) Victim burned or mutilated while alive

**Mitigating Circumstances:**

**DIRECT APPEAL:** Leonard v. State, 80 N.E.3d 878 (Ind. August 10, 2017) (02S00-1604-LW-185)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Massa; Rush, David, Slaughter, Goff concur.  
For State: Andrew A. Kobe, Jodi K. Stein, Deputy Attorneys General (Hill)  
For Defendant: Ruth A. Johnson, Andrew J. Borland, Meggan E. Smith, Public Defenders

**PCR:** (02D06-1808-PC-000062)  
08/06/2018 Pro-se Petition for Post Conviction Relief filed  
08/24/2018 State's Answer Filed  
08/31/2018 Order Denying Defendant's Motion for Change of Venue  
11/22/2018 Appearance for Defendant: Cara Schaefer Wieneke, Special State Public Defender  
06/12/2019 Appearance for State: Clarke Campbell, Marion County Deputy Prosecutor

**HABEAS:** None.

**LEONE, JEFF A.**

DOB: 02/13/1963 White Male DOC# 106789 Location: Wabash Valley Level 3 Facility

Greene County Circuit Court Judge David K. Johnston

**Trial Cause #:** 28C01-0012-CF-000101

**Defense:** Jessie Cook

**Prosecutor:** David N. Powell, Prosecuting Attorney

**Date of Murder:** December 8, 2000

**Victim:** Jennifer Gale Watkins W / F / 13 (Estranged wife's daughter)

**Method of Murder:** Strangulation/Asphyxiation with dog collar

**Summary:** On December 8, 2000, Linda took her oldest daughter Stephanie to high school, and then went to work. Her thirteen-year-old daughter Jennifer stayed home due to a cold. When Stephanie arrived home from school around 3:15 p.m., she called for Jennifer when she entered the trailer, but did not hear a response. Stephanie called her mother and neighbors but no one knew Jennifer's whereabouts. Family members helped search their 18 acre property, including Linda's estranged husband Jeff Leone, who lived in a nearby trailer. Leone never indicated he knew what had happened to her.

Around 6:30 p.m., Indiana State Police arrived to help search for Jennifer. Detective Lewis went to Leone's camper to ask his whereabouts for the day; Leone replied that he had been in the camper all day and had not seen or heard anything. The police left the premises around 4 a.m. Thereafter, Linda, Stephanie, and Daniel tried to sleep in the living room. The sound of Jeff Leone opening the door to the trailer awakened Linda. Leone walked in, dropped the keys on the bar stool next to where she was sitting, picked up the phone, and called someone, whom she

later discovered was a 911 dispatcher. Linda heard Leone say, "Come and get me, I did it. I killed her." Leone talked for a couple of minutes and then handed the phone to her. When Linda asked Leone why he killed Jennifer, Leone said because she (Linda) made him a "sexless man." Linda testified that after she hung up the phone, Leone said that he could show her where Jennifer was buried and that Jennifer "did not suffer". When the police arrived, Leone put his hands out and told them to take him away, then showed them where her body was buried, and gave a full confession.

Leone told police that he had gone to the trailer to take a shower, using a key, and then returned later and decided to kill her so she would not tell her mother he had been in the trailer. He put duct tape over her mouth and bound her wrists and led her towards his camper. Jennifer tried to run away from him, but Leone grabbed her and dragged her inside. Leone then threw Jennifer onto a mattress, and ripped her shirt off. When Jennifer asked if he was going to rape her, Leone responded, "Yep." He proceeded to cut Jennifer's clothes with a box cutter. Leone sat next to Jennifer and smoked marijuana while she lay there nude. He periodically fondled her genital area and breasts and performed oral sex on her. Leone tried to have sexual intercourse with Jennifer but was unable.

Leone then retrieved a dog choker that was hanging nearby, placed it around Jennifer's neck, pulled on it, and killed her. He had intercourse with Jennifer's corpse. He then dragged her body outside, cut the tape off of her mouth, and taped her ankles and wrists together. He dug a hole and placed Jennifer's body in it. He then directed Officers to the grave. He later told Detective Lewis that since he did not have any more marijuana and since he was going to get caught, he would just turn himself in. An autopsy later concluded that her death was caused by ligature strangulation, and showed lacerations, contusions, and hemorrhages to the external genital area.

**Conviction:** Murder

Guilty Plea per Plea Agreement - Adjudged Guilty But Mentally III

**Sentencing:** May 14, 2002 (LWOP)

**Aggravating Circumstances:** b (1) Attempted Child Molesting  
b (11) (A) Tortured While Alive

**Mitigating Circumstances:** Pled guilty, acceptance of responsibility  
Trial Court adjudged him Guilty But Mentally III  
Limited, non-violent criminal record  
Suffered multiple strokes in 1997

**DIRECT APPEAL:** Leone v. State, 797 N.E.2d 743 (Ind. October 22, 2003) (28S00-0206-CR-327)  
Conviction Affirmed 5-0 LWOP Affirmed 4-1  
Opinion by Shepard; Dickson, Boehm, Rucker concur. (Torture Aggravator not while alive)  
Sullivan concurs and dissents with separate opinion. (Would reduce LWOP to term of years)  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Scott A. Kreider, Deputy Attorney General (S. Carter)

**PCR:** None.

**HABEAS:** None.

**LICHTENBERGER, MARK L.**

DOB: 06/30/1960 White Male DOC# 105140 Location: Indiana State Prison

Adams County Circuit Court Special Judge Steven David

**Trial Cause #:** 01C01-9904-CF-007**Defense:** Stanley Lee Campbell, Michelle Fennessy Kraus**Prosecutor:** Jeremy Wayne Brown**Date of Murder:** April 3, 1999**Victim:** ISP Trooper Cory Raymond Elson W / M / 26 (No relationship)**Method of Murder:** Shooting with AK-47

**Summary:** ISP Trooper Cory Elson was shot and killed after making a traffic stop on U.S. 27 in Decatur in Adams County. As Trooper Elson exited his vehicle, the suspect opened fire with a fully automatic AK-47. One of the first rounds penetrated the cruiser's door and struck Trooper Elson in the leg. Trooper Elson retreated to the rear of his cruiser and returned fire. The suspect continued to fire at Trooper Elson, firing as many as 36 rounds, fatally wounding him. An employee of a business was shot and wounded during the gunfire and was able to call 911. The suspect fled the scene but was captured the next day. Trooper Elson had served with the Indiana State Police for four months, having recently graduated from the academy and was assigned to the Fort Wayne post.

**Request for DP Filed:** May 3, 1999**Conviction:** Count I: Murder, Count IV: Operating a Loaded Machine Gun (Class B Felony)

Notice of Insanity Defense filed May 21, 1999, withdrawn October 8, 1999

Guilty Plea pursuant to Plea Agreement filed June 19, 2000

**Sentencing:** July 10, 2000 (LWOP, 20 years, consecutive) - All other Counts dismissed**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.**LOGAN, SIRLANDO D.**

DOB: 06/15/1974 Black Male DOC# 973822 Location: Indiana State Prison

Allen County Superior Court #6 Judge John F Surbeck Jr.

**Trial Cause #:** 02D04-9602-CF-85**Defense:** Randall S. Hammond, PD,**Prosecutor:** Robert William Gevers II, Prosecuting Attorney, John F. Sullivan, III**Date of Murder:** February 15, 1996**Victim:** Don Riebersol W / M / 49 (No relationship to Logan)**Method of Murder:** Shooting with handgun

**Summary:** In the late evening hours of February 15, 1996, Logan and four accomplices ordered a pizza from Saylor's Pizza Parlor in Fort Wayne and directed that it be delivered to a nearby address. Saylor's Pizza employee Milton Turner went to the address, knocked on the door, and a woman answered. She informed Turner that she had not ordered pizza. Logan, who was standing on the front porch, told Turner the pizza was to be delivered to a side apartment that was located down a dark hallway. Turner refused to enter the hallway and told Logan that whomever ordered the pizza would have to call Saylor's Pizza to confirm the address. Turner left and drove back to work.

Logan and his companions made another call to Saylor's Pizza demanding delivery of their order. When Turner returned, he told the store's owner that he would not re-deliver the pizza because he saw four shadows in a dark hallway and believed he was being lured into a dangerous situation. Employees Don Riebersol and Jean Poff agreed to make the delivery.

Riebersol and Poff drove to the address and knocked on the door. Logan was again standing on the front porch and motioned the pair to come to the side apartment down the dark hallway. They complied. Once in the hallway, they were confronted by three other young men. Logan stood behind them and told Riebersol to knock on the apartment door. Riebersol again complied and a young male answered. Riebersol handed the pizza to the man and asked about payment. Logan produced a handgun and, using it as a club, struck Riebersol in the face. Logan then began firing the handgun at Riebersol. Riebersol, Poff, and Logan's companions ran out of the hallway. Riebersol was shot three times and collapsed on the sidewalk outside the apartment. As Riebersol lay on the ground, Logan grabbed him by the hair, lifted his head off the ground, and put the gun to his head. Poff, who had escaped injury, screamed and pleaded for Logan not to kill Riebersol. Logan dropped Riebersol's head onto the ground, reached inside Riebersol's pocket, removed cash, and fled. Riebersol ultimately died of a gunshot wound to the abdomen.

Later that evening, police determined that the call to Saylor's Pizza had been made from the home of three of the young men involved in the robbery. Those men identified Logan as the shooter and gave police the address where Logan was staying. Logan was residing with Helen Cunegin and her son, using the living room couch as a bed. Police went to the address and knocked on the door. Logan answered and the police immediately took him into custody. Police obtained Cunegin's consent to search the home and discovered pizza boxes and the gun used in the shooting.

**Request for LWOP Filed:** July 29, 1996

**Conviction:** Murder, Robbery (Class A Felony) - Felony Murder merged  
Jury Trial March 17-19, 1997; Verdict: Guilty all Counts  
LWOP Jury Trial March 20, 1997; Verdict: recommend LWOP

**Sentencing:** April 18, 1997 (LWOP, 30 years)  
(Indiana Supreme Court remanded, reducing the Robbery from a Class A Felony to a Class C Felony. On August 14, 2000 the Trial Court resentenced Logan to a 4 year term for Robbery as a Class C Felony)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** Logan v. State, 729 N.E.2d 125 (Ind. May 26, 2000) (02S00-9708-CR-448)  
Conviction Affirmed 5-0 LWOP Affirmed 4-1  
Opinion by Rucker; Shepard, Dickson, Sullivan, Boehm concur  
For Defendant: Randall J. Hammond, Deputy Public Defender, Fort Wayne  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**PCR:** None.

**HABEAS:** None.

**LONG, ROGER LEON**

DOB: 04/05/1952    White Male    DOC# 915530    Location: Indiana State Prison

Greene County Superior Court Judge David Holt

**Trial Cause #:** 28D01-9710-CF-501**Defense:** Ronald L. Chapman, Mona A. Paddock**Prosecutor:** David N. Powell, Prosecuting Attorney**Date of Murder:** August 18, 1995 (disappearance) to December 3, 1995 (skeletal remains discovered)**Victim:** Pamela Rae Foddrill W / F / 44 (No relationship to Long, Russell, Redman)

(Pamela was intellectually disabled. She had the mentality of a child and a teenager's appearance, standing 5 feet tall and weighing 100 pounds. She resided with her mother Irene in Linton, Indiana.)

**Method of Murder:** Striking with baseball bat, Stabbing with knife**Summary:** On August 18, 1995, Pamela Foddrill left home and walked four blocks to the IGA grocery store. Because of her intellectual disability, it was only her third time going there alone. She walked out of the grocery store and was never seen alive again. It was later learned that she was forcibly abducted off the street into a gray van, beaten, transported to a nearby location and confined to a wooden shed for several days, compelled to engage in multiple acts of oral, anal, and vaginal intercourse, and brutally killed. On December 2, 1995, two hunters found her skeletal remains in a sleeping bag in a wooded area near Lawrenceville, Illinois, 45 miles southwest of Linton.

More than two years after her disappearance, police arrested Roger Leon Long (45) in October 1997 after two fellow jail inmates informed police that he confessed to killing Pamela. Police eventually arrested John Redman (41), Jerry E. Russell Sr. (36), and Wanda Sue Hubbell (36). Hubbell told police, and the jury at trial, that the group saw Pamela walking and convinced her to get into their vehicle. They took her to Redman's house, which was not far from Pamela's home. There, all four of them beat and repeatedly sexually assaulted Pamela over several days. When it was obvious to them that the victim could withstand no more, she was murdered. The repeated striking of her head by a baseball bat and the repeated stabbings with a knife left no doubt that the death was intended. Even after her death the body of the victim was used in an effort to satisfy sexual lust. Her body was stored in a shed, then taken to Illinois and dumped.

The sister of Long revealed that she had loaned her van to Long in late August 1995. She identified from photos the sleeping bag as hers and that she had loaned it to Long as well. She also knew that Long sometimes camped in the area of Lawrence County, Illinois. No less than 3 women told police that Long admitted to them (before discovery) that Pamela's body could be found in Lawrence County, Illinois. In October 1997 Long took and failed a stipulated polygraph regarding the abduction and death of Pam Foddrill.

In May 1998 Plynia Fowler, the ex-wife of John Redman, told police that she had assisted Redman and Long in the abduction of Pam Foddrill, and did so because Redman had threatened to kill her son if she did not help to lure Pam towards the van. Long and Redman were inside, immediately put a rag in her mouth and bound her with a cord. She was then taken to a shed near Redman's house where they were joined by a third man. Later that night, Redman told her that "things got out of hand" and that she was killed with a baseball bat and her body dumped in Illinois.

**Request for LWOP Filed:****Conviction:** Murder; Criminal Confinement (Class B Felony), Conspiracy to Commit Murder (Class A Felony), Criminal Deviate Conduct (Class A Felony)  
Jury Trial**Sentencing:** May 12, 1999 (LWOP, 20 years, 50 years, 50 years, consecutive)

- On Direct appeal, sentence reduced to LWOP, 4 years, 50 years, Merged)

Accomplice Jerry E. Russell, Sr. (DOB: 09-1962) was convicted by jury trial of Murder, Criminal Confinement, Criminal Deviate Conduct in Green County Superior Court (28D01-9810-CF-624), and was sentenced to Life Without Parole. Russell v. State, 743 N.E.2d 269 (Ind. March 9, 2001) (28S00-9912-CR-692) - Affirmed.

Accomplice John A. Redman (DOB: 01-1957) was convicted of Murder, Conspiracy to Murder, Criminal Confinement, Criminal Deviate Conduct in Green County Superior Court (28D01-9805-CF-244), and on July 28, 1999 was sentenced to Life Without Parole. Redman v. State, 743 N.E.2d 263 (Ind. March 9, 2001) (28S00- 9909-CR-466) - Affirmed. Redman died in prison on January 4, 2019.

Accomplice Wanda Sue Hubbell (DOB: 03-1962) was convicted by plea agreement of Criminal Deviate Conduct (Class B Felony) in Green County Superior Court (28D01-9810-CF-628), and on January 27, 1999 was sentenced to 20 years imprisonment. She was discharged from IDOC on December 25, 2018.

Accomplice Plynia Fowler (DOB: 12-1963) was convicted by plea agreement of Criminal Confinement (Class B Felony) in Green County Superior Court (28D01-9902-CF-86), and on May 19, 1999 was sentenced to 10 years imprisonment. She was discharged from IDOC on February 9, 2003.

Long, Russell, and Redman each had prior felony Child Molesting convictions before this murder.

**Aggravating Circumstances:** b (1) Criminal Deviate Conduct  
b (9)(C) On Felony Probation for Theft  
b (11)(A) Tortured While Alive

**Mitigating Circumstances:** Functionally illiterate, with limited education, dropped out in 8th grade  
Mentally deficient, limited intellectual functioning, but not retarded  
No significant family support throughout his life

**DIRECT APPEAL:** Long v. State, 743 N.E.2d 253 (Ind. March 9, 2001) (28S00-9907-CR-388)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Dickson; Shepard, Boehm, Rucker concur.  
(Reducing Confinement from B Felony to D Felony, and imposing a 4 year sentence; Also vacating the sentence for Criminal Deviate Conduct on Double Jeopardy grounds; Also finding "torture" aggravator improper since crime occurred before June 30, 1996)  
Sullivan concurs except as to footnote 6.  
(Citing case with "disapproval" for allowing two officers at counsel table at trial)  
For Defendant: J. Michael Sauer, Deputy Public Defender (Carpenter)  
For State: Christopher L. Lafuse, Deputy Attorney General (Freeman-Wilson)

**PCR:** None.

**HABEAS:** None.

**LOSCH, DAVID F.**

DOB: 11/04/1981 White Male DOC# 137913 Location: Pendleton Treatment Unit

Elkhart County Circuit Court Judge Terry C. Shewmaker

**Trial Cause #:** 20C01-0212-MR-00162**Defense:** Stephen R. Bowers**Prosecutor:** Curtis T. Hill, Jr., Prosecuting Attorney, Vicki E. Becker, Chief Deputy**Date of Murder:** December 23, 2002**Victim:** Lindsay Losch W / F / 24 (Sister in law)**Method of Murder:** Decapitation with butcher knife

**Summary:** In the afternoon of December 23, 2002, David Losch left his home and drove to the home of his sister-in-law, Lindsay Losch. When he arrived, Lindsay invited Losch inside and offered him a cigarette. Losch responded by lunging at her and attempting to cut her throat with a small knife he had brought from home. When the knife bent, Losch proceeded to choke Lindsay into unconsciousness. Perceiving that Lindsay was still alive, Losch attempted to break her neck. Although he partially succeeded in this, he found that she had survived this attack as well. He then went into the kitchen, retrieved a butcher knife, and severed Lindsay's head. After decapitating Lindsay, Losch retrieved another knife from the kitchen and stabbed the body in the chest three times, leaving the knife embedded. Losch then washed his hands in Lindsay's sink and called the police to report that he had just murdered a woman. In interviews with the police, Losch admitted that he went to Lindsay's home with the thought of killing her and recounted in detail the events described above.

**Request for LWOP/DP Filed:** May 8, 2003**Conviction:** Murder

Notice of Insanity Defense / Competency Evaluation May 22, 2003

Guilty Plea by Plea Agreement filed September 10, 2003 (65 years to LWOP, DP withdrawn)

LWOP Trial to Court February 2-4, 2004

**Sentencing:** February 6, 2004 (LWOP)**Aggravating Circumstances:** (b) (10) Dismemberment**Mitigating Circumstances:** Mental or emotional disturbance at the time of the murder

Lacked capacity to appreciate the criminality of his conduct

Lacked ability to conform his behavior to the law.

No adult criminal convictions, but used marijuana since age 13

Unlikely to commit another crime

Only 21 years old when the crime was committed

Generally kind and considerate toward others, and was active in his church

**DIRECT APPEAL:** Losch v. State, 834 N.E.2d 1012 (Ind. September 29, 2005) (20S00-0405-CR-235)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Boehm; Shepard, Dickson, Sullivan concur. Rucker concurs in result

For Defendant: Gregory L. Lewis, Deputy Public Defender (Carpenter)

For State: Matthew D. Fisher, Deputy Attorney General (S. Carter)

**PCR:** (20C01-0212-MR-00162)  
01/06/2006 Deft appears pro se & files Petition for Post-Conviction Relief. State PD app'td to represent Deft. Deft also files Motion for Change of Venue from the Judge. Motion denied.  
01/18/2006 State appears by Vicki E. Becker & files Answer to Petition for Post-Conviction Relief.  
05/23/2007 John Pinnow, Special Assistant to the State Public Defender, files Motion to Withdraw Petition for Post-Conviction Relief Without Prejudice. Motion granted.  
Verified Motion to Withdraw Appearance. Granted 06-13-2007.

**HABEAS:** None.

### **LUCIO, JUAN C.**

DOB: 04/07/1984 Hispanic Male DOC# 998680 Location: Westville Control Unit

Hamilton County Superior Court #1 Judge Steven R. Nation

**Trial Cause #:** 29D01-0704-MR-000047

**Defense:** Joanna Lyn Green, Stephen Neal Ziliak

**Prosecutor:** Sonia J. Leerkamp, Cynthia Crispin, Andre Miksha

**Date of Murder:** April 4, 2007

**Victims:** Rebecca Payne W / F / 32; George Benner W / M / 35 (No relationship)

**Method of Murder:** Shooting with handgun

**Summary:** The bodies of Rebecca Payne(32) and her boyfriend, George Benner (35), were discovered in her bedroom at her house in Home Place, Indiana, around noon of April 5, 2007. Police investigation quickly focused on Toby Payne, Rebecca's estranged husband against whom she had obtained a protective order a month earlier. Rebecca, who was in the final stages of divorcing Payne, had been living apart from him with their six-year-old son.

The trial evidence favorable to the verdict indicated that Lucio was recruited by Toby Payne to kill Payne's estranged wife Rebecca Payne, and her boyfriend, George Benner. Toby had given the defendant a key to Rebecca's house and a map, and promised him \$100,000 from a life insurance policy in return for the killing. The defendant, in turn, recruited Kyle Duckworth to drive him to Rebecca's house in exchange for \$200 or a quarter-pound of marijuana. Originally, Lucio planned to be the shooter, but later changed his mind and recruited Anthony Delarosa to be the triggerman. On April 2, 2007, Duckworth drove Lucio and Delarosa to Rebecca's house. Lucio gave Delarosa a gun, and Delarosa entered the house but returned and said that Rebecca was not home. The men agreed to try again later. On April 4, Lucio called Duckworth to pick him up, called Delarosa to ask if he was ready, and called Toby Payne to inform him they were trying again. The three men drove to Rebecca's home, Lucio again gave Delarosa a gun, and Delarosa entered the house and fired the fatal shots. When police questioned him during their investigation, Lucio first admitted that Toby Payne had given him a key to the house and asked him to kill Rebecca, but later claimed that they were supposed to scare Rebecca and extort money from her, that Delarosa told him where to go, that he did not know Delarosa had a gun, that he did not know why Delarosa was extorting money from her, and that he and Duckworth were supposed to get \$200 each for driving.

Despite his young age, Lucio had an extensive criminal history, no employment history and was a Latin Kings gang member. Following the guilty verdict, Lucio looked in the direction of the victim's family and stated: "Fuck you. Fuck your stupid ass daughter. You can all suck my \*. The bitch can rot in hell."

**Request for LWOP Filed:** December 26, 2007

**Conviction:** Murder, Murder, Conspiracy to Commit Murder (Class A Felony)  
Jury Trial April 21-25, 2008; Verdict: Guilty all Counts  
LWOP Jury Trial: April 28, 2008; Verdict: Recommend LWOP

**Sentencing:** May 15, 2008 (LWOP, LWOP, 50 years, consecutive)

Lucio also pled guilty pursuant to a plea agreement to Attempted Murder (3 Counts) in the Clinton County Circuit Court (12C01-0708-FA-212), and on February 18, 2009 was sentenced to 40 years imprisonment on each Count, to run concurrently with Hamilton Count sentences.

Accomplice Toby K. Payne was convicted of two Counts of murder, and Conspiracy to Murder (Class A Felony) in the Hamilton County Circuit Court (29D01-0704-MR-053) and on May 14, 2009 was sentenced to LWOP, LWOP, and 50 years imprisonment.

Accomplice Anthony Delarosa was convicted of two Counts of murder, and Conspiracy to Murder (Class A Felony) in the Hamilton County Circuit Court (29D01-0704-MR-052) and on April 15, 2009 was sentenced to LWOP, LWOP, and 50 years imprisonment.

Accomplice Kyle L. Duckworth was convicted in the Hamilton County Circuit Court (29D01-0704-FC-054) of Assisting a Criminal (Class C Felony), and was sentenced to 4 years imprisonment.

**Aggravating Circumstances:** b (4) Murder for Hire  
b (8) Multiple Murders

**Mitigating Circumstances:** Diagnosed as having anti-social personality disorder, unspecified trauma and stressor related disorder, and alcohol and cannabis dependence.  
Was a young man and was not the shooter.  
When he was ten years old, his young cousin hanged himself.

**DIRECT APPEAL:** Lucio v. State, 907 N.E.2d 1008 (Ind. June 23, 2009) (29S00-0901-CR-1)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: S. Neal Ziliak, Noblesville  
For State: Ellen H. Meilaender, Deputy Attorney General (Zoeller)

**PCR:** 29D01-0704-MR-000047 / 29D01-1006-PC-64  
06/07/2010 Petition for Post-Conviction Relief filed.  
06/09/2010 State's response to PCR request.  
06/15/2010 State's Objection to Petitioner's Petition Based Upon Lack of Verification filed.  
06/23/2010 Court finds that the Petition lacks the requisite verification and returns said petition to Petitioner for compliance with Indiana Rules of Procedure for Post-Conviction Remedies.  
08/26/2010 Appearance filed by Joanna Lyn Green, State PD  
09/09/2010 State files Response to Defendant's Verified Petition for Post-Conviction Relief Motion to Dismiss Defendant's Verified Petition for Post-Conviction Relief.  
09/23/2010 State's Motion to Dismiss denied.  
02/06/2014 PCR Hearing held on February 3 and February 4, 2014 concerning Petitioner's Petition for Post-Conviction Relief filed June 7, 2010, Final Amendment to Petition for PCR filed on December 2, 2013 and State's Response to Defendant's Verified Petition for Post-Conviction Relief filed on September 8, 2010.  
06/19/2014 Findings of Fact, Conclusions of Law, and Judgment entered. Petitioner has failed to meet his burden in his Final Amendment to Petition for Post-Conviction Relief filed on December 3, 2013 and that Judgment and Conviction are hereby affirmed.

Lucio v. State, Unpub., 30 N.E.3d 787 (Ind. App. March 6, 2015) (29A02-1407-PC-484)  
(Appeal from the Hamilton Superior Court in 29D01-1006-PC-64. Judge Steven R. Nation)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Najam; Mathias, Bradford concur.  
For: Defendant: Joanna L. Green, Deputy Public Defender (Owens)  
For State: Ellen H. Meilaender, Deputy Attorney General (Zoeller)

**HABEAS:** Lucio v. Superintendent, (N.D. Ind. Oct. 26, 2017) (2:15 CV 360)  
United States District Court for the Northern District of Indiana, Hammond Division  
Judge James T. Moody  
(Petition for Writ of Habeas Corpus denied; Certificate of Appealability denied.)  
For Defendant: Juan Lucio, Petitioner, Pro se  
For State: Chandra K Hein, Kelly A Loy, Deputy Indiana Attorneys General (Hill)

## **MASON, HENRY T.**

DOB: 12/06/1976 Black Male DOC# 983734 Location: Indiana State Prison

Allen County Superior Court #4 Judge John F. Surbeck Jr.

**Trial Cause #:** 02D04-9604-DF-000155

**Defense:** Randall J. Hammond, Charles F. Leonard

**Prosecutor:** Robert W. Gevers II, John F. Sullivan, III

**Date of Murder:** March 22, 1996

**Victim:** LaKia Lasha Dixie B / F / 13 (No relationship)

**Method of Murder:** Stabbing with Knife

**Summary:** On March 22, 1996 LaKia Lasha Dixie was molested and stabbed to death while she was walking to school. Her body was found wrapped in a blanket and dumped behind a residence on Christofer Lane, very near to the Village Woods Middle School, where she was a 7th grade cheerleader. Her body was found five days later by a roommate of Mason's. Mason had been out on bail awaiting trial on rape and criminal confinement charges when he killed LaKia.

**Request for LWOP Filed:** May 28, 1996, Amended December 16, 1996

**Conviction:** Murder, Child Molesting (Class B Felony)  
Guilty Plea by Plea Agreement, Withdrawal of DP Request

**Sentencing:** September 29, 1997 (LWOP, 20 years)

Mason was also convicted of Criminal Confinement (Level 5 Felony) and Battery (Level 5 Felony) in the Madison County Circuit Court (48C01-1801-F5-000124), and on October 14, 2019 was sentenced to 2 years imprisonment on each Count.

### **Aggravating Circumstances:**

### **Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** (02D04-9604-DF-000155)  
08/27/1998 Petition for Post-Conviction Relief Filed by Defendant, Pro Se.  
08/28/1998 Written Appearance and Answer of Respondent to Petition for Post-conviction Relief Filed by Deputy Prosecuting Attorney David McClamrock.  
09/18/1998 Appearance and Verified Notice of Current Inability to Investigate filed by State PD  
10/23/2003 Petition for Post-Conviction Relief Filed by Defendant, Pro Se.  
12/03/2003 State's Motion to Require Petitioner to Submit Case by Affidavit Is Hereby Granted  
08/04/2004 Petition for Post-Conviction Relief Denied.

**Habeas:** None.

**§1983:** Mason v. Lemmon,(S.D. Ind. Nov. 23, 2009) (2:09-cv-0190-WTL-JMS)  
United States District Court for the Southern District of Indiana, Judge William T. Lawrence  
(Pro se action against Wabash Valley Supt., alleging that he was delivered a food tray with human feces on it and juice which smelled of urine; further that he was put in administrative segregation based on frivolous conduct report. - Dismissed for failure to contain a legally viable claim)

## **MATHISEN, RONALD ALAN**

DOB: 03/18/1967 White Male DOC# 964387 Location: Wabash Valley Level 4 Facility

Marion County Superior Court Judge Sheila A. Carlisle  
**Trial Cause #:** 49G03-9405-CF-061385

**Defense:** D. Alan Ladd, David R. Hennessy

**Prosecutor:** Scott Newman, Prosecuting Attorney, Deputies Cale Bradford, John Commons

**Date of Murder:** May 23, 1994

**Victim:** Alfred Smith W / M / 71 (No relationship)

**Method of Murder:** .357 handgun

**Summary:** Brothers Thomas Mathisen (24) and Ronald Mathisen (27), both of Casper, Wyoming, surrendered to police Monday after a six-hour hostage drama at a Denny's restaurant that left one person dead and several injured. The men had fled Wyoming after robbing a video store. They also allegedly were wanted for embezzling money from the adult bookstore where they worked. They drove a car to Des Moines, Iowa, where they ditched their car over concern they would be stopped on warrants, and took a bus. They chose Indianapolis "at random" as their next stop. They arrived in Indianapolis and stayed at a hotel near the Denny's until they ran out of money.

They decided to rob the Denny's and entered the restaurant just after 11:00 am. Thomas Mathisen was armed with a .9mm handgun and proceeded to the rear kitchen area of the restaurant, demanding the keys from Robert Doan (49), the restaurant manager. There was apparently a struggle over the gun and Doan was shot in the abdomen. Ronald Mathisen, armed with a .357 handgun and in the customer area of the store, heard the shots, immediately panicked and began shooting his weapon at other Denny's patrons. Alfred Smith (71), eating lunch with his wife, was shot and killed. Justin Basicker (5) was shot in the mouth and would later require a number of surgeries and restorative treatments. His mother's boyfriend, Steven Johnson, was shot in the back. Cecil Williams was shot in the hand.

For the next 5-6 hours, the brothers took about three dozen customers and restaurant employees hostage at gunpoint, then let them go in groups of four or five while negotiating with police. Finally, after police promised the brothers they could talk with family members, the last seven hostages were released about 5 pm, and the brothers surrendered peacefully.

**Request for DP Filed:** January 13, 1995; Withdrawn July 16, 1996

**Conviction:** Murder, Attempted Murder (Class A Felony) (4 Counts),  
Conspiracy to Commit Kidnapping (Class A felony), Kidnapping (Class A Felony)  
Guilty Plea by Plea Agreement filed August 5, 1996;  
DP withdrawn, Dismissal of Counts 2, 9-46

**Sentencing:** September 6, 1996 (LWOP, 50 years, 50 years, 50 years, 50 years, 50 years)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**OTHER:** Basicker v. Denny's, Inc., 704 N.E.2d 1077 (Ind. App. 1999)  
(Denny's granted summary judgment in suit brought by shooting victim).

## **MATHISEN, THOMAS ANDREW**

DOB: 03/09/1970 White Male DOC# 964397 Location: Wabash Valley Level 4 Facility

Marion County Superior Court Judge Sheila A. Carlisle

**Trial Cause #:** 49G03-9405-CF-061384

**Defense:** Patrick Murphy, Richard C. Clarke

**Prosecutor:** Scott Newman, Prosecuting Attorney, Deputies Cale Bradford, John Commons

**Date of Murder:** May 23, 1994

**Victim:** Alfred Smith W / M / 71 (No relationship)

**Method of Murder:** .357 handgun

**Summary:** Brothers Thomas Mathisen (24) and Ronald Mathisen (27), both of Casper, Wyoming, surrendered to police Monday after a six-hour hostage drama at a Denny's restaurant that left one person dead and several injured. The men had fled Wyoming after robbing a video store. They also allegedly were wanted for embezzling money from the adult bookstore where they worked. They drove a car to Des Moines, Iowa, where they ditched their car over concern they would be stopped on warrants, and took a bus. They chose Indianapolis "at random" as their next stop. They arrived in Indianapolis and stayed at a hotel near the Denny's until they ran out of money.

They decided to rob the Denny's and entered the restaurant just after 11:00 am. Thomas Mathisen was armed with a .9mm handgun and proceeded to the rear kitchen area of the restaurant, demanding the keys from Robert Doan (49), the restaurant manager. There was apparently a struggle over the gun and Doan was shot in the abdomen. Ronald Mathisen, armed with a .357 handgun and in the customer area of the store, heard the shots, immediately panicked and began shooting his weapon at other Denny's patrons. Alfred Smith (71), eating lunch with his wife, was shot and killed. Justin Basicker (5) was shot in the mouth and would later require a number of surgeries and restorative treatments. His mother's boyfriend, Steven Johnson, was shot in the back. Cecil Williams was shot in the hand.

For the next 5-6 hours, the brothers took about three dozen customers and restaurant employees hostage at gunpoint, then let them go in groups of four or five while negotiating with police. Finally, after police promised the brothers they could talk with family members, the last seven hostages were released about 5 pm, and the brothers surrendered peacefully.

**Request for DP Filed:** January 18, 1995; Request for LWOP August 5, 1996

**Conviction:** Murder, Conspiracy to Commit Kidnapping (Class A Felony),  
Kidnapping (Class A Felony) (5 Counts)  
Guilty Plea by Plea Agreement filed August 5, 1996;  
DP withdrawn, Dismissal of Counts 2-6, 11-46

**Sentencing:** September 4, 1996 (LWOP, 50 years, 50 years, 50 years, 50 years, 50 years, 50 years)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**OTHER:** Basicker v. Denny's, Inc., 704 N.E.2d 1077 (Ind. App. 1999)  
(Denny's granted summary judgment in suit brought by shooting victim).

## **MCCALLISTER, MATHEW W.**

DOB: 04/19/1982 White Male DOC# 951591 Location: Wabash Valley Level 3 Facility

Warrick County Superior Court #1 Judge J. Zach Winsett

**Trial Cause #:** 87D01-1402-MR-000074



**Defense:** Steve Bohleber, Brett Roy

**Prosecutor:** Michael J. Perry, Prosecuting Attorney, Levi Burkett, Deputy

**Date of Murder:** February 17, 2014

**Victim:** Joseph Nelson W / M / 35 ("Friend" of McCallister)

**Method of Murder:** Shooting with handgun

**Summary:** During February 2014, Mathew McCallister lived with his girlfriend, Kelli Wyrick, in a series of hotels in Evansville. Also living in Evansville hotels then were their friends Shawn Grigsby and Grigsby's girlfriend. The two couples would sometimes visit each other's rooms to use illegal drugs. On February 16, the couples were staying in adjoining rooms at a local Fairfield Inn, and they invited McCallister's sister, Jade Stigall; her fiancé David Lackey; and McCallister's friend, Joseph Nelson; to join them at the hotel to smoke methamphetamine.

At some point that evening, everyone left McCallister's room except Stigall and Nelson. After the two had smoked meth, Nelson inched closer to Stigall on the shared bed and asked if she would "like to play". Stigall considered Nelson's pitch to be an unwelcomed sexual advance. She sent her fiancé, Lackey, a text message explaining what had happened and asked him to return to the hotel. Lackey could not return immediately but told McCallister what had reportedly happened between his sister and Nelson. McCallister then called his sister to get her first-hand account. After hearing his sister's version, McCallister told Lackey and Grigsby to get Nelson out of the hotel and drive him to a convenience store, where McCallister and Wyrick would meet.

After midnight on February 17, Grigsby and Lackey followed McCallister's instructions, and the two of them returned to the hotel. They picked up Stigall and Nelson and then left for the convenience store in a vehicle Stigall had borrowed. They met McCallister and Wyrick at the convenience store. McCallister got into the vehicle and directed Stigall, who was driving, to a rural area outside of Boonville in adjacent Warrick County. As they drove, McCallister, who was in the

backseat with Nelson and Grigsby, told Nelson to "start making amends." with God. McCallister asked Stigall to repeat what had happened, and she recounted that Nelson asked her whether she "wanted to play". Nelson tried to apologize, but Stigall told him to "shut the fuck up."

McCallister eventually directed Stigall to a remote park near the Liberty Mine. McCallister and Grigsby walked alongside Nelson, with Stigall and Lackey walking a short distance behind. Stigall saw Grigsby give his gun to McCallister. She saw Nelson on his knees with McCallister behind him. McCallister shot Nelson in the back of the head. When they left the crime scene, they left Nelson's body behind. McCallister directed Stigall to drive to a specific location where he disposed of the gun and the ammunition down a sewer drain. Stigall helped collect the clothes they had been wearing while with Nelson. Lackey and Stigall burned those clothes in a rural area.

Later that morning, Nelson's corpse was discovered near the mines, killed by a single contact gunshot wound to the head. Nelson's body contained alcohol, methamphetamine, and other drugs. Stigall later gave detailed information to police about the murder, and directed them to the sewer drain where police recovered Grigsby's handgun and to the burn pile, where she had disposed of the clothes. For his part, Lackey showed police where the murder occurred. There they found rocks stained with Nelson's blood and a spent shell casing, which ballistics testing showed was fired from the recovered handgun.

When McCallister went to trial in July 2016, Stigall had already pleaded guilty to Assisting a Criminal. She testified that McCallister was the shooter. Grigsby, who by then had pleaded guilty to Conspiracy to Murder and received a twenty-year sentence, testified as a defense witness that he (Grigsby) had shot Nelson.

**Request for LWOP Filed:** April 14, 2014

**Conviction:** Murder, Conspiracy to Commit Murder (Class A Felony)

Jury Trial July 12 to August 4, 2016; Verdict Guilty Murder, Conspiracy  
LWOP Jury Trial August 4, 2016; Verdict: Recommend LWOP

**Sentencing:** August 23, 2016 (LWOP, 40 years, concurrent)

Accomplice Shawn M . Grigsby pled guilty to Conspiracy to Commit Murder (Class A felony) in the Warrick County Superior Court #1 (87D01-1402-MR-000075), and was sentenced on September 18, 2014 to a 20 year term of imprisonment.

Jade Nicole Stigall and David John Lackey, now married, pled guilty to Assisting a Criminal (Class C Felony) in the Warrick Superior Court #2, and on April 29, 2015 (Stigall - 87D02-1402-MR-000078) and on July 9, 2015 (Lackey - 87D02-1402-MR-000077) were each sentenced to a 4 year term of imprisonment.

**Aggravating Circumstances:** b (9) On Parole (For Class D Felony)

**Mitigating Circumstances:** Obtained GED and college-course credits  
Family and social support  
His respectable living environment

**DIRECT APPEAL:** McCallister v. State, 91 N.E.3d 554 (Ind. February 15, 2018) (87S00-1609-LW-497)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Slaughter, Rush, David, Massa, Goff concur.  
For Defendant: Jacob P. Wahl, Jasper  
For State: Angela N. Sanchez, Deputy Attorney General (Hill)

**PCR:** None.

**HABEAS:** None.

**MCINTYRE, ROBERT P.**

DOB: 08/13/1970 White Male DOC# 957178 Location: Wabash Valley Level 3 Facility

LaPorte County Superior Court Judge Robert W. Gilmore Jr.

**Trial Cause #:** 46C01-9404-CF-000030**Defense:** Donald Wayne Pagos**Prosecutor:** Scott Duerring, William F. Herrbach, Prosecuting Attorney**Date of Murder:** April 14, 1995**Victims:** Marcos Ruiz H / M / 18

Rhonda Calvert W / F / 15 (Acquaintances)

**Method of Murder:** Decapitation with knife (Marcos); Stabbing with knife (Rhonda)

**Summary:** Marcos Ruiz and Rhonda Calvert were murdered in the home of Leo Ruiz during the early morning hours of April 14, 1994. Leo Ruiz, Marcos' father, had been working that night and had called his home at 1:15 a.m. Marcos answered and, in the course of the conversation, told Leo he was alone. When Leo returned home from work around 4:30 am, he found the dead body of Marcos on the living room floor and the body of Rhonda in the bathroom. Duct tape had been used to bind Marcos' hands and to cover Rhonda's mouth. An autopsy revealed that Marcos died from a decapitating incision to the neck while Rhonda died from multiple stab wounds and a partial incision to her neck.

Police first contacted Robert McIntyre around 2:30 p.m. on the day of the murders. He acknowledged playing pool with Rhonda at a coffeehouse. He said they had later gone to his apartment to drink a few beers and he claimed he walked Rhonda halfway home shortly after 12:30 a.m. Over the next several hours police talked to McIntyre several times, and each time he offered more information. He denied then called back and admitted that he had sex with Rhonda the previous night, and walked Rhonda all the way home. He said he experienced blackouts. McIntyre responded that the killer must have gotten a lot of blood on himself, and since he had found no blood on himself, he felt that he had not committed the crime.

In a taped statement given around midnight, McIntyre told police that, though he only partially recalled the events of the evening of the murder, he remembered running home to his apartment with blood on his hands. He also stated, "When I found out that it was a young girl named Rhonda that's been murdered I pretty much knew that it was me who did it." He continued to equivocate regarding whether he had killed Marcos. Around 3 a.m. McIntyre admitted to killing both Rhonda and Marcos and described the details of the acts. Police investigators also found McIntyre's thumbprint on the duct tape which was covering Rhonda's mouth. McIntyre's confessions include statements that indicate he knew facts only the murderer or the police investigators could have known, such as the position of the bodies and the precise injuries inflicted. McIntyre was involuntarily committed for 90 days in Washington state in January and had lived in LaPorte only for one month prior to the murders.

**Request for DP Filed:** April 29, 1994; Amended May 16, 1995**Conviction:** Murder, Murder

Jury Trial, Insanity Defense; Verdict: Guilty But Mentally Ill Murder (2 Counts)

Penalty Phase Jury Trial; Verdict: Recommend Life Without Parole

**Sentencing:** December 11, 1995 (LWOP, LWOP)**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:** Under influence of extreme mental or emotional disturbance at murders  
His capacity to appreciate criminality of his conduct was substantially impaired  
He expressed remorse for his actions and the crimes he committed  
Jury found Guilty But Mentally Ill  
A long history of mental illness and mental commitments  
Bipolar disorder, chronic dysthymia, personality disorder with borderline dependant and antisocial features, alcoholism and substance abuse, and post-traumatic stress

**DIRECT APPEAL:** McIntyre v. State, 717 N.E.2d 114 (Ind. October 1, 1999) (46S00-9606-CR-408)  
Conviction Affirmed 5-0 LWOP Affirmed 4-1  
Opinion by Shepard; Dickson, Selby, Boehm concur.  
Sullivan concurring and dissenting with separate opinion.  
(Because of long history of mental illness, a term of years only should be imposed)  
For Defendant: Donald W. Pagos, William Janes, Michigan City  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
McIntyre v. State, 2000 Ind. LEXIS 407 (Apr. 28, 2000) (Reh. denied)

**PCR:** None.

**HABEAS:** None.

## MCMANUS, PAUL MICHAEL

OFF DEATH ROW SINCE 08-06-2015  
DOB: 07-14-72 White Male DOC#: 108001 Location: Indiana State Prison

Vanderburgh County Circuit Court Judge Carl A. Heldt  
**Trial Cause #:** 82C-01012-CF-00192

**Prosecutor:** Stanley M. Levco, Steven A. Hunt  
**Defense:** Glenn A. Grampp, Mitchell Rothman

**Date of Murder:** February 26, 2001

**Victim(s):** Melissa McManus W / F / 29 (wife);  
Lindsey McManus W / F / 8 (daughter);  
Shelby McManus W / F / 23 months (daughter)



**Method of Murder:** shooting with .38 handgun

**Summary:** McManus was separated from his wife, Melissa. His two daughters, Lindsay (8) and Shelby (23 months) lived with Melissa. Shelby was born with severe birth defects. Divorce papers were served on him at his mother's house on the day of the murders. McManus took a taxi to his wife's residence and shot her once in the leg and 3 times in the head, killing her. He then shot 8 year old Lindsey 3 times in the head, then shot Shelby once in the head. He then drove to the Henderson bridge between Indiana and Kentucky and climbed to the very top (the equivalent of 11 stories). Despite the best efforts of law enforcement to talk him down, he jumped into the Ohio River. Miraculously, he was rescued from the water with only minor back injuries. An insanity defense was unsuccessfully presented at trial. McManus had told acquaintances the weekend before the murders to "watch the papers," because he was going to "do something big."

**Trial:** Information/PC for Murder filed (02-27-01); Amended Information for DP filed (03-20-01); Voir Dire (04-24-02, 04-25-02); Jury Trial (04-29-02, 04-30-02, 05-01-02, 05-09-02, 05-09-02); Verdict (05-09-02); DP Trial (05-10-02); Verdict (05-10-02); Court Sentencing (06-05-02).

**Conviction:** Murder, Murder, Murder  
**Sentencing:** June 5, 2002 Death Sentence

**Aggravating Circumstances:** b (8) 3 murders  
b (12) two victims less than 12 years of age

**Mitigating Circumstances:** Lack of prior criminal history  
Depression and mental abnormalities  
Irresistible impulse

**Direct Appeal:** McManus v. State, 814 N.E.2d 253 (Ind. August 31, 2004) (82S00-0104-DP-188)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Timothy R. Dodd, John P. Brinson, Evansville  
For State: Scott A. Kreider, Deputy Attorney General (S. Carter)  
McManus v. Indiana, 126 S.Ct. 53 (2005) (Cert. denied)

**PCR:** 02-28-05 Notice of Intent to File PCR filed.  
PCR Petition filed 08-22-05; Amended Petition filed 01-06-06.  
For Defendant: Steven H. Shutte, JoAnna McFadden, Deputy Public Defenders (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

05-10-06 Senior Judge William J. Brune grants Petition for Postconviction Relief as to death sentence, holding that McManus meets the statutory requirements of mental retardation, and imposes a sentence of Life Without Parole.

State v. McManus, 868 N.E.2d 778 (Ind. June 27, 2007) (82S00-0503-PD-78)  
(State's Appeal of granting of PCR as to death sentence by Special Judge William J. Brune)  
Reversed; Conviction Affirmed 5-0 DP Affirmed 3-2  
Shepard Opinion; Dickson, Sullivan concur; Boehm, Rucker dissent, maintaining that the determination of mental retardation by the PCR Court should have been given greater deference.  
For Defendant: Steven H. Schutte, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: Andrew A. Kobe, James B. Martin, Deputy Attorneys General (S. Carter)  
McManus v. Indiana, 128 S.Ct. 1739 (2008) (Cert. denied)

**Habeas:** 11-19-07 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-18-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, S.D. Indiana.  
Paul M. McManus v. Ed Buss, Superintendent (1:07-CV-01483-DFH-JMS)  
05-30-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas.  
10-31-08 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
01-08-09 Pay Vouchers for Joseph M. Cleary (\$14,824) and Marie F. Donnelly (\$25,160).

McManus v. Wilson, 2011 WL 1257969 (S.D. Ind. March 31, 2011) (1:07-CV-1483-TWP-MJD)  
Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
Petition for Writ of Habeas Corpus denied.  
For Defendant: Mary F. Donnelly, Chicago, IL and Joseph Martin Cleary, Indianapolis, IN  
For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

McManus v. Wilson, 2012 WL 4755354 (S.D. Ind. October 4, 2012) (1:07-CV-1483-TWP-MJD)  
Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
(Certificate of Appealability granted as to Atkins claim and denied as to all others)

McManus v. Neal, 779 F.3d 634 (7th Cir. February 17, 2015) (No. 12-2001)  
Appeal from the United States District Court for the Southern District of Indiana  
Reversed and remanded 3-0; Opinion By: Sykes; Wood and Flaum concur.

(The state court unreasonably applied federal due process principles in addressing the defendant's competency to stand trial, since the defendant's panic attacks at trial required emergency medical treatment and the psychotropic medications used to treat them - Versed, Morphine, Xanax, and Lortab - raised bona fide doubts about the defendant's competency. The powerful effect of the medications alone created substantial doubt about McManus's mental fitness for trial, but the judge never ordered a competency evaluation. Accordingly, we reverse and remand to the district court with instructions to grant the writ unless Indiana gives notice of its intent to retry McManus within a reasonable time to be set by the district court.)

For Defendant: Marie F. Donnelly and Alan Michael Freedman, Evanston, IL.  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

Paul M. McManus v. Ed Buss, Superintendent (1:07-CV-01483-DFH-JMS)  
U.S. District Court, Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
04/15/2015 In conformity with the appellate mandate in No. 12-2001 issued on March 11, 2015, the Court now enters Final Judgment in favor of the petitioner, Paul M. McManus, and against the respondent. The petition for a writ of habeas corpus is granted. The State of Indiana shall vacate any and all criminal penalties stemming from No. 82C01-0102-CF- 192 in the Vanderburgh Circuit Court and release Paul M. McManus from its custody pursuant to that conviction unless the State of Indiana gives notice within 180 days of its intent to retry Paul M. McManus.  
10/09/2015 Notice of State's Intention of Retry and Subsequent Conviction of McManus filed.

**On Remand:** By plea agreement, McManus entered a plea of guilty to Count I (Murder), Count II (Murder), and Count III (Murder), and admitted the charged Aggravating Circumstances. The evidence of the previous trial on April 14, 2002 was incorporated by agreement. On August 6, 2015 Vanderburgh Circuit Court Judge David D. Keily sentenced McManus to Life Without Parole on each of 3 Counts of Murder. Credit for time served 3/6/2001 to 8/6/2015.

- ▶ CURRENTLY SERVING THREE TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

**MELCHER, ZACHARIAH**

DOB: 10/03/1977 White Male DOC#: 971590 Location: Westville Control Unit



Clark County Circuit Court #1 Judge Daniel F. Donahue

**Trial Cause #:** 10C01-0504-MR-038**Defense:** Jeffrey D. Stonebraker, J. Christopher Sturgeon**Prosecutor:** Steven D. Stewart, Prosecuting Attorney, William C. Grimes, Chief Deputy**Date of Murder:** April 16, 2005**Victims:** Christian Melcher W / F / 23 (Wife),  
Jaeden Melcher W / M / 11 months (Son); Unborn Viable Fetus (Daughter)**Method of Murder:** Strangulation / Suffocation**Summary:** On April 22, 2005, the decomposing bodies of 23 year old Christian Melcher and 11 month old Jaeden Melcher were discovered stuffed inside a plastic storage container in her home, located at 628 East Maple Street in Jeffersonville. A plastic bag covered the head of the small child. An autopsy later revealed that Christian Melcher died of strangulation or asphyxiation. In addition, Christian was found to be eight months pregnant, carrying a viable fetus able to live outside the mother's womb.

Zachariah Melcher, age 27, was the husband of Christian Melcher and the father of Jaeden Melcher, and lived at the home on East Maple Street. He was previously convicted of Burglary (Class B Felony) on May 22, 1997 in the Floyd County Circuit Court, and was released on supervised probation on September 19, 2002. After being advised of his constitutional rights, Zachariah Melcher admitted that he had murdered his wife and child and stuffed them into a plastic storage container seven days earlier.

On August 3, 2006 Melcher pled guilty to 3 Counts of Murder pursuant to a fixed "Statement of Plea Agreement to Ensure that the Defendant is Never Released from Prison." He was sentenced by Judge Daniel F. Donahue to consecutive terms of Life Imprisonment with absolutely no possibility of parole on Count I, Life Imprisonment with absolutely no possibility of parole on Count II, and to a fixed term of 65 years imprisonment on Count III.

**Request for DP Filed:** May 10, 2005**Conviction:** Murder, Murder, Murder

"Joint Statement of Plea Agreement to Ensure That The Defendant Is Never Released From Prison" filed July 21, 2006. - DP Withdrawn, agreed LWOP sentences

**Sentencing:** August 3, 2006 (LWOP, LWOP, 65 years, consecutive)

While serving this LWOP sentence at Wabash Valley Correctional Facility in Sullivan County, Melcher strangled to death his cellmate Nicholas Roman, who was serving a 3 year sentence for Theft, Vicarious Sexual Gratification and Dissemination of Matter Harmful to Minors. Melcher then dragged Roman's body to the front of the prison officer's desk and told the officer to "get him a box." He was charged and convicted of this new Murder in the Vigo County Superior Court (77D01-0803-MR-00031), and on January 28, 2011 he was sentenced to a 65 year consecutive term of imprisonment.

**Aggravating Circumstances:** b (8) Multiple Murders

b (9)(C) On Felony Probation for Burglary

b (12) Victim less than 12 years of age

b (16) Murder Victim pregnant with viable fetus

**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.

## **MOORE, CHARLES**

DOB: 12/15/1985 Black Male DOC# 132204 Location: Indiana State Prison

St. Joseph County Superior Court #2 Judge John M. Marnocha  
**Trial Cause #:** 71D02-1201-MR-000002



**Defense:** Philip R. Skodinski

**Prosecutor:** Joel Gabrielse, Deputy Prosecutor

**Date of Murder:** January 25, 2012

**Victims:** Jazmin Conlee W / F / 19 (No relationship)  
Alejandro Tinoco H / M / 19 (Drug Dealer)

**Method of Murder:** Shooting with handgun

**Summary:** On January 25, 2012, South Bend Police were dispatched to 1101 North Adams Street, where a reported shooting had occurred. Officer Morgan arrived at the scene at approximately 8:50 pm, and other patrol officers had already arrived at the scene. A young man, later identified as Alejandro Tinoco, had been shot in the head. Although he was breathing, he was in critical condition. Upon entering the house, Officers observed a female victim, later identified as Jazmin Conlee, who had also been shot and was sitting up against the wall behind a couch. Conlee was breathing but in critical condition as well. Both victims were taken to the hospital, where Tinoco was pronounced dead, Conlee immediately underwent surgery. Although Conlee underwent multiple surgeries, ultimately she was pronounced dead two weeks later as a result of the gunshot wounds.

The police were able to discover the identity of four individuals who were suspected of being involved in these shootings. Those individuals were Jermon Gavin, Joseph Buti, Rakeem White, and Charles Moore. Gavin, Buti, and White met up to smoke marijuana. The three went to pick up Moore. The four men discussed going to get more marijuana. Gavin knew that Tinoco sold marijuana and had purchased marijuana from him on prior occasions. Gavin drove the vehicle to Adams Street, where Tinoco lived. Buti walked onto the front porch Tinoco then opened the door and started talking to Buti. Peter Kagimbi and Jazmin Conlee also lived at the residence and were inside. When Tinoco refused to sell him marijuana, Buti started to leave. In the meantime, Moore had gotten out of the vehicle and approached the house. When Buti stepped outside onto the porch, he saw Moore rise up from behind the porch with a mask on and a gun. Buti kept walking away from the house, and when he turned around to see what was going on he saw Moore trying to force the door of the house open, while Tinoco was trying to close it. Kagimbi heard the struggle at the door, then heard a gunshot, and he immediately ran out of the back door of the house. Buti continued to watch from the sidewalk, and he saw Moore shoot Tinoco in the head. Moore pushed Tinoco inside the house, entered, and closed the door behind him. Buti saw Kagimbi running out through the back and followed him.

Shortly after shots were fired, Gavin confirmed that Moore ran back to the car. Once in the car, Gavin saw Moore pass a gun to White. Gavin noticed that Moore was very sweaty, nervous, and out of breath when he returned. Gavin then received a phone call from Buti to come pick him up. When they arrived where Buti had run to, Buti said, "Man, he just ran in there and got to shooting people." Buti was seemingly talking about Moore. Buti got in the car and saw Moore with a large bag of marijuana. Buti recalled Moore rocking back and forth and saying, "I shot them, I killed everyone." At some point after, each of the four men went their separate ways. Gavin recalled that soon after he departed from Moore's company, Moore called him and threatened that the same thing that happened to Tinoco and Conlee could happen to them. Kagimbi and Buti called the police anyway.

Bloody shoe prints at the scene of the crime, DNA evidence on the floor mat of the vehicle Gavin was driving the night of the shooting, and a do-rag left at the scene all connected Moore to the shootings. At trial, Buti, Gavin, and a jail mate of Moore's, Steven Martin, all testified against Moore and implicated him as the shooter of both victims.

**Request for LWOP Filed:** August 22, 2012

**Conviction:** Murder, Murder

Jury Trial August 19-22, 2013; Verdict: Guilty of Robbery (Class B Felony), Murder, Felony Murder, Murder, Felony Murder.

Conviction entered only for Felony Murder (Tinoco) and Intentional Murder (Conlee).  
LWOP Jury Trial August 26, 2013; Verdict: Recommend LWOP for Conlee Murder.

**Sentencing:** September 27, 2013 (LWOP, 65 years, consecutive)

**Aggravating Circumstances:** b (1) Robbery  
b (8) Multiple Murders

**Mitigating Circumstances:** Born to teenage parents who were mostly absent from his life.  
He is of borderline intelligence.  
Has roughly a second-grade reading level  
Struggled in school and fell way behind, until he gave up

**DIRECT APPEAL:** Moore v. State, 27 N.E.3d 749 (Ind. March 24, 2015) (71S00-1405-LW-361)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by David; Rush, Dickson, Rucker, Massa concur.  
For Defendant: Philip R. Skodinski, South Bend  
For State: Brian L. Reitz, Deputy Attorney General (Zoeller)

**PCR:** (71D02-2002-PC-000010)  
02/24/2020 Petition for Post-Conviction Relief Filed  
02/27/2020 Laura L.Volk, Deputy State Public Defender enters appearance.  
Notice of Present Inability to Investigate filed  
06/17/2020 State's Response to Petition for Post-Conviction Relief

**HABEAS:** None.

**MOSLEY, COREY LAMONT**

DOB: 03/24/1976 Black Male DOC# 974831 Location: Wabash Valley Level 3 Facility

Marion County Superior Court Judge

**Trial Cause #:** 49G01-9601-CF-014300**Defense:** Eric Kosalke, Steve Poore**Prosecutor:** Amy Barnes, Robert R.Altice**Date of Murder:** January 24, 1996**Victim:** David F. Loggins W / M / 44 (Acquaintance of Martin)**Method of Murder:** Shooting with handgun

**Summary:** On January 24, 1996 David Loggins was shot several times in the head and torso, killing him outside his Castleton business, LoggIns Supply, by gunmen from whom he thought he was buying computers. His 16 year old son, John, was also shot in the face, but survived. Carole Loggins, the victim's wife, said her husband left home about 10:30 pm to meet Martin and others to complete a business deal involving the purchase of several computers. Martin was supposed to have a check for \$17,000, which he owed to LoggIns. Earlier that day, LoggIns had also cashed a business check in the amount of \$6,000, which was unaccounted for.

Three suspects were quickly identified: Corey L. Mosley (19), Willie "Ray Ray" Lee (35) and Tony J. Martin (37). Lee told police that Mosley told him that Martin had hired him to kill Loggins, to whom he owed money. Martin also asked Mosley to kill several other people to whom he owed money. Mosley was believed to have been the gunman, and police recovered a handgun consistent with the one used in the crime. John Loggins was able to give police accurate descriptions of the three men and identified Mosley as the shooter. John said he and his father were at the delivery dock of the family business, awaiting a shipment of computer equipment when a U-haul truck pulled up. Two men got out of the truck, began talking to his father and then opened fire.

**Request for LWOP Filed:** April 1, 1996

**Conviction:** Murder, Attempted Murder (Class A Felony), Conspiracy to Commit Murder (Class A Felony), Conspiracy to Commit Murder (Class A Felony)  
Plea Agreement filed July 28, 1997 - Agree not seek death penalty

**Sentencing:** August 22, 1997 (LWOP, 50 years, 50 years, 50 years, consecutive)

Mosley was also convicted of SBI Robbery (Class A Felony) in the Marion County Superior Court and was sentenced on September 26, 1997 to a 30 year term of imprisonment. (49G06-9602-CF-018596)

Accomplice Tony J. Martin was charged with Murder, Felony Murder, and Robbery in the Marion County Superior Court and died on the eve of trial. (49G01-9601-CF-014305)

**Aggravating Circumstances:** b (1) Robbery**Mitigating Circumstances:****DIRECT APPEAL:** None.

**PCR:** (49G01-9601-PC-014300)  
Marion County Superior Court Judge Kurt M. Eisgruber  
Mosley did not file a direct appeal, but 7 years after conviction, he petitioned for Post-Conviction Relief.  
Six months later, Mosley withdrew that Petition.  
On May 20, 2009, Mosley filed a Petition for Post-Conviction Relief  
On June 16, 2009, the State answered and asserted the affirmative defense of laches.  
The post-conviction court heard evidence on August 3, 2010, and April 5, 2011, and on February 29, 2012 and denied Mosley's Petition based upon laches.

Mosley v. State, Unpub., 989 N.E.2d 845 (Ind. App. June 19, 2013) (49A02-1203-PC-249)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion By May; Baker, Mathias concur.  
(Denial of PCR appropriate based upon Laches, unreasonable delay and prejudice to the State)  
For Defendant: Corey L. Mosley, Pro Se  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Mosley v. State, 995 N.E.2d 620 (Ind., 2013) (Transfer denied)

**HABEAS:** Mosley v. Superintendent, (S.D. Ind. April 9, 2014) ( 2:14-cv-003-JMS-WGH)  
United States District Court for the Southern District of Indiana, Terre Haute Division  
Judge Jane Magnus-Stinson  
(Mosley has encountered the hurdles of non-cognizable claims, the statute of limitations, and the doctrine of procedural default. He has not shown the existence of circumstances permitting him to overcome these hurdles. The Petition for Writ of Habeas Corpus is dismissed: A Certificate of Appealability is denied.)

## **MULL, WAYNE ANTHONY**

DOB: 09/10/1965 White Male DOC# 954934 Location: Indiana State Prison

Wayne County Circuit Court Judge Douglas H. VanMiddlesworth  
Trial Cause #: 89C01-9407-CF-000085

**Defense:** Mark E. Jones

**Prosecutor:** David Kolger, Prosecuting Attorney, Michael W. Shipman, Deputy Prosecutor

**Date of Murder:** July 4, 1994

**Victim:** Mindy Jo Mull W / F / 19 (No relationship to Wayne Mull)

**Method of Murder:** Stabbing with Scissors

**Summary:** On July 4, 1994, Mindy Mull was found dead in her upstairs apartment. Her hands and feet were bound and her naked body was tied to a radiator. The apartment door was splintered, tool marks were found around the lock of the door, and the strike plate on the door jamb was missing a screw.

Wayne Mull, who was not related to the victim, was a tenant in a downstairs apartment of the building. After first denying any involvement, Wayne confessed to murdering Mindy. According to his confession, Wayne knocked on the door and was admitted by Mindy. He stated that the two "were holding each other and talking and one thing led to another." At some point, Mindy told him to stop and struck him when he pursued his advances. He then "lost control," stabbed her with a pair of scissors, pulled her into the kitchen by her hands, tied her to the radiator with a phone cord, and "took off." Mindy was found naked, bound hand and foot, and tied to a radiator in the kitchen of her apartment. She was lying in a pool of blood with a blood-soaked

blanket beneath her and a pillow at her head. On the pillow was a bloody pair of scissors. The autopsy revealed that Mindy had black eyes, abrasions to her nose and left cheek, contusions and abrasions of her knuckles. There were abrasions on her knees, ligature marks on her wrists and ankles from being tightly bound. On the upper back, at the base of her neck, there was a large area of bruising indicating she had been struck there at least twice. On her leg were contusions corresponding to the configuration of the radiator to which she was tied, indicating that she struggled against the radiator. The cause of her death was a severed carotid artery that, according to the forensic pathologist, would have caused her to bleed to death within a minute or two of receiving the fatal stab wounds. A detective testified that he observed scratches on the defendant within two days of the murder. A forensic DNA analyst testified that the two blood stains on a blouse found in the victim's apartment contained DNA consistent with both Wayne's and Mindy's. Another forensic expert testified that pubic hairs similar to Wayne's sample were found on the victim and in various places in the victim's apartment

**Request for LWOP Filed:** September 2, 1994; Amended December 12, 1994

**Conviction:** Murder

Guilty Plea by Joint Sentencing Recommendation filed on May 26, 1995  
LWOP Bench Trial September 5-7, 1995; Verdict: LWOP

**Sentencing:** September 7, 1995 (LWOP - All other Counts dismissed pursuant to Plea Agreement)  
(Remanded by Indiana Supreme Court for new sentencing Order which meets the requirements of an Order imposing Life Without Parole. LWOP reimposed in renewed Sentencing Order.)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Attempted Rape

**Mitigating Circumstances:** Remorse, Guilty Plea  
Developmental history  
Mental Health Issues: borderline personality disorder, alcohol dependence, impulsiveness, immaturity, depression, disassociation, difficulty in decision making, impaired memory skills, disengagement, impoverishment of self interest and low intelligence.

**DIRECT APPEAL:** Mull v. State, 770 N.E.2d 308 (Ind. June 25, 2002) (89S00-0012-CR-747)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Boehm, Shepard, Dickson, Sullivan, Rucker concur.  
For Defendant: Jess M. Smith, III, Centerville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (S.Carter)

**PCR:** None.

**HABEAS:** None.

**NEWTON, LARRY W. , JR.**

DOB: 11/09/1976    White Male    DOC# 914382    Location: Indiana State Prison

Delaware County Superior Court Judge

Trial Cause #: 18D01-9410-CF-000046

**Defense:** Joe Keith Lewis, Bruce N. Elliott**Prosecutor:** Richard Reed, Prosecuting Attorney, Jeffrey Arnold, Deputy**Date of Murder:** September 25, 1994**Victim:** Christopher James Coyle W / M / 19 (No relationship to Newton)**Method of Murder:** Shooting with handgun

**Summary:** On September 23, 1994, Newton and a fellow member of the "Fly Gang," Duane Turner, attended a party on the Ball State University campus. Duane was kicked out of the party. The following night, Newton, Duane, and other members of the gang were gathered in a graveyard discussing the previous night's events. Newton decided he "felt like killing somebody" in retaliation for Duane being kicked out of the party, and said he was "hyped and wanted to get revenge." Newton borrowed a handgun from another gang member, Scott Turner. Duane agreed to participate in Newton's idea, and their friend Chad Wright agreed to drive them.

In the early morning hours of Sunday, September 25, 1994, Wright drove Newton and Duane to Ball State's campus. Newton and Duane spotted 19 year old Christopher Coyle, a Ball State student whom they did not know, walking alone near the campus. Newton and Duane ran up to Coyle and forced him into Wright's car. Once in the car, Newton and Duane attempted to rob him, but he had no money. They took Coyle to an alley where Newton shot Coyle in the back of the head, killing him. Police found Coyle's body at approximately 2:46 am on Sunday, in the alley where he was shot.

After the murder, Newton and the others retreated to a friend's house where Scott was staying. Newton was "smiling" and told Scott he "shot someone." Newton returned the gun to Scott and requested he destroy it. Scott attempted to destroy the gun by throwing the grips out of a car window, throwing some parts of the gun into the White River, and putting the remainder of the gun in the Prairie Creek Reservoir. A few days later, Newton confessed to the murder.

**Request for DP Filed:** October 19, 1994

**Conviction:** Murder, Criminal Confinement (Class B Felony), Conspiracy to Commit SBI Robbery (Class A Felony), Attempted SBI Robbery (Class A Felony)  
Insanity / Mental Retardation Defense  
Guilty Plea pursuant to Plea Agreement filed October 16, 1995

**Sentencing:** December 29, 1995 (LWOP, 20 years, 45 years, merged, consecutive)

(Newton was the first juvenile to receive a Life Without Parole Sentence. There have since been three others: Daniel Boyd in 1997, Greg Dickins in 2001, and Andrew Conley in 2010)

Accomplice Duane E. Turner was convicted following a jury trial in the Delaware County Superior Court of Murder, Criminal Confinement (Class B Felony), Attempted SBI Robbery (Class A Felony), and on June 8, 1995 was sentenced to LWOP, 10 years, and 40 years imprisonment. (18D01-9410-CF-000047) (On PCR Appeal, Attempted SBI Robbery reduced from Class A Felony to class B felony)

**Aggravating Circumstances:** b (1) Robbery  
b (1) Criminal Gang Activity

**Mitigating Circumstances:** Age of seventeen at the time of the crimes

No prior felony convictions

Has "a strong family support group."

Subjected to a dysfunctional family, abuse, poor parenting"

**DIRECT APPEAL:** Newton v. State, 894 N.E.2d 192 (Ind. October 7, 2008) (18S00-0804-CR-151)  
Opinion by Dickson; Boehm concurs. Shepard concurs with separate opinion.  
Sullivan concurs in result with separate opinion. Rucker dissents with separate opinion.  
(We find that the trial court correctly rescinded its order and struck the belated appeal  
because it lacked authority to grant the defendant's request presented more than thirty  
days after final judgment. - Appeal Dismissed)  
For Defendant: L. Ross Rowland, Muncie  
For State: Jodi Kathryn Stein, Deputy Attorney General (S.Carter)

**PCR:** (18D01-9410-CF-000046) Delaware Circuit Court Judge Linda R. Wolf  
11/20/1997 Petition for Post-Conviction Relief by Petitioner, pro se  
01/06/1998 State's Answer to Defendant's Motion for Post Conviction Relief herein filed  
11/21/2000 This matter called for hearing upon Defendant/Petitioner's Petition for Post Conviction  
Relief. State appears by Richard Reed, Prosecutor; Defendant appears, in person.  
Defendant advised of his rights to appointed counsel. Defendant makes no request for  
appointment of counsel and informs the Court it is his desire to proceed pro se on said  
Petition. Therefore, Petition for PCR is submitted. The Defendant/Petitioner requests a  
continuance of said hearing as he was unable to bring his legal file.  
11/27/2000 Order on Withdrawal of Petition for PCR signed and filed. It is Ordered that  
Defendant/Petitioner's Motion to Withdraw Petition for PCR without Prejudice is Granted.  
10/31/2001 Petition for Post-Conviction Relief by Defendant, pro se, herein filed  
11/13/2001 State's Answer to Defendant's Motion for Post Conviction Relief filed  
07/28/2002 This matter called for evidentiary hearing on Defendant-Petitioner's Petition for  
Post-Conviction Relief. State appears by Jeffrey Arnold and Mark McKinney, Deputy  
Prosecutors; Defendant-Petitioner appears in person, being in custody, pro se.  
Defendant-Petitioner informs the Court he still intends to proceed pro se in this matter.  
Motion for Continuance is Denied. Petitioner presents no evidence. Evidence concluded.  
10/21/2002 Judgment on Petition for Post-Conviction Relief signed and filed. Findings and  
Conclusions issued. Defendant's Petition for Post-Conviction Relief Denied  
10/05/2007 It is Ordered that the Verified Petition for Permission to File Belated Notice of Appeal, filed  
by Larry W. Newton, is now Ordered DENIED.  
  
09/11/2013 Verified Successive Petition for PCR and Affidavit of Indigency by Petitioner herein filed.  
09/17/2013 State of Indiana's Answer to Defendant's (Successive) Petition for Post-Conviction Relief  
09/19/2013 Appearance by Joanna L. Green as State Public Defender for Defendant- Petitioner  
09/19/2013 Notice of Present Inability to Investigate by State Public Defender  
09/23/2013 It is Ordered that the Notice to Present Inability to Investigate is granted, thereby staying  
all proceedings in this case until such time as Defendant-Petitioner's counsel notifies the  
Court of her ability to proceed. Copies of Order issued accordingly. ar (RJO? Y) | JTS  
02/02/2016 Larry W. Newton's Amendment to Petition for Post-Conviction Relief filed by counsel.  
06/21/2016 State of Indiana's Answer to Amended Petition for Post-Conviction Relief filed.  
12/07/2016 Findings of Fact, Conclusions of Law, and Judgment denying PCR Petition.

Newton v. State, 83 N.E.3d 726 (Ind. App. September 6, 2017) (18A05-1612-PC-2817)  
(Appeal of denial of Successive PCR - Affirmed)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by May; Brown, Pyle concur.  
For Defendant: Joanna L. Green, Deputy Public Defender (Owens)  
For State: Jodi Kathryn Stein, Ellen Hope Meilaender, Deputy Attorneys General (Hill)  
(We hold the mandate of Miller and Montgomery does not apply to the narrow circumstance, such as  
here, where a juvenile defendant voluntarily enters into a plea agreement to serve LWOP. Even so,  
in determining whether to accept the plea agreement, the trial court complied with the procedural  
safeguards contemplated by Miller and Montgomery. These safeguards ensured Newton does not fit  
within the "vast majority of juvenile offenders" for whom a sentence of LWOP is disproportionate.)

Newton's sentence of LWOP is thus not unconstitutional under the Eighth Amendment of the United States Constitution. Accordingly, we affirm the judgment of the successive post-conviction court.)  
Newton v. State, 95 N.E.3d 77 (Ind., December 19, 2017) (Transfer denied)  
Newton v. Indiana, 2021 WL 1725168, 2021 U.S. LEXIS 2241 (U.S., May 3, 2021) (Cert. denied)

**HABEAS:** None.

## **OBERHANSLEY, JOSEPH ALBERT**

DOB: 03/29/1981 White Male DOC# 249876 Location: New Castle Psychiatric Unit

Clark County Circuit Court #4 Judge Vicki Carmichael  
**Trial Cause #:** 10C04-1409-MR-000001

**Defense:** Brent L. Westerfeld, Bart M Betteau, Nicholas Karaffa  
**Prosecutor:** Jeremy Mull, Prosecuting Attorney

**Date of Murder:** September 11, 2014



**Victim:** Tammy Jo Harbin Blanton W / F / 46 (Former girlfriend)

**Method of Murder:** Multiple blunt and sharp force traumas to the head, neck and torso

**Summary:** On September 11, 2014, at 2:52AM, the Jeffersonville Police Department received a call from Tammy Jo Blanton, who explained that her ex-boyfriend Joseph Oberhansley was outside her home trying to gain entry and refusing to leave. Responding Officers located Oberhansley outside the home. He claimed to live at that address. They instructed Oberhansley to leave the area. He was deceitful and complained, but eventually left. Officers checked back and found no trace of Oberhansley. Tammy's co-workers became very concerned when she did not show up for work at 9:00AM. They called her cell phone and a man answered claiming to be her brother. They called police and requested a welfare check at her home.

Officers went there and saw signs of a forced entry at the back door. Oberhansley opened the front door and claimed not to know where Tammy was. Officers observed a fresh injury to his hand and knuckles and found an open folding knife in his pocket. Tammy was found in the bathroom. Her skull had been crushed with brain tissue scattered around the bathtub, with deep cuts to her head, face, neck, and chest. A large portion of her brain was missing. Several cuts to her chest created a large opening and her heart was not inside her chest.

More brain tissue was found in the kitchen with blood and bits of bone in a skillet on the stove and on utensils and dishes. Oberhansley's vehicle was recovered two blocks away. In custody, Oberhansley would at first deny he even knew Tammy's body was in the bathroom. Later, he admitted to stabbing her, mutilating her body, using a jigsaw to cut open her skull, remove a portion of her brain and eating it raw. He further admitted to cooking a section of her brain and eating it. A bloodied electric jigsaw was collected from the home. At trial, he would testify that "two black guys" broke in and knocked him out then killed Tammy.

In court, Oberhansley would at first only refer to himself as Zeus and was repeatedly found incompetent to stand trial over a 6 year period. He filed a notice of insanity defense, but withdrew it, insisting he wanted a chance to be free, not to spend the rest of his life in a mental institution. A request for a DP was originally filed, but was amended to LWOP. In 2020, the jury found him guilty of Murder and Burglary and recommended LWOP.

Oberhansley was earlier convicted of Manslaughter (of girlfriend) in Utah and served ±10 years in prison.

**Request for DP Filed:** December 9, 2014; **Request for LWOP Filed:**

**Conviction:** Jury Trial (Jurors selected in Allen County September 8-9, 2020)  
Guilt Phase September 11-18, 2020  
Jury Verdict: Guilty of Count I: Murder and Count II: Burglary. Not Guilty of Count III: Rape.  
Notice of Insanity Defense filed and later withdrawn.  
LWOP Phase 09/21/2020.  
Jury finds (b)(1) Burglary and (b)(10) Dismemberment Aggravators and recommends LWOP.

**Sentencing:** October 13, 2020 (LWOP, 6 years)

**Aggravating Circumstances:** (b) (1) Burglary  
(b) (1) Rape  
(b) (10) Dismemberment

**Mitigating Circumstances:**

**DIRECT APPEAL:** Pending in Indiana Supreme Court (20S-LW-00620)

**PCR:** None.

**HABEAS:** None.

**ORTIZ, JEFFREY RICHARD**

DOB: 04/29/1978 Hispanic Male DOC# 984672 Location: Indiana State Prison

Lake County Superior Court, Criminal Division #2 Judge James E. Letsinger

**Trial Cause #:** 45G02-9708-CF-00154

**Defense:** Thomas Vanes

**Prosecutor:** Kathleen O'Halloran

**Date of Murder:** July 30, 1997

**Victim:** Rebecca Ortiz H / F / 53 (Adoptive Mother)

**Method of Murder:** Strangulation / Struck in head with sledgehammer

**Summary:** In the early evening hours of Wednesday, July 30, 1997, Rebecca Ortiz's lifeless body was found in her bed. She had been strangled and struck in the head several times with a sledgehammer. Her automobile was missing from the garage and Ortiz, her adopted son, was not at home. Ortiz had spent the entire day driving several of his friends in his mother's automobile on a shopping spree, using his mother's credit cards to purchase clothing, CDs, an automobile CD player, flowers, and lunch and movie tickets for the group. Police soon learned that Ortiz was not permitted to drive his mother's automobile, that the two had an argument the previous evening, and that Ortiz was supposed to be out of the house by Friday of that week.

Ortiz was arrested later the same evening. After being advised of his rights, Ortiz was questioned by police the following day. He told police that he had argued with his mother over money, his running up her phone bill with thousands of dollars in 1-900 sex phone calls, and his pushing back his enlistment date in the military. Other witnesses told police, and later testified at trial, that Ortiz had previously stolen money from his mother, had stolen her checks and forged her signature, and had driven her automobile without her permission.

Rebecca's blood was found on the shirt, pants, and shoes that Ortiz was wearing on the night before her body was found. A blood spatter expert concluded that the spatter of blood was consistent with the clothes being worn at the same time that Rebecca was struck with a sledgehammer. A sledgehammer with Rebecca's blood on its head was found in her garage.

**Request for LWOP Filed:**

**Conviction:** Murder, Armed Robbery (Class B Felony)  
Jury Trial April 27- May 6, 1998; Verdict: Guilty of Murder, Felony-Murder,  
Armed Robbery (Class B Felony)  
LWOP Jury Trial May 6, 1998; Verdict: Recommend LWOP

**Sentencing:** June 12, 1998 (LWOP, merged, 10 years)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** Ortiz v. State, 716 N.E.2d 345 (Ind. September 10, 1999) (45S00-9806-CR-370)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by: Boehm; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Charles E. Stewart, Jr., Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**PCR:** None.

**HABEAS:** None.

**OWEN, DONALD RAY, JR.**

DOB: 12/30/1998 White Male DOC# 229048

Location: Miami Correctional Level 3 Facility



Elkhart County Circuit Court Judge Michael A. Christofeno

**Trial Cause #:** 20C01-1912-MR-000006

**Defense:** Jeffrey A. Majerek, Fay Schwartz for Donald R. Owen Jr.  
Thomas M. Dixon for Mario M. Angulo

**Prosecutor:** Vicki E. Becker, Prosecuting Attorney, Katelan M. Doyle, Deputy

**Date of Murder:** October 21, 2019

**Victim:** Kimberly Dyer W / F / 31

**Method of Murder:** Cutting her throat with broken bottle

**Summary:** The events leading up to the murder of Kimberly Dyer (31) took place in the basement of a residence, described as a haven for methamphetamine users, on Old Orchard Lane on the east side of Elkhart between October 21 and 22, 2019. Mario Angulo and Matthew Murzynski discovered a list of names written by Dyer on a piece of paper, which they concluded showed that Dyer was a police informant on drug activity. They responded by confining Dyer in a basement for 2 days, while repeatedly beating, torturing, and eventually killing her. She was zip-tied, burned, branded with a knife, and waterboarded, all in an effort to get her to confess to being a "snitch." In fact, it was not true, but at that point it did not really make any difference.

During this time, they also confined an alleged marijuana dealer, Robert Porter of Michigan, with intent to rob him. Porter was cut with a knife which resulted in permanent scarring. While confined he was zip-tied, burned, his wrists were cut, he was forced to eat dog food, forced to get in dog cage, and was treated in demeaning manner.

Angulo eventually called Donald R. Owen, Jr. a/k/a "King Duke," to the house to, "lay down the house" and to handle the Kim Dyer. Owen caused a beating on Porter, claiming he had raped Dyer. Nevertheless, Porter was eventually released under threat not to call police. Owen gave the order to put Kim Dyer "to sleep," meaning to kill her. Angulo complied by strangling her with a garden hose. When she died too slow, Angulo cut her throat with a broken bottle. According to the prosecution, this was the 83rd and final injury inflicted on Dyer when she died. Angulo and Owen

disposed of the body of Kim Dyer by placing her body in plastic container, taping it up, taking that container to a remote marshy area near Constantine, Michigan, and trying to camouflage it so it would not be found. All the participants had a gang affiliation and background.

Surprisingly, at the Sentencing Hearing the victim's family actually testified for the defense, saying that Owen did not kill their relative, it was Angulo; and that everyone deserves a second chance, and that Owen deserves to have a release date.

**Request for LWOP Filed:** December 18, 2019

**Conviction:** Murder, Robbery (Level 2 Felony), Criminal Confinement (Level 3 Felony),  
Criminal Confinement (Level 4 Felony)  
Competency or Intellectual Disability Evaluation 02/04/20  
State's Motion for Joinder of Defendants granted 08/14/20  
Jury Trial April 19-30, 2021; Verdict: Guilty all Counts  
LWOP Jury Trial May 17-19, 2021; Verdict: Recommend LWOP  
(All Aggravators proved except torture while alive)

**Sentencing:** June 10, 2021 (LWOP, 30 years, 16 years, 16 years)



Accomplice Mario Angulo Jr. was convicted of Murder, Robbery (Level 2 Felony), Criminal Confinement (Level 3 Felony), Criminal Confinement (Level 3 Felony) in a joint trial with Owen in the Elkhart Circuit Court (20C01-1912-MR-000005), and on June 24, 2021 was sentenced by Judge Michael A. Christofino to 65 years, 30 years, 16 years, and 16 years consecutive for a total sentence of 127 years imprisonment.

Accomplice Matthew A.P. Murzynski pled guilty pursuant to a Plea Agreement and was convicted of Aiding in Robbery (Level 2 Felony), Criminal Confinement (Level 3 Felony), and Criminal Gang Enhancement, and on June 3, 2021 was sentenced by Elkhart County Circuit Judge Michael A. Christofino to 25 years, 10 years, and 25 years consecutive, for a total sentence of 60 years imprisonment.

**Aggravating Circumstances:**

- b (1) Criminal Confinement
- b (1) Criminal Organization Activity
- b (9) Under Custody of Sheriff
- b (11) Burned, Mutilated, Tortured While Alive

**Mitigating Circumstances:**

**DIRECT APPEAL:** Pending in Indiana Supreme Court (21S-LW-00333)

**PCR:** None.

**HABEAS:** None.

**PAYNE, TOBY K.**

DOB: 08/02/1976 White Madle DOC# 195043 Location: Pendleton Correctional Facility

Hamilton County Superior Court #1 Judge

**Trial Cause #:** 29D01-0704-MR-053**Defense:** Loren Jay Comstock**Prosecutor:** Cynthia Crispin, Chief Deputy Prosecutor**Date of Murder:** April 4, 2007**Victims:** Rebecca Payne W / F / 32 (Estranged wife)  
George Benner W / M / 35 (No relationship)**Method of Murder:** Shooting with handgun

**Summary:** The bodies of Rebecca Payne(32) and her boyfriend, George Benner (35), were discovered in her bedroom at her house in Home Place, Indiana, around noon of April 5, 2007. Police investigation quickly focused on Toby Payne, Rebecca's estranged husband against whom she had obtained a protective order a month earlier. Rebecca, who was in the final stages of divorcing Payne, had been living apart from him with their six-year-old son.

The trial evidence favorable to the verdict indicated that Lucio was recruited by Toby Payne to kill Payne's estranged wife Rebecca Payne, and her boyfriend, George Benner. Toby had given the defendant a key to Rebecca's house and a map, and promised him \$100,000 from a life insurance policy in return for the killing. The defendant, in turn, recruited Kyle Duckworth to drive him to Rebecca's house in exchange for \$200 or a quarter-pound of marijuana. Originally, Lucio planned to be the shooter, but later changed his mind and recruited Anthony Delarosa to be the triggerman. On April 2, 2007, Duckworth drove Lucio and Delarosa to Rebecca's house. Lucio gave Delarosa a gun, and Delarosa entered the house but returned and said that Rebecca was not home. The men agreed to try again later. On April 4, Lucio called Duckworth to pick him up, called Delarosa to ask if he was ready, and called Toby Payne to inform him they were trying again. The three men drove to Rebecca's home, Lucio again gave Delarosa a gun, and Delarosa entered the house and fired the fatal shots. When police questioned him during their investigation, Lucio first admitted that Toby Payne had given him a key to the house and asked him to kill Rebecca, but later claimed that they were supposed to scare Rebecca and extort money from her, that Delarosa told him where to go, that he did not know Delarosa had a gun, that he did not know why Delarosa was extorting money from her, and that he and Duckworth were supposed to get \$200 each for driving.

Phone records confirmed a large amount of communication between Payne, Lucio, Duckworth, and Delarosa leading up to and following the murder, and allowed the officers to track the movements of the cell phones.

**Request for LWOP Filed:** December 20, 2007**Conviction:** Murder, Murder, Conspiracy to Commit Murder (Class A Felony), and  
Stalking (Class D Felony) in 29D01-0710-FD-102.

Guilty Plea and admission of LWOP Aggravating Circumstances April 13, 2009.

**Sentencing:** May 14, 2009 (LWOP, LWOP, 50 years, 3 years, consecutive)

Accomplice Juan Lucio was convicted of two Counts of murder, and Conspiracy to Murder (Class A Felony) following a jury trial in the Hamilton County Circuit Court (29D01-0704-MR-000047) and on May 15, 2009 was sentenced to LWOP, LWOP, and 50 years imprisonment.

Lucio also pled guilty pursuant to a plea agreement to Attempted Murder (3 Counts) in the Clinton County Circuit Court (12C01-0708-FA-212), and on February 18, 2009 was sentenced to 40 years imprisonment on each Count, to run concurrently with Hamilton Count sentences.

Accomplice Anthony Delarosa was convicted of two Counts of murder, and Conspiracy to Murder (Class A Felony) in the Hamilton County Circuit Court (29D01-0704-MR-052) and on April 15, 2009 was sentenced to LWOP, LWOP, and 50 years imprisonment.

Accomplice Kyle L. Duckworth was convicted in the Hamilton County Circuit Court (29D01-0704-FC-054) of Assisting a Criminal (Class C Felony), and was sentenced to 4 years imprisonment.

**Aggravating Circumstances:** (b) (4) Murder for Hire  
(b) (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** Payne v. Superintendent, (S.D. Ind. March 6, 2015) (1:14-cv-00033-TWP-TAB)  
United States District Court for the Southern District of Indiana, Indianapolis Division  
Judge Tanya Walton Pratt  
For Defendant: Loren Jay Comstock, Indianapolis  
For State: Henry A. Flores, Jr., Deputy Indiana Attorney General (Zoeller)  
(Mr. Payne has sought federal habeas corpus relief from a state conviction by essentially ignoring the state courts. In doing so, Mr. Payne has encountered the hurdles produced by the one-year statute of limitations and the doctrine of procedural default. He has not shown the existence of circumstances permitting him to overcome these hurdles, and hence is not entitled to the relief he seeks. The Petition for Writ of Habeas Corpus is denied. This action is dismissed with prejudice without a decision being made on the merits of his claims, A Certificate of Appealability is denied.)

**PITTMAN, HOBERT ALAN "ALBERT"**

DOB: 11/05/1980 White Male DOC# 126381 Location: Wabash Valley Level 3 Facility

Harrison County Superior Court Judge Roger D. Davis

**Trial Cause #:** 31D01-0406-MR-481

**Defense:** Shane Gibson\, Amie Newlon.

**Prosecutor:** Dennis Byrd, Prosecuting Attorney, John Colin, Deputy Prosecutor

**Date of Murder:** June 12, 2004

**Victim:** Hobert Pittman W / M / 59 (Father)  
Myrtle Satterfield W / F / 80 (Step Grandmother)

**Method of Murder:** Shooting with Shotgun and Rifle

**Summary:** Albert Pittman, is the son of Hobert Pittman and the stepson of Linda Pittman. In the spring of 2004, Hobert and Linda lived together in the Ohio River town of Mauckport, Indiana, along with Linda's mother, Myrtle Satterfield. Myrtle was in her eighties and her medical condition had required amputation of both legs. To transport Myrtle, Hobert and Linda had purchased a wheelchair-accessible van. They also owned two pick-up trucks and a Ford Explorer.

Although Myrtle owned a house in adjacent Crawford County, she was unable to live alone, and Hobert and Linda were helping to prepare the house to be rented. On Saturday, June 12, 2004 (Hobert and Linda's 13th wedding anniversary) Hobert, Linda, and Myrtle all worked at the Crawford County property. At some point, Hobert left for home in his truck, but Linda and Myrtle remained for a few hours and returned to Mauckport late in the afternoon in the van.

When Linda and Myrtle arrived at the home, they found the security gate open and Hobert's truck parked at an unusual angle. As the van stopped in the driveway, Albert emerged from the garage on the driver's side of the van and fired shots into the van. He then got into Linda's Explorer, drove past the van, and stopped. Pittman and another man emerged from the Explorer and both resumed shooting into the van. Linda screamed, then stopped breathing and tried to appear dead in the driver's seat. Pittman and the man then drove away in the Explorer.

Despite having sustained severe injuries, Linda drove for help. Myrtle was found dead in the van. An autopsy concluded that she had died of shotgun blasts to her head and shoulder. Linda sustained shotgun wounds to her chest and lost a thumb, but survived. At the home, officers found Hobert under a tarp in the garage, dead from a wound to the head that could have been inflicted by either a shotgun or a rifle. Portions of the home had been ransacked, a window was broken, and Hobert's gun cabinet had been emptied. A search of the Ford Explorer abandoned at the bridge turned up seventeen long guns, at least four of which were Hobert's. Tests determined that the bullet fragments and shotgun shells recovered at the crime scene had been fired from two of the weapons recovered from the Explorer.

Two days after the shootings, Albert's mother reported a phone call from Albert. The phone call was traced to a pay phone in Daytona Beach. Police soon located and arrested Pittman and John Michael Naylor and seized a Plymouth Horizon. While incarcerated in Indiana, Naylor requested to speak with a correctional officer and stated, "I'm guilty of killing those two people and need to talk to someone over the situation."

**Request for LWOP Filed:** October 3, 2005

**Conviction:** Conspiracy to Burglary (Class B Felony), Theft (Class D Felony), Felony Murder, Attempted Murder (Class A Felony), Felony Murder, Auto Theft (Class D Felony)  
Jury Trial Verdict: Guilty all Counts

LWOP Trial Verdict: Found Intentional Murder b(1) Burglary Aggravator and b(9) On Probation Aggravator and b(3) Lying in Wait Aggravator as to Murder of Myrtle, but found only Intentional Murder b(1) Burglary Aggravator and b(9) On Probation Aggravator as to Murder of Hobert; Did not find b(3) Lying in Wait Aggravator as to Murder of Hobert - Recommend LWOP (2 Counts)

**Sentencing:** August 10, 2006 (20 years, 3 years, LWOP, 50 years, LWOP, 3 years, all consecutive)  
On Direct Appeal, one of LWOP sentences reduced to 65 years imprisonment.

Pittman was previously convicted in the Harrison County Superior Court of Burglary (Class C Felony), and on January 30, 2003 was sentenced pursuant to a Plea Agreement to 4 years imprisonment, with 3 years suspended and probated by Judge Roger D. Davis. Following the murders, this suspended sentence was revoked. (31D01-0110-CF-896)

Accomplice John Michael Naylor was convicted following a jury trial in the Harrison County Superior Court of: Conspiracy to Commit Burglary (Class B Felony), Felony Murder, Attempted Murder (Class A Felony), Auto Theft (Class D Felony), and Assisting a Criminal (Class C Felony); On March 2, 2007 he was sentenced to consecutive terms totaling 120 years of imprisonment. (31D01-0406-MR-000482)

**Aggravating Circumstances:** b (1) Burglary  
b (3) Lying in Wait  
b (9) On Felony Probation

**Mitigating Circumstances:**

**DIRECT APPEAL:** Pittman v. State, 885 N.E.2d 1246 (Ind. May 15, 2008) (31S00-0610-CR-355)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0 and LWOP Reversed 5-0  
Opinion by Boehm; Shepard, Dickson, Sullivan, Rucker concur.  
(No evidence to show killing of Hobart was intentionally committed by Defendant, and the "major participant" requirement under Tison is not satisfied; so one LWOP must be reduced to 65 year sentence. Otherwise affirmed; Details the requirements of a Sentencing Order after sentence "accordingly" language added to IC 35-50-2-9 in 2002.)  
For Defendant: Matthew Jon McGovern, Evansville  
For State: James B. Martin, Deputy Attorney General (S.Carter)

**PCR:** (31D01-0812-PC-11)  
12/18/2008 Pro Se Petition for Post-Conviction relief filed  
03/25/2011 Amended Petition for Post-Conviction relief filed  
09/30/2011 PCR evidentiary hearing held  
03/15/2012 Court enters Findings of Fact and Conclusions of Law and denied PCR Petition

Pittman v. State, Unpub., 982 N.E.2d 485 (Ind. App. January 30, 2013) (31A01-1204-PC-158)  
Appeal from denial of PCR by Harrison County Superior Court Judge Roger D. Davis  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Mathias; Kirsch, Crone concur  
For Defendant: Steven H. Schutte, Deputy Public Defender (Owens)  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Pittman v. State, 986 N.E.2d 819 (Ind. Apr. 18, 2013) (Transfer denied)

**HABEAS:** None.

## **PLUMADORE, MICHAEL L.**

DOB: 11/16/1972 White Male DOC# 188374 Location: New Castle Correctional Annex

Allen County Superior Court #6 Judge John F. Surbeck Jr.  
**Trial Cause #:** 02D05-1112-MR-000011



**Defense:** Mark Alan Thomas, Anthony Steven Churchward,  
**Prosecutor:** Karen E. Richards, Prosecuting Attorney,  
Deputies Stacey R. Speith, Steven O. Godfrey

**Date of Murder:** December 22, 2011

**Victim:** Aliahna Maroney-Lemmon W / F / 9 (Neighbor/Babysitter)

**Method of Murder:** Bludgeoning with Brick

**Summary:** Michael L. Plumadore met 9 year old Aliahna after her mother, Tarah Souders, moved her three daughters to the rundown trailer park where he lived to help take care of her dying father. The park, which holds about two dozen homes, was teeming with convicted sex offenders, which included her dying father, James Lemmon, who was convicted of Child Molesting in 2006. The day Aliahna died, Plumadore was looking after the third-grader and her two 6-year-old sisters at his mobile home because Souders was ill with the flu. Aliahna's relatives described him as a trusted family friend who helped care for the girl's dying grandfather.

Aliahna was reported missing on December 23 and three days later Plumadore admitted to police that he killed her by "striking her in the head multiple times with a brick while she was standing on the front steps of his residence." He subsequently dismembered her body by cutting

it up with a hacksaw and placed small pieces of her body in freezer bags and disposed of them in a dumpster at a Marathon station located nearby. Finally, he kept her head, feet and hands in the freezer at home. Police found the girl's head, hands and feet in the freezer at the mobile home where Plumadore had lived with Aliahna's grandfather, who had died about three weeks earlier. The other girls were not harmed.

Since 1992, Plumadore has criminal records in Florida and North Carolina, including convictions for trespassing and assault, and an Indiana conviction for forgery.

**Request for LWOP Filed:** May 11, 2012

**Conviction:** Murder, Abuse of Corpse (Class D Felony), Moving Dead Body From Scene (Class D Felony), Habitual Offender  
Guilty Plea by Plea Agreement filed May 14, 2012

**Sentencing:** June 18, 2012 (LWOP + 30 years for Habitual Offender, 3 years, 3 years, consecutive)

**Aggravating Circumstances:** b (10) Dismemberment  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **POPE, BRYCE D.**

DOB: 07/10/1977 Black Male DOC# 985038 Location: Wabash Valley Level 3 Facility

Allen County Superior Court #4 Judge Frances C. Gull

**Trial Cause #:** 02D04-9709-CF-000553

**Defense:** Donald Swanson

**Prosecutor:** John Sullivan, Jason Custer, Deputy Prosecutors

**Date of Murder:** August 29, 1997

**Victims:** Richard Alexander Dergins W / M / 67; Sara Jane Dergins W / F / 58 (Acquaintance of son)

**Method of Murder:** Shooting with .38 handgun

**Summary:** Pope was a neighbor of Richard and Sara Dergins. He was a friend of the Dergins' teenage son and at times spent the night at the Dergins' home. Pope was aware the couple kept large sums of money in the house. In the afternoon hours of August 29, 1997, Pope, along with 16 year old Aaron Thomas, went to the Dergins' home purportedly to return a hand tool that Pope had borrowed earlier. Pope was armed with a .38 caliber revolver, and Thomas was armed with a .380 caliber semi-automatic pistol. When Mr. Dergins answered the door, Pope produced the handgun and ordered him back into the house. When Mr. Dergins pleaded "you don't want to do this," Pope responded "shut up and where's the money at."

After ordering Mr. Dergins throughout the house at gunpoint, Pope retrieved a black pouch containing an undetermined amount of cash. Pope then ordered both Richard and Sara Dergins to lie face down on the floor and fired his weapon. Arriving on the scene police recovered two .35 caliber bullets which were designed to be fired from a .38 caliber revolver, but could not have been fired from a .380 caliber semi-automatic pistol. A subsequent autopsy revealed that both Richard and Sara died as a result of a gunshot wound to the back of the head. Later bragging to a friend about the events of the day Pope proclaimed, "I'm a murderer."

**Request for LWOP Filed:** April 8, 1998

**Conviction:** Murder, Murder, Felony Murder, Felony Murder, SBI Robbery (Class A Felony)  
Jury Trial April 21-23, 1998; Verdict: Guilty all Counts  
LWOP Jury Trial April 24, 1998; Verdict: Finding both aggravators, Recommend LWOP

**Sentencing:** June 19, 1998 (LWOP, LWOP, Merged, Merged, 50 years, consecutive)

**Aggravating Circumstances:** b (1) Robbery  
b (8) Multiple Murders

**Mitigating Circumstances:** Young age (20)  
Raised in a strict religious environment  
Gainfully employed from age fifteen until the time of his arrest  
He had never been adjudicated a delinquent as a juvenile  
He only a minor adult criminal history—a misdemeanor alcohol/marijuana

**DIRECT APPEAL:** Pope v. State, 737 N.E.2d 374 (Ind. October 25, 2000) (02S00-9807-CR-411)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Rucker: Shepard, Sullivan, Boehm concur. Dickson concurs in result.  
(Remand for a clarification of the trial court's sentencing order - Otherwise Affirmed.  
On November 7, 2000, the trial court provided the Supreme Court with a clarification that  
it did not use non-statutory aggravating circumstances in imposing the sentences of  
LWOP)  
For Defendant: Patrick E. Chavis III, Susan D. Burke, Indianapolis  
For State: Randi E. Froug, Deputy Attorney General (Modeisett)  
Pope v. State, 2001 Ind. LEXIS 87 (February 1, 2001) (Rehearing denied)

**PCR:** (02D04-0203-PC-33)  
Allen County Superior Court, Judge Frances C. Gull  
03/08/2021 Pro Se Petition for Post-Conviction Relief filed  
11/16/2005 Amended Petition for Post-Conviction Relief filed  
04/13/2009 Second Amended Petition for Post-Conviction Relief filed  
09/25/2009 PCR Evidentiary Hearing  
11/13/2009 Videotaped Deposition submitted  
02/07/2011 Entered Findings of Fact and Conclusions of Law," denying Petition for PCR

Pope v. State, 958 N.E.2d 816 (Ind. App. November 23, 2011) (02A05-1103-PC-153)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Kirsch; Baker, Brown concur.  
(Alibi witness and psychological evaluation of Pope would not have changed outcome)  
For Defendant: Kathleen Cleary, Deputy Public Defender (Owens)  
For State: Nicole M. Schuster, Deputy Attorney General (Zoeller)  
Pope v. State, 963 N.E.2d 1119 (Ind. 2012) (Transfer denied)

**HABEAS:** None.

**POWELL, JASON E.**

DOB: 10/16/1980 White Male DOC# 113805 Location: New Castle Correctional Annex

Elkhart County Circuit Court Judge Terry Shewmaker

**Trial Cause #:** 20C01-9911-CF-00122**Defense:** Thomas A. Durkin, James D. Stevens, Christopher C. Crawford**Prosecutor:** Michael A. Christofeno, Vicki E. Becker, Deputy Prosecutors**Date of Murder:** November 17, 1999**Victim:** Sasezley Richardson B / M / 19 (No relationship)**Method of Murder:** Shooting with .22 rifle

**Summary:** Alex Witmer (18) picked up Jason Powell (19) and drove to the Pierre Moran Mall. Witmer had a .22 caliber rifle in his car. As they rode about town, Witmer and Powell discussed shooting an African American to earn a tattoo of a spider web. Witmer told Powell that one earns the tattoo by killing a black person. Powell expressed an interest in "earning" the tattoo, and Witmer "called him on it," meaning "put up or shut up."

As they drove around the mall, Witmer and Powell noticed 17 year old Sasezley Richardson walking through the Sears parking lot. He was returning on foot from the mall, where he had bought diapers for his girlfriend's baby. Neither of them knew Richardson. Powell told Witmer to drive towards Richardson. Witmer circled and drove close to the victim as Powell picked up the rifle and began to shoot. Powell fired ten to twelve shots at Richardson. As they abandoned the scene, Witmer looked into the mirror and saw the victim fall to the ground. Witmer and Powell drove away, without rendering any aid. Richardson died from a gunshot wound to the head three days later. Witmer drove Powell home and then returned to his house. He later took the rifle used in the shooting to his younger brother, who dismantled the gun and threw it in the river behind his father's house.

When booked into the jail, Witmer signed a jail form stating that he was a member of the Aryan Brotherhood, a notorious white prison gang. Powell told jail guards that he was not a member of the Aryan Brotherhood but that he was "sympathetic to their cause." Both men confessed to their roles in the shooting.

**Request for DP/LWOP Filed:** December 17, 1999**Conviction:** Murder

Guilty Plea entered June 22, 2000; DP withdrawn.

**Sentencing:** March 14, 2002 (LWOP)

Accomplice Alex Witmer pled guilty to avoid the death penalty and was convicted of Murder in the Elkhart County Superior Court. On March 6, 2002 he was sentenced to 65 years imprisonment, consecutive to a 20 year term of imprisonment on an unrelated Robbery (Class B Felony), for an aggregate 85 year term. (20D01-0111-CF-0000241 / 20D01-9809-CF-0000205) - "Witmer had ample opportunity to try to stop the senseless murder of Richardson. Instead, he provoked the situation by encouraging Powell to earn a "spider web tattoo." Witmer and Powell were predators who attacked an innocent victim because of bigotry and lack of respect for human life. Witmer v. State, 800 N.E.2d 571, 574 (Ind. 2003)).

Barbara Powell, the Mother of LWOP prisoner Jason Powell, was charged with Trafficking with an Inmate (Level 5 Felony) after she attempted to deliver a package to her son during visitation at the Indiana State Prison. The package contained tobacco and heroin. She pled guilty to Possession of a Narcotic Drug (Level 6 Felony) in LaPorte County Superior Court 2, and was sentenced to a term of 1.5 years imprisonment, suspended and probated. (46D02-1608-F5-746)

**Aggravating Circumstances:** b (15) Drive by shooting

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**POWERS, STEPHEN R.**

DOB: 10/09/1975    White Male    DOC# 970651    Location: Indiana State Prison

Vanderburgh County Circuit Court Judge Richard L. Young

**Trial Cause #:** 82C01-9601-CF-00101

**Defense:** Barry L. Standley, Brian Smith

**Prosecutor:** Robert Zoss, James Ethridge Jr., Deputy Prosecutors

**Date of Murder:** January 22, 1996

**Victim:** Kyran Powers W / M / 5mo (Niece)

**Method of Murder:** Struck infant in face with bottle, Dropped infant on head 2-3 times

**Summary:** In January of 1996, defendant was living in Evansville with his brother, David Powers, David's wife Tammy, and their three children. The youngest child, Kyran, was five months old. On January 22, 1996, Laura and John Riger visited David and Tammy Powers. Defendant was also there. At about 12:30 p.m., David and Tammy drove to Centertown, Kentucky to inspect the Rigers' trailer, which they were considering renting. The Rigers and defendant stayed with the children. Before leaving, Laura asked defendant if he would be okay with the children, and he assured her that he had babysat for them before.

Some time thereafter, defendant went out onto the porch and cried "My baby's dying, I need help!" A neighbor came over, observed that Kyran had blood and bruising on his face and was having difficulty breathing, and called 911. When emergency medical technicians arrived, they noticed dried blood around the baby's nostrils, bruising around the left eye, and that Kyran was laboring to breathe. There was a hematoma the size of a baseball at the right parietal area of his skull. His pupils were fixed and deviated to the left; he was unresponsive, and appeared to be in shock. The emergency room physician that treated Kyran testified that he was near death with a severe head injury when he arrived at the hospital. His skull appeared crushed and was an abnormal shape. A CAT scan revealed a large skull fracture. Kyran was transferred by helicopter to Riley Hospital in Indianapolis, and died shortly thereafter.

Evansville police took a statement from defendant. He told them that he became annoyed and angry when Kyran began to cry, and struck him in the face with a baby bottle. He then hit Kyran in the back of the head with a metal toy car. When the child continued to cry, defendant lifted him up to shoulder level and dropped him to the floor. Kyran hit the floor head first. Defendant dropped Kyran two more times, and hit the child's head hard against the floor.

**Request for LWOP Filed:** January 31, 1996

**Conviction:** Murder

Jury Trial January 21-27, 1997; Verdict: Guilty of Murder

LWOP Jury Trial January 27, 1997; Verdict: recommend LWOP

**Sentencing:** February 27, 1997 (LWOP)

**Aggravating Circumstances:** b (12) Victim under 12 years of age

**Mitigating Circumstances:** Was a Product of an Extremely Dysfunctional Home  
He did not have any guidelines or any real formal upbringing by his Mother or Father, who basically ignored him  
He did not what he was doing when beating the child

**DIRECT APPEAL:** Powers v. State, 696 N.E.2d 865 (Ind. July 8, 1998) (82S00-9706-CR-00389)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Sullivan; Shepard, Dickson, Selby, Boehm concur.  
(Kyran's crying did not constitute the provocation necessary to qualify defendant's actions as "sudden heat." - Powers was aware of a high probability that beating an infant across the face and head and repeatedly dropping him on his head would result in his death.)  
For Defendant: Barry L. Standley, Evansville  
For State: Andrew L. Hedges, Deputy Attorney General (Modisett)

**PCR:** (82C01-9601-CF-00101 / 82C01-1505-PC-002634)  
07/26/1999 Stephen R. Powers, Pro Se; Files Petition for Post-conviction Relief.  
07/29/1999 State by DPA O'Daniel files State's Answer to Petition for Post-conviction Relief.  
09/14/2000 Comes Now the Petitioner, Stephen Powers, by Counsel, Richard Denning and Files Motion to Strike and Notice of Present Inability to Investigate and to Continue  
09/19/2000 Court grants Notice of Present Inability and Motion for Continuance.  
11/18/2002 State Public Defender by Richard Denning and Files Withdrawal of Appearance  
06/03/2003 Defendant Letter to the Court (Dated May 5, 2003) Which the Court Treats as a Motion to Withdraw Petition for Post Conviction Relief.  
02/02/2008 Steven R. Powers files Appearance, Petition for Post-Conviction Relief, Requests PD  
12/03/2008 DPA Anna C. Finnerty, Files Answer to Petition for Post Conviction Relief.  
06/03/2009 Comes Now the Court and Grants the State's Motion to Proceed by Affidavit.  
07/23/2009 Court Files Findings of Fact and Conclusions of Law and Judgment Denying PCR

**HABEAS:** None.

## **PRICE, KERRIE D.**

DOB: 04/15/1968 Black Male DOC# 856296 Location: Wabash Valley Level 4 Facility

Marion County Superior Court Judge Robyn Moberly  
Trial Cause #: 49G02-9702-CF-028645 / 49G06-9702-CF-28645

**Defense:** Kevin McShane, Monica Foster

**Prosecutor:** Sheila Carlisle, Robert Altice

**Date of Murder:** February 19, 1997

**Victims:** Robert G. Black B / M / 40; Bryan Glenn Northern W / M / 34 (No relationship - Security Guards)

**Method of Murder:** Shooting with handgun

**Summary:** On the afternoon of February 19, 1997, Rocky Ripple Deputy Town Marshals Robert Black and Bryan Northern, working as private security guards, heard someone making loud "weird" noises at the Phoenix Apartment complex where they worked on the northeast side of the city. They told the offender to quiet down, but he made the noise again and added an obscenity. The noisemaker and his cousin then ran into an apartment building, pursued by Black and Northern,

who began knocking on doors to locate them. The guards asked the occupant of apartment D2 if she had seen anyone wearing a white t-shirt enter the building, but she had not. She heard the guards go next door and knock at William Colquit's apartment.

Price, wanted on an outstanding warrant for failure to appear in court on a probation violation charge, was in that apartment. He later told a friend that two security guards knocked on the door, asked whether he lived there, and requested identification. He went to a closet, purportedly to retrieve his identification, but instead grabbed a gun and fired at the guards.

Price hid in a nearby apartment until a friend sneaked him into a car and drove him to another location. In the succeeding days he changed locations three more times, once in the trunk of a car, to evade the police. On February 22, a SWAT team forced Price out of hiding with tear gas after a five-hour effort to persuade him to voluntarily release a hostage and surrender. During the standoff Price told a police negotiator that he was not present at the shootings, although he later changed his story and claimed that the guards broke into the apartment and fired first, forcing Price to return the fire in self-defense as he fled to the back of the apartment, then out the front door.

Black died from multiple gunshot wounds. Northern died after several weeks in the hospital of infection caused by multiple gunshot wounds. Price shot the two security guards multiple times while receiving no injuries himself, and later confessed to two friends that he had fired first and without provocation.

**Request for LWOP Filed:**

**Conviction:** Murder, Murder

Jury Trial; Verdict: Guilty both Counts

LWOP Jury Trial; Verdict: Recommend LWOP

**Sentencing:** March 2, 2000 (LWOP, LWOP)

Turkessa Guthrie, Price's former girlfriend, helped Price escape from the Meadows on the day of the shootings and hide from police for the next three days. The State charged Guthrie with Assisting a Criminal (Class C Felony). It reduced the charge to Assisting a Fugitive from Justice (Class A Misdemeanor in return for Guthrie's guilty plea and testimony against Price at trial).

Price had a extensive criminal history, which included the following convictions:

In 49-G04-9107-CF-086583 convicted of Robbery (Class C Felony), Robbery (Class C Felony), Robbery (Class B Felony), and was sentenced on May 17, 2000 to 6 years, 6years, and 12 years imprisonment.

In 49G20-9701-CF-006216 convicted of Dealing Cocaine (Class A felony), Dealing Marijuana (Class D Felony), Dealing Cocaine (Class B felony), and was sentened on January 9, 1998 to 35+30 years, 3 years, and 20 years imprisonment consecutive. Price v. State, 725 N.E.2d 82 (Ind. 2000)

In 49G06-9107-CF-086583 was convicted of Robbery (Class C Felony), Attempted Robbery (Class C Felony), Robbery (Class B Felony), and on May 22, 1992 was sentenced to 6 years, 6 years, 6 years imprisonment.

In 49G03-8712-CF-021323 was convicted of Attempted Robbery (Class B Felony), and on November 4, 1991 was sentenced to 2 nyears imprisonment.

In 49G05-9107-CF-083339 was convicted of Forgery (Class C Felony), and on September 17, 1991 was sentenced to 2 years imprisonment.

**Aggravating Circumstances:** b (8) Multiple Murders  
b (9) On Felony Probation or Parole

**Mitigating Circumstances:**

**INTERLOCUTORY:** State v. Price, 715 N.E.2d 331 (Ind. June 23, 1999) (49S00-9802-DP-96)

Opinion by Shepard; Dickson, Sullivan, Selby, Boehm concur.

(Trial Court Judge Ruth Reichard dismissed State Request for Death Sentence, accepting defense argument that since current murder was committed while Defendant was out on bail, any sentence must run consecutive; and since those charges resulted in 88 year sentence, the death sentence could only be carried out after he completed that 88 year sentence, it would be cruel and unusual punishment to make him wait that long. - REVERSED; Death Sentence is not a "term" of imprisonment and any execution would not have to wait 88 years. State's Request reinstated.)

For Defendant: Monica Foster, Kevin McShane, Indianapolis

For State: Greg Ullrich, Arthur Thaddeus Perry, Deputies Attorney General (Modisett)

**DIRECT APPEAL:** Price v. State, 765 N.E.2d 1245 (Ind. April 10, 2002) (49S00-0006-CR-385)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Shepard; Dickson, Sullivan, Boehm, Rucker concur

For Defendant: Katherine A. Cornelius, Marion County Public Defender

For State: Adam M. Dulik, Deputy Attorney General (S.Carter)

**PCR:** None.

**HABEAS:** None.

## PRIEST, CASEY DONOVAN

DOB: 12/02/1978 White Male DOC# 951864 Location: New Castle Correctional Annex

Marion County Superior Court Judge

Trial Cause #: 49G04-9712-CF-189057

**Defense:** Shelly Skwarcan, Bob Hill

**Prosecutor:** Scott Newman, Prosecuting Attorney, Richard Plath, Deputy

**Date of Murder:** January 3, 1998

**Victim:** Garry A. Hoffman W / M / 46 (No relationship)

**Method of Murder:** Shooting with handgun

**Summary:** Casey Priest (19) and his friends, Stephen C. Wieland (20) and Larry A. Boyce (19), were talking on Boyce's father's porch. At one point, a discussion of Wieland's loyalties to Priest took place, and Priest challenged Wieland to steal some popcorn and a drink from a nearby Village Pantry convenience store. As they walked across the store parking lot, Priest said: "Watch my back, I'm gonna get 'em." Wieland understood this to mean that Priest intended to commit a robbery. Wieland and Boyce knew Priest was armed with a handgun.

The three entered the store at about 5:30 am and selected various items. They approached the checkout counter, and Priest pointed a handgun at Michael Graham, a store clerk, and told another store employee, Gloria Wallace, who was facing away from Priest, not to turn around. Then Priest told Graham that he wanted "all the money." Holding Graham at gunpoint, Priest walked him over to the cash register, and Graham opened the register and gave Priest its contents. The three left the store together, with Wieland and Boyce exiting first with the food they had taken without purchase. As Priest exited, he encountered a grocery deliveryman, Gary Hoffman, who held the door for them. After demanding money from Hoffman at gunpoint, Priest shot and killed him before he could even respond. Wieland and Boyce were seen laughing as they began to run after exiting the store. All of this was captured on the video surveillance camera

from the store. After returning to Boyce's father's house, the three men ate the food they had stolen, and Priest gave Wieland and Boyce some of the money taken from the cash register. Soon thereafter, Priest and Boyce fled to Illinois, and were later arrested.

**Request for LWOP Filed:**

**Conviction:** Attempted Murder (Class A Felony), Attempted SBI Robbery (Class A Felony), Handgun Violation (Class C Felony), Handgun Violation (Class C Felony), Murder, SBI Robbery (Class A Felony), Murder, Attempted SBI Robbery (Class A Felony, Conspiracy to Commit SBI Robbery, Handgun Violation (Class C Felony), Armed Robbery (Class B Felony), Handgun Violation (Class C Felony)  
Guilty Plea by Plea Agreement filed March 31, 1998

**Sentencing:** April 24, 1998 (50 years, 50 years, 50 years, 8 years, 8 years, LWOP, 50 years, 65 years, 50 years, 50 years, 8 years, 20 years, 8 years, concurrent)  
[and concurrent with Cause No. 98004403 and Cause No. 98021545]

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** Priest v. State, Unpub., 807 N.E.2d 812 (Ind. App. 2004) (49A02-0309-PC-782)  
(Affirmed without Opinion - Robb, Sullivan, Ratliff concur)  
Priest v. State, 812 N.E.2d 808 (Ind. June 24, 2004) (Transfer denied)

**PCR:** (49G04-9712-CF-189057)  
10-25-99 Petitioner filed Petition for PCR  
11-15-99 State Filed Answer to Petition for PCR  
09-13-00 Post Conviction Relief Hearing; Petitioner in Person Pro-se.  
Defendant Orally Requests for Petition for PCR to Be Dismissed Without Prejudice. Granted.  
07-18-03 Court Files Findings of Fact and Conclusions of Law Denying Post-Conviction Relief.

**HABEAS:** None.

**RACKEMANN, KENNETH "CODY"**

DOB: 06/15/1989 White Male DOC# 132668 Location: Pendleton Correctional Facility

Marion County Superior Court Judge Kurt Eisgruber  
**Trial Cause #:** 49G01-1402-MR-009106



**Defense:** Raymond Vincent Casanova, Eric Koselke, James E. Fisher

**Prosecutor:** Denise Ann Robinson, Deputy Prosecutor

**Date of Murder:** February 20, 2014

**Victims:** Walter 'Buddy' Burnell W / M / 47, Jacob Rodemich W / M / 43  
Kristy Sanchez W / F / 22, Hayley Navarro W / F / 21 (Acquaintances)

**Method of Murder:** Shooting with handgun

**Summary:** It was said that as much as \$60,000 per day in drug sales were passing through a home on the Indianapolis south side where four people were found shot to death on February 20, 2014. A former security man for a drug dealer, Kenneth "Cody" Rackemann, was the main actor behind

a plot to rob the owner, Walter Burnell, with the assistance of Anthony LaRussa, Valencia Williams, and Samantha Bradley. The plan was to go to 3432 South Parker, offer to sell Burnell some methamphetamine, wait until Burnell opened a safe, and rob him. To that end, LaRussa provided Rackemann, who was high at the time on an unknown drug, with a black revolver.

A witness to the murders worked security as well, and watched as Rackemann demanded money from Burnell, who responded "You'll have to shoot me." Rackemann did so, killing him. Rackemann then shot Jacob Rodemich and Kristy Sanchez, who were in a back bedroom using narcotics, in the head, killing them. He then shot Hayley Navarra in the neck, wounding her. She pleaded for her life as the witness said he tried to protect her. Rackemann then called Bradley and Williams into the house after failing to load a shotgun he stole from Burnell. It was Williams who then executed Navarra with her own .380 handgun to, "finish her off."

Burnell dealt methamphetamine, heroin, marijuana and prescription drugs at the house and it was the sale of a "zip of go fast", street lingo for an ounce of meth, that brought Rackemann to the home. LaRussa was a frequent partner in drug sales with Burnell. "LaRussa pointed out how Rackemann screwed up the robbery by not waiting for Burnell to get the safe open before robbing him. LaRussa was later arrested with more than \$11,000 in his pocket which he described as a tax refund.

Police recovered one of the murder weapons on the ice of the apartment complex retention pond where it was reportedly tossed by the suspects. Bradley told him she threw bricks onto the ice in an unsuccessful attempt to break the surface and sink the gun.

**Request for DP Filed:** August 12, 2014

**Conviction:** Murder, Murder, Murder, Murder, Robbery (Class B Felony)

Guilty Plea by Plea Agreement filed December 14, 2015, February 5, 2016; DP withdrawn

**Sentencing:** April 22, 2016 (LWOP, LWOP, LWOP, LWOP, 20 years)

Rackemann was previously convicted in the Marion Superior Court of Burglary (Class C Felony), and was sentenced to 6 years imprisonment on August 5, 2011. (49G01-1104-FC-023208); Rackemann was previously convicted in the Marion Superior Court of Burglary (Class C Felony), and was sentenced to 2 years imprisonment on April 10, 2008. (49G22-0703-FC-044437)

Accomplice Anthony LaRussa pled guilty pursuant to an open Plea Agreement, was convicted in the Marion County Superior Court of Conspiracy to Commit SBI Robbery (Class A Felony), and on March 2, 2017 was sentenced to 40 years imprisonment. (49G01-1402-MR-009082)

Accomplice Valencia Brianne Williams pled guilty pursuant to an open Plea Agreement, was convicted in the Marion County Superior Court of Murder, and on February 17, 2017 was sentenced to a 55 year term, with 53 years in IDOC then 2 years in Community Corrections. (49G01-1402-MR-009161)

Accomplice Samantha Bradley pled guilty pursuant to a Plea Agreement, was convicted in the Marion County Superior Court of Conspiracy to Commit SBI Robbery (Class A Felony), and on March 8, 2017 was sentenced to 30 years imprisonment, suspended to probation, with credit for 1,110 days served. (49G01-1402-MR-009099)

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**§1983 :** Rackemann v. Galipeau (N.D. Ind. Feb. 23, 2021) (3:20-CV-214 DRL-MGG)

Suit for damages against Warden, Doctors, Nurses and others for providing inadequate and incompetent medical care. Summary Judgment is granted and this case is dismissed without prejudice because Kenneth Rackemann did not exhaust his administrative remedies. (It is noted that Rackemann has many medical problems: asthma, diabetes, earaches, hyperlipidemia, hypertension, and pain related to his abdomen, back, ear, and foot. The records also show he has received numerous medications since January 9, 2020: acetaminophen, atorvastatin, benztrapine, ciprofloxacin, lisinopril, metformin, metoprolol tartrate, remeron, and xopenex HFA. He receives medications at least twice a day, every day.)

## RAMIREZ, RYAN

DOB: 03/28/1989 Hispanic Male DOC# 281760 Location: Pendleton Correctional Facility

Madison County Circuit Court #4 Judge David A.Happe

Trial Cause #: 48C04-1808-MR-001964



**Defense:** Nathan K. Vining

**Prosecutor:** Mary L. Hutchison, Samantha Green, Peter Beyel, Deputy Prosecutors

**Date of Murder:** July 27, 2018

**Victim:** Paisley Hudson W / F / 23 mo (Girlfriend's daughter)

**Method of Murder:** Beating, Striking, Multiple blunt force injuries

**Summary:** Kayla Hudson met and began dating Ryan Ramirez in January of 2018. Two months later, Hudson and her toddlers, 3 year old Riley and 23 month old Paisley, moved with Ramirez into a room at the Red Roof Inn. Around June, Ramirez quit working due to an injury and took over watching R.H. and P.H. while Hudson worked, spending a lot of time alone with the toddlers. He often took them over to his parents' house where he spent the days and some nights.

That summer, Hudson observed her children's physical condition deteriorating and saw they were scared of Ramirez. She noticed R.H. had bruising and black eyes, while P.H. had bruising on her stomach and arms and bruises that looked like fingerprints covering her leg. Hudson confronted Ramirez and suggested finding another babysitter to watch the toddlers; but he just accused her of not trusting him, so Hudson didn't press further.

On July 27 in the early evening, Ramirez dropped Hudson off at work. P.H. was alert and told Hudson, "I love you." Ramirez then took the children to his parents' home. When Hudson got off work at 10:46 p.m. and called Ramirez to pick her up, he told her he was changing P.H.'s diaper. When Ramirez showed up fifteen minutes later, P.H. appeared to be asleep in her car seat. Ramirez carried her into the hotel and placed her in her Pack 'n Play while Hudson brought R.H. inside.

Hudson noticed that R.H. had new bruises on his arms and leg and a black eye. So, she went to Walmart to purchase bruise cream and tea bags to cover the bruises and reduce the swelling. When Hudson returned, she applied the cream and a tea bag, put R.H. to bed, and left again - without checking on P.H. - to pick up fast food and cigarettes. And when she returned again, she ate, smoked a cigarette, and watched Netflix with Ramirez on his phone before going to sleep.

When Hudson finally checked on her toddler daughter at 6:00 a.m., P.H. was cold and stiff. Hudson started screaming, and Ramirez told her to be quiet and "that it was okay." Hudson took P.H. to the bathroom, where she tried to wake her by splashing water on her. Hudson and Ramirez next tried to give CPR to P.H. When that didn't revive her, Hudson told Ramirez she was going to take P.H. to the hospital. But Ramirez cautioned her that they needed to get their "story

straight." Hudson felt like Ramirez "had done something" and wanted her "to back him up." Neither Ramirez nor Hudson called 911. Ramirez took R.H. to his parents' house, while Hudson drove P.H. to the hospital.

Dr. Soper examined P.H. in the emergency room after Hudson carried her in. He was unable to resuscitate her and couldn't place a breathing tube down her throat because rigor mortis had set in. Dr. Smith, a pathologist, conducted P.H.'s autopsy and testified that P.H. exhibited a skull fracture, a large scalp hemorrhage, and bleeding due to trauma in her brain. Her body was covered with numerous bruises; her liver was torn in two places due to a severe impact to the front of her abdomen; and almost half the blood in her body was found in her abdominal cavity. He determined that P.H.'s ultimate cause of death was "multiple blunt force injuries" with liver lacerations and intra-abdominal hemorrhage. The Madison County Deputy Coroner concluded that the manner of P.H.'s death was homicide.

R.H. was later taken from Ramirez's parents' house to the hospital, where Dr. Pugh, an E.R. physician, examined him. R.H. had raccoon eyes, meaning bruising to his eye sockets; bleeding in the white of his left eye; bruises of different ages; and a distended abdomen that, along with elevated liver enzymes, raised a concern about possible internal injuries. Dr. Pugh found that R.H.'s distended abdomen and elevated enzymes were caused by injuries that occurred less than a week earlier. Upon further examination, R.H.'s genital area was bruised, places on his head where it looked like his hair had been pulled out, and injuries inside his ear. He concluded R.H.'s injuries were caused by child abuse and transferred him to Riley Children's Hospital.

**Request for LWOP Filed:** June 5, 2019

**Conviction:** Murder, Neglect of a Dependent (Level 3 Felony)  
Jury Trial February 11-21, 2020; Verdict Guilty both Counts  
LWOP Jury Trial February 21, 2020; Verdict: Recommend LWOP

**Sentencing:** April 14, 2020 on Count I Murder (LWOP) - COVID Bifurcated  
May 29, 2020 on Count II Neglect of Dependent (14 years, consecutive)

Accomplice / Mother Kayla Nichole Hudson was convicted pursuant to an open Plea Agreement to Neglect of a Dependent Causing Death (Level 1 Felony) and Neglect of a Dependent Resulting in SBI (Level 3 Felony) in the Madison County Circuit Court #4, and on April 17, 2019 was sentenced to 31 years + 9 years consecutive, for an aggregate 40 year term of imprisonment by Judge David A. Happe. (48C04-1808-F1-001965). Hudson v. State, 135 N.E.3d 973 (Ind. Ct. App. 2019).

**Aggravating Circumstances:** b (11) Tortured While Alive  
b (12) Victim Under 12 years of Age

**Mitigating Circumstances:** No criminal history

**DIRECT APPEAL:** Ramirez v. State, 174 N.E.3d 181 (Ind. September 23, 2021) (20S-LW-430)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Rush; David, Massa, Slaughter, Goff concur.  
(Based upon injuries to child, "torture" aggravator could be reasonably inferred from intentional infliction of appreciable period of pain or punishment to indulge a sadistic impulse.)  
For Defendant: Spenser G. Benge, Anderson  
For State: Courtney L. Staton, Deputy Attorney General (Rokita)

**PCR:** None.

**HABEAS:** None.

**RICE, RONNIE JAMAL**

DOB: 06/28/1981 Black Male DOC# 221051 Location: Wabash Valley Level 3 Facility

Lake County Superior Court, Criminal Division 3 Judge Diane Ross Boswell  
**Trial Cause #:** 45G03-0712-MR-11

**Defense:** Scott Louis King**Prosecutor:** Angela J. Brown, Armando Salinas, Deputy Prosecutors**Date of Murder:** December 10, 2007**Victim:** Maxine Urbanczyk W / F / 61 (Co-worker)**Method of Murder:** Beaten with hammer and chair

**Summary:** Maxine Urbanczyk (61) arrived to work at Kentucky Fried Chicken in Merrillville at around 8:30 am on December 10, 2007. A store surveillance video shows Urbanczyk going to the back door, looking through a peephole, opening the door, and appearing to be familiar with the person on the other side. A short time later, the video shows Rice, who worked at the restaurant, entering through the back door wearing a grey colored sweatshirt. Another surveillance camera captured Rice crouching down behind the front counter where the safe is located and taking items from the safe. A few minutes later, Rice is seen exiting the back door.

Rice had arrived at work to rob the safe, but he needed the help of his Manager Maxine Urbanczyk to do it. Not wanting to leave any witnesses to his crime, he attacked Urbanczyk from behind with both a chair and a hammer. She sustained 15 head injuries including facial lacerations, cranial fractures, brain contusions, and cranial hemorrhaging; a fractured rib cage; and a bruised left lung. She died from "extensive head injuries with chest injuries caused by blunt force trauma. "He beat her until she died. He knew he needed the key to open the safe, and he knew she would not give it to him."

A short time later two employees arrived at the restaurant but were unable to gain access through the front door. Rice came from the back of the building, approached one of his coworker's cars, took off his "greyish looking" sweatshirt, and put it in the back of his car. Rice then asked his other coworker if he could wear his black sweatshirt.

During one of his interviews with police, Rice admitted that after he took the money from the safe, he approached Ms. Urbanczyk from behind and pushed her down and then hit her with a chair. At some point he grabbed a hammer and "just went berserk."

Police located a hammer behind a filing cabinet at the crime scene. Swabs of blood taken from Rice's grey sweatshirt and jeans matched Ms. Urbanczyk's DNA profile. Ms. Urbanczyk's store keys were found at the police station where Rice had hidden them while being interviewed. Ms. Urbanczyk's jacket and bags of cash totaling \$3,667.89 were recovered from a dumpster near the area from where Rice appeared as he approached the front of the restaurant and encountered his coworkers.

**Request for LWOP Filed:** February 5, 2008**Conviction:** Murder, Felony Murder, and Robbery.

Guilty Plea by Open Plea Agreement filed January 18, 2011

DP Withdrawn, Consent to LWOP Bench Trial

**Sentencing:** January 12, 2012 (Vacated, LWOP, Vacated), Revised Sentencing Order filed March 5, 2013  
(Curiously, Judgment was entered only on Felony Murder count)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** Pled guilty and admitted his guilt.  
Expressed remorse.  
Youthful age (26 at murder)  
Came from a broken home; Father had been violent at times  
Depressed, withdrawn after grandmother died  
Kind-hearted, loving person who was never violent  
Under stress and was depressed  
Had a gambling problem and money-related issues associated therewith

**DIRECT APPEAL:** Rice v. State, 6 N.E.3d 940 (Ind. April 16, 2014) (45S00-1206-CR-343)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Massa; Dickson, Rucker, David, Rush concur.  
For Defendant: Thomas W. Vanes, Crown Point  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Rice v. State, 89 N.E.3d 406 (Ind. August 24, 2017) (Transfer denied)

**PCR:** (45G03-1410-PC-18)  
Lake Superior Court, Judge Diane R. Boswell, Magistrate Natalie Bokota  
10/18/2014 Pro se PCR Petition filed  
05/15/2015 Amended PCR Petition filed  
01/13-15/2016 Evidentiary Hearing on PCR Petition.  
08/02/2016 Petition for Post-Conviction Relief denied.

Rice v. State, Unpub., 86 N.E.3d 238 (Ind. App. May 30, 2017) (45A05-1608-PC-1951)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Altice; Riley, Crone concur.  
For Defendant: Joanna Green, Deputy Public Defender (Owens)  
For State: James B. Martin, Deputy Attorney General, (Hill)

**HABEAS:** Rice v. Warden, (N.D. Ind. Feb. 27, 2020) (3:17-CV-738-JD-MGG)  
United States District Court for the Northern District of Indiana, South Bend Division  
Judge Jon E. DeGuilio  
(Petition for Writ of Habeas Corpus is denied; Certificate of Appealability is denied)

Rice v. Brown, (7th Cir. Oct. 22, 2020) (20-1401)  
(Denial of request for a certificate of appealability is affirmed)  
For Defendant: Pro-Se  
For State: Jesse Drum, Deputy Attorney General, (Rokita)

**RICHARDS, STEPHEN THOMAS**

DOB: 09/28/1979 White Male DOC# 145891 Location: Indiana State Prison

Lake County Superior Court, Division 1 Judge Salvador Vasquez

**Trial Cause #:** 45G01-0404-MR-00005**Defense:** Peter Villarreal, Richard C. Wolter, Adam Tavitas**Prosecutor:** Kathleen Marie O'Halloran, Deputy Prosecutor**Date of Murder:** April 24, 2004**Victims:** John Schroeder W / M / 36 (Friend)  
Maschell Sheaks-Pombert W / M / 36 (Cousin of Richards)**Method of Murder:** Shooting with Shotgun**Summary:** On a Saturday morning on April 24, 2004 Stephen Richards (24) went to 5123 West 173rd Avenue in Lowell, Indiana, the home of a friend, John Schroeder (36). Schroeder was a quadriplegic as a result of a car crash almost 18 years earlier. Richards' cousin, Maschell Sheaks-Pombert (36), worked as Schroeder's live-in caregiver and was spending the night. Richards went there armed with 12-gauge and .410-gauge shotguns.

Sheaks-Pombert met Richards at the door, and he shot her during a struggle over the gun. Richards said Schroeder was screaming from the bedroom, so he shot him in the back of the head with the 12-gauge. Richards picked up a burlap sack of coins and bottles of prescription medicine from beside Schroeder's bed and headed back out of the house. Richards then shot Sheaks-Pombert again with the 12-gauge and stabbed her repeatedly with a hunting knife. Richards said he did this "to make sure she was dead and because he hated her." Richards then called for someone to pick him up and bragged to friends about the killings.

Pombert was a new caregiver, and was on the job less than a month. Schroeder and Pombert grew up and went to school together. Both were acquainted with Richards. When one of the Lake County detectives hit redial on the telephone next to the bed where Schroeder was found, he reached Richards at home. During a search of the home where Richards was staying, police found coins, a knife, 2 shotguns, money, pills and empty prescription bottles with Schroeders name on them. Following his arrest, Richards gave a complete confession and told police he went there to rob Schroeder.

**Request for LWOP Filed:** May 21, 2004**Conviction:** Murder, Murder

Guilty Plea by Plea Agreement filed August 23, 2004; DP withdrawn, all other Counts dismissed.

**Sentencing:** September 27, 2004 (LWOP, LWOP)**Aggravating Circumstances:** b (8) Multiple Murders**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.

**ROGERS, THOMAS LEE**

DOB: 12/09/1964 White Male DOC# 872945 Location: Indiana State Prison

Lake County Superior Court, Criminal Division 4 Judge James L. Clement  
**Trial Cause #:** 45G04-9502-CF-00056

**Defense:** PD Alex Woloshansky, James F. Stanton  
**Prosecutor:** Bernie Carter, Catherine Lake

**Date of Murder:** February 23, 1995

**Victim:** Virginia Cates W / F / 72 (No relationship)

**Method of Murder:** Thrown off interstate highway overpass

**Summary:** Thomas Lee Rogers, worked for his brother as an electrician's helper. On February 13 and 14, 1995, he was part of a crew of workmen rewiring the Merrillville home that 72 year old Virginia Cates had lived in for more than three decades. On February 23, 1995, defendant drove to Cates's home to acquire some money to buy drugs and alcohol. Merrillville police recorded a 911 call from her home at 6:31 p.m. Cates was unable to say anything during the call, and her home was empty when police arrived to investigate minutes later. By then, Rogers had taken \$50 from Cates's purse and forced her into the car he was driving. He then drove to a crowded overpass, and threw or pushed Cates's body onto the heavily traveled interstate highway below. Cates was still alive when she hit the pavement. Cates attempted to stand up, but two vehicles ran over her in rapid succession, killing her.

**Request for DP Filed:** May 8, 1995

**Conviction:** Murder, Criminal Confinement (Class B Felony)  
Mental Retardation Evaluation - IQ of 70, but able to adapt = found NOT retarded.  
Jury Trial February 5-9, 1996; Verdict: Guilty Murder, Felony Murder, Confinement (B Felony)  
DP Jury Trial February 10-19, 1996; Verdict: Recommend Death Penalty

**Sentencing:** April 26, 1996 (LWOP, merged, 10 years + 30 years for Habitual Offender)

Rogers was previously convicted of Burglary (Class B Felony) in the Jasper County Circuit Court, and on May 9, 1998 was sentenced to 6 years imprisonment. (37CO1-8801-CF-04). Rogers was previously convicted of Burglary (Class C Felony) in the Lake County Circuit Court, and on June 15, 1987 was sentenced to 2 years imprisonment. (4CR-28-287-111).

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** Mildly mentally retarded with an IQ of from 69 to 72  
May suffer from brain disturbances, from chronic alcoholism and drug abuse  
Adoptive parents were totally unequipped to deal with a retarded youngster

**DIRECT APPEAL:** Rogers v. State, 698 N.E.2d 1172 (Ind. September 8, 1998) (45S00-9608-CR-568)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Sullivan; Shepard, Dickson, Selby, Boehm concur.  
(Requiring clear and convincing proof of retardation does NOT deny due process)  
For Defendant: James F. Stanton, Crown Point  
For State: Preston W. Black, Deputy Attorney General (Modisett)

**PCR:** None.

**HABEAS:** None.

**ROUSE, DANNY RAY**

DOB: 05/05/1955 White Male DOC# 184602 Location: Indiana State Prison



Cass County Superior Court #2 Judge Richard A. Maughmer

**Trial Cause #:** 09D02-0611-MR-2**Defense:** Bradley A. Rozzi**Prosecutor:** Kevin S. Enyeart, Prosecuting Attorney, Randy Head, Deputy**Date of Murder:** October 31, 2006**Victim:** Stephanie Faye Wagner W / F / 16 (Co-worker)**Method of Murder:** Strangulation, Stabbing with knife

**Summary:** Danny Ray Rouse had been working as a dishwasher at the Indian Head Restaurant in Winamac for about two weeks. Stephanie Wagner (16) worked there as a waitress. Stephanie was being home-schooled toward a high school diploma. Both were working on a Tuesday night October 31, 2006. When their shift ended both left the restaurant at about 10:30 pm. Stephanie's family became concerned when she did not arrive home and desperately searched for her. They found her car a few miles from the Restaurant. Her purse was inside and her cell phone and shoes outside of the vehicle. They also found a pair of prescription sunglasses that they said didn't belong to her. The sunglasses were later identified as belonging to Rouse.

Police were notified and later an Amber Alert was issued. Investigators questioned other employees at the restaurant, including Rouse when he showed up for work the next day. Rouse told Deputies that both of them left at about the same time the night before. He pulled his car over and put the hood up on his car. Stephanie stopped to help him. Rouse said that a strange feeling came over him and he strangled her, then loaded her into his GEO Tracker and drove about a mile away. When he realized or thought she might not be dead, he stabbed her in the chest. Rouse drew a map and directed Officers to a cornfield about 12 miles southeast of the restaurant, where the body of Stephanie Wagner was recovered.

Rouse had been convicted of First Degree Murder in Kansas and was released from custody on parole just 8 months before Stephanie's murder. He had served 26 years for the slaying of a 5 year old boy, and the stabbing of his mother. Sedgwick County, Kansas, Case#: 79CR1880, Crime committed: October 28, 1979, Sentenced: June 12, 1980).

**Request for LWOP Filed:** October 29, 2007**Conviction:** MurderGuilty Plea by Plea Agreement filed October 30, 2007;  
DP not filed, Count II: Confinement dismissed**Sentencing:** December 14, 2007 (LWOP)**Aggravating Circumstances:** b (3) Lying in Wait

b (7) Previous Murder Conviction

b (9) On Parole

**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.

**RUSSELL, JERRY E., SR.**

DOB: 09/08/1962    White Male    DOC# 918733    Location: Pendleton Correctional Facility

Greene County Superior Court Judge J. David Holt

**Trial Cause #:** 28D01-9810-CF-624**Defense:** Barry S. Brown**Prosecutor:** David N. Powell, Prosecuting Attorney**Date of Murder:** August 18, 1995 (disappearance) to December 3, 1995 (remains discovered)**Victim:** Pamela Rae Foddrill W / F / 44 (No relationship to Long, Russell, Redman)

(Pamela was intellectually disabled. She had the mentality of a child and a teenager's appearance, standing 5 feet tall and weighing 100 pounds. She resided with her mother Irene in Linton, Indiana)

**Method of Murder:** Striking with baseball bat, Stabbing with knife**Summary:** On August 18, 1995, Pamela Foddrill left home and walked four blocks to the IGA grocery store. Because of her intellectual disability, it was only her third time going there alone. She walked out of the grocery store and was never seen alive again. It was later learned that she was forcibly abducted off the street into a gray van, beaten, transported to a nearby location and confined to a wooden shed for several days, compelled to engage in multiple acts of oral, anal, and vaginal intercourse, and brutally killed. On December 2, 1995, two hunters found her skeletal remains in a sleeping bag in a wooded area near Lawrenceville, Illinois, 45 miles southwest of Linton.

More than two years after her disappearance, police arrested Roger Leon Long (45) in October 1997 after two fellow jail inmates informed police that he confessed to killing Pamela. Police eventually arrested John Redman (41), Jerry E. Russell Sr.(36), and Wanda Sue Hubbell (36). Hubbell told police, and the jury at trial, that the group saw Pamela walking and convinced her to get into their vehicle. They took her to Redman's house, which was not far from Pamela's home. There, all four of them beat and repeatedly sexually assaulted Pamela over several days. When it was obvious to them that the victim could withstand no more she was murdered. The repeated striking of her head by a baseball bat and the repeated stabbings with a knife left no doubt that the death was intended. Even after her death the body of the victim was used in an effort to satisfy sexual lust. Her body was stored in a shed, then taken to Illinois and dumped.

The sister of Long revealed that she had loaned her van to Long in late August 1995. She identified from photos the sleeping bag as hers and that she had loaned it to Long as well. She also knew that Long sometimes camped in the area of Lawrence County, Illinois. No less than 3 women told police that Long admitted to them (before discovery) that Pamela's body could be found in Lawrence County, Illinois. In October 1997 Long took and failed a stipulated polygraph regarding the abduction and death of Pam Foddrill.

In May 1998 Plynia Fowler, the ex-wife of John Redman, told police that she had assisted Redman and Long in the abduction of Pam Foddrill, and did so because Redman had threatened to kill her son if she did not help to lure Pam towards the van. Long and Redman were inside, immediately put a rag in her mouth and bound her with a cord. She was then taken to a shed near Redman's house where they were joined by a third man. Later that night, Redman told her that "things got out of hand" and that she was killed with a baseball bat and her body dumped in Illinois.

**Request for LWOP Filed:****Conviction:** Conspiracy to Commit Murder (Class A Felony), Murder, Criminal Confinement (Class D Felony),

Criminal Deviate Conduct (Class B Felony)

Jury Trial October 1999; Verdict: Guilty all Counts

LWOP Jury Trial; Verdict: Recommend LWOP

**Sentencing:** November 12, 1999 (50 years, LWOP, 20 years, 50 years, consecutive)  
- On Direct appeal, sentence reduced to: 50 years, LWOP, 3 years, 20 years, consecutive.

Russell was previously convicted of Child Molesting (Class B Felony) in the Greene County Circuit Court, and on September 29, 1993 was sentenced to 6 years imprisonment. (28C01-9008-CF-43).

Accomplice Roger Leon Long (DOB: 04/05/1952) was convicted after a jury trial of Murder, Criminal Confinement, and Criminal Deviate Conduct in Green County Superior Court (28D01-9810-CF-624), and was sentenced to Life Without Parole. Long v. State, 743 N.E.2d 253 (Ind. March 9, 2001) - Affirmed.

Accomplice John A. Redman (DOB: 01-1957) was convicted of Murder, Conspiracy to Murder, Criminal Confinement, Criminal Deviate Conduct in Green County Superior Court (28D01-9805-CF-244), and on July 28, 1999 was sentenced to Life Without Parole. Redman v. State, 743 N.E.2d 263 (Ind. March 9, 2001) (28S00- 9909-CR-466) - Affirmed. Redman died in prison on January 4, 2019.

Accomplice Wanda Sue Hubbell (DOB: 03-1962) was convicted by plea agreement of Criminal Deviate Conduct (Class B Felony) in Green County Superior Court (28D01-9810-CF-628), and on January 27, 1999 was sentenced to 20 years imprisonment. She was discharged from IDOC on December 25, 2018.

Accomplice Plynia Fowler (DOB: 12-1963) was convicted by plea agreement of Criminal Confinement (Class B Felony) in Green County Superior Court (28D01-9902-CF-86), and on May 19, 1999 was sentenced to 10 years imprisonment. She was discharged from IDOC on February 9, 2003.

Long, Russell, and Redman each had prior felony Child Molesting convictions before this murder.

**Aggravating Circumstances:** b (1) Criminal Deviate Conduct  
b (9)(C) On Felony Probation for Theft  
b (11)(A) Tortured While Alive

**Mitigating Circumstances:** Limited education and mental deficiency  
Family history of neglect  
Participation in Bible correspondence courses and his intention to minister  
Expression of sorrow for the victim and the victim's family  
Help is needed to care for a disabled brother and his mother who is blind

**DIRECT APPEAL:** Russell v. State, 743 N.E.2d 269 (Ind. March 9, 2001) (28S00-9912-CR-692)  
Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Dickson, Shepard, Sullivan, Boehm, Rucker concur.  
(Criminal Confinement sentence reduced from B felony to D Felony;  
Criminal Deviate Conduct reduced from A Felony to B Felony - Otherwise affirmed)  
For Defendant: John Pinnow, Special Assistant to the State Public Defender  
For State: Christopher L. LaFuse, Deputy Attorney General (Freeman-Wilson)

**PCR:** (28D01-0305-PC-000286) Marc R. Kellams, Special Judge  
Defense: Lisa M. Johnson  
Prosecutor: Jarrod D. Holtsclaw, Keven W. McIntosh

09/16/2019 Joint Motion to Dismiss Petition for Post—Conviction Relief With Prejudice and Modify Sentence Granted. (Russell has agreed to have the court dismiss the PCR with prejudice and to waive future legal challenges to the validity of Russell's convictions (except for claims regarding double jeopardy violations). Russell does not waive his right to challenge the new sentence on appeal, his right to seek parole, or his right to seek clemency. The State has agreed to new sentencing hearing at which the court will: (1) decide if Russell is statutorily ineligible for LWOP due to mental retardation; (2) decide if there are any double jeopardy violations and correct any double jeopardy violations that are found; and (3) impose new sentence.

09/16/2019, 09/20/2019, 02/28/2020 Sentencing hearings were held; evidence received.

08/16/2021 New Sentencing Order entered; Finding that Defendant not intellectually disabled, and previous sentences entered by the trial court and the Indiana Supreme Court on Direct Appeal should not be disturbed: Count 1. Conspiracy to Commit Murder, Class A felony, fifty (50) years. Count 2. Murder, a felony, Life without Parole. Count 3. Criminal Confinement, Class D felony, three (3) years. Count 4. Criminal Deviate Conduct, Class B felony, twenty (20) years. The sentences shall all run consecutively. The Defendant is granted credit for the 388 days he served prior to the original sentencing.

**HABEAS:** None.

## **SALLEE, SAMUEL EARL**

DOB: 10/25/1957    White Male    DOC# 895789    Location: Wabash Valley Level 3 Facility

Bartholomew County Circuit Court Judge Stephen R. Heimann

**Trial Cause #:** 03C01-1312-MR-006529

**Defense:** Christopher L. Clerc. David A. Nowak

**Prosecutor:** William M. Nash, Prosecuting Attorney



**Date of Murder:** May 11, 2013

**Victims:** Katheryn M. Burton W / F / 53 (Acquaintances, Drug Buddies)

Thomas W. Smith W / M / 39

Aaron T. Cross W / M / 41

Shawn L. Burton W / M / 40

**Method of Murder:** Shooting with Handgun

**Summary:** In May 2013, Sallee was unemployed and was living with a former co-worker, Malcolm England, in Columbus, Indiana. England let Sallee stay with him on the condition that Sallee would assist England with work around the house. Sallee had to borrow money from his girlfriend, as well as England, in order to buy gasoline for his vehicle. Sallee was in possession of his son's .22 caliber rifle that could hold at least 12 rounds. He had used this rifle previously on his sister's property in Brown County.

On May 11, 2013, Sallee travelled to the home of Katheryn Burton in Waynesville, Indiana. Katheryn lived with her son, Daniel Burton, her boyfriend, Tommy Smith, and another relative, Shawn Burton. A neighbor, Aaron Cross, was visiting at the time of Sallee's visit. The Burton household used drugs—marijuana and methamphetamine. Tommy and Shawn would also cook meth, on occasion, with Katheryn's assistance. Sallee used meth and would sometimes purchase meth from them. At the time of this visit, Sallee was attempting to sell or trade the .22 caliber rifle to Tommy for drugs. Tommy declined. At approximately 3:30 p.m., Daniel left for work; Sallee was still at the Burton home at that time.

At approximately 10:30 p.m., Daniel was returning home from work. He called the house on his way home but received no answer. When he arrived home, he discovered the dead bodies of Tommy and Aaron in the living room. He also discovered that the door to his mother's bedroom was locked and he assumed she was also dead. He called 911. Tommy had been shot in the neck and head. Shawn was shot twice in the head. Aaron had been shot six times in the head, shoulder and chest. Katheryn had several knife wounds on her face, and she was shot in the head and stabbed in the back with a knife. The house was ransacked. Daniel gave police a list of items missing from his home that included: jewelry, a gold Nintendo bag used to store collectible magazines, a stash box containing Daniel's marijuana and Taco Bell service pins, copies of Led Zeppelin CDs with writing on them, a pellet gun, a crossbow and a compound bow.

The day after the murders, Sallee shaved his beard which he had worn for two years. He also washed his clothes, shoes and a pair of gloves. He cleaned England's toilet with bleach as well. He took his girlfriend to Walmart and bought over \$100 of paint, tools and other items, paying in cash. He then spent the day preparing to paint his truck in England's garage. Sallee's girlfriend had never heard Sallee talk about painting this truck before.

Sallee was arrested on an unrelated Brown County arrest warrant. Police found \$96 on Sallee at that time. When asked about the murders, Sallee admitted he was at home of the victims the day of the murders, but insisted he left and everyone was alive when he left. The police executed a search warrant for England's home and found the gun stock of the .22 rifle owned by Sallee's son that had been in Sallee's possession, another rifle, Katheryn's jewelry and Daniel's Taco Bell service pins. Later, England called police back to his home on three (3) occasions when he discovered other property from Daniel's home, including the wooden stash box, the Led Zeppelin CDs, the Zelda bag, the crossbow and the compound bow. Police also found Sallee's Walmart receipt, and they cut the insulation foam found in the box England threw in the trash, revealing the wallets of Tommy, Aaron and Shawn inside.

A jailhouse informant testified at trial that Sallee bragged to him about the murders, stating that he could not be prosecuted for them because the police did not have the gun, and he didn't leave any evidence. He further said that he didn't think the deaths would cause great concern because the victims were "drug dealers" and "dopers."

The State firearm expert opined that the .22 rifle possessed by Sallee would fit with the pieces found in England's garage and further, that the rifle would match the .22 caliber bullets removed from the victims. The expert also determined that four (4) of the casings police recovered at the murder scene and three (3) casings recovered in Brown County, where Sallee had previously used the .22, were once in the same gun.

**Request for LWOP Filed:** February 20, 2014

**Conviction:** Murder, Murder, Murder, Murder

Jury Trial February 16-26, 2016; Verdict: Guilty Murder (4 Counts)  
LWOP Jury Trial February 26, 2016; Verdict: Recommend LWOP

**Sentencing:** April 2, 2015 (LWOP, LWOP, LWOP, LWOP, consecutive)

Sallee was previously convicted of Intimidation (Class C Felony) in the Jennings Circuit Court and on November 2, 2005 was sentenced to 8 years imprisonment with 1 year suspended. (40C01-0409-FC-176).

Sallee was previously convicted of Battery (Class A Misdemeanor) and several OWI (Class D Felony) crimes in the Bartholomew County Superior Court and on September 22, 1989 was sentenced to 30 days, 1 month, 30 days, 1 year, 90 days, 30 days imprisonment.

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** Sallee v. State, 51 N.E.3d 130 (Ind. March 16, 2016) (03S00-1504-LW-00237)

Conviction Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by David; Rush, Dickson, Rucker, Massa concur.  
For Defendant: Jane Ann Noblitt, Columbus  
For State: Jesse R. Drum, Deputy Attorney General (Zoeller)

**PCR:** None.

**HABEAS:** None.

**SALYERS, FRANKIE ALLEN**

DOB: 06/29/1978    White Male    DOC# 148067    Location: Wabash Valley Level 4 Facility

Elkhart County Circuit Court Senior Judge Gene R. Duffin

**Trial Cause #:** 20C01-9812-CF-00082**Defense:** James D. Stevens, R. Brent Zook**Prosecutor:** Vicki E. Becker, Chief Deputy Prosecutor**Date of Murder:** December 11, 1998**Victim:** Goshen City Police Officer Thomas Edward Goodwin W / M / 31 (No relationship to Salyers)**Method of Murder:** Shooting with SKS Rifle

**Summary:** Goshen City Police Officer Thomas Goodwin was among the police officers who responded to a call reporting shots fired at a mobile home park on the morning of December 11, 1998. As the officers were securing the scene, a shot rang out, and Goodwin fell to the ground. Goodwin was taken to a hospital where he was pronounced dead as a result of a gunshot wound to the head.

Frankie Allen Salyers lived in the area where the shootings occurred and was identified as a suspect. Salyers was home while the rest of his family was at work. Salyers fired his brother's gun at people in the trailer park. When the police responded, Salyers fired at them and killed Officer Thomas Goodwin. When he was interrogated by police that afternoon, Salyers confessed to shooting the officer saying it was "something to do" and, eventually gave an explanation that amounted to an attempted "suicide by cop." He admitted that he possessed an SKS rifle, that he fired the rifle on December 11, 1998 at a police officer, that he was intending to kill the officer; and that he knew he hit the officer because he saw the officer fall.

Logansport State Hospital evaluated, treated, and confined Salyers for most of 5 years while awaiting trial, diagnosing Salyers with schizophrenia and borderline intellectual functioning, with delusions. Indiana FSSA petitioned to have Salyers civilly committed (20D03-9909-MH-00038), determining that he would not obtain competency in the foreseeable future and was gravely disabled. His attorneys and family asserted that he had been "huffing" gasoline for several years. When he was finally found competent in December 2004, he stipulated his competency for trial, and entered a plea of Guilty But Mentally Ill to the charges.

**Request for DP/LWOP filed:** December 31, 1998**Conviction:** Murder

Ruled Incompetent for 4-5 years awaiting trial

Plea of Guilty But Mentally Ill by Open Plea Agreement filed January 2005;

DP withdrawn, no additional charges

**Sentencing:** May 6, 2005 (LWOP)**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer

**Mitigating Circumstances:** Mental Illness, Brain Damage, Incompetent for 4-5 years awaiting trial  
Ability to appreciate the criminality of his conduct or to conform his conduct to the requirement of law was substantially impaired.  
Suicide by Cop  
No Criminal History  
Guilty Plea

**DIRECT APPEAL:** Salyers v. State, 862 N.E.2d 650 (Ind. March 13, 2007) (20S00-0509-CR-412)

Conviction Affirmed 5-0 LWOP Affirmed 4-1

Opinion by Boehm; Shepard, Dickson, Rucker concur.

Sullivan dissents with separate opinion.

(Would enter a term of years instead of LWOP due to very strong mitigators)

For Defendant: Gregory Paul Kauffman, South Bend

For State: George P. Sherman, Deputy Attorney General (S.Carter)

**PCR:** (20C01-1605-PC-000028)

Special Judge Kristine A. Osterday

For Defendant: Joanna Green and Mark S. Kosalke, Deputy State Public Defenders

For State: Vickie Becker, Prosecuting Attorney, and Laura Bird, Deputy

06/03/2016 Pro Se Petition for Post-Conviction Relief Filed

06/20/2016 State of Indiana by Chief DPA Vicki E. Becker, files State's Answer

03/28/2019 Amended Petition for Post-Conviction Relief Filed

04/10/2019 State's Answer filed

07/29-30/2021 PCR HEARING HELD: Cause coming on for continuation of evidentiary hearing.

Petitioner continues case in chief. Petitioner rests. State's Exhibits C, D, E, F, and G

are marked for identification and admitted into evidence. State rests. Petitioner to file

Findings of Fact and Conclusions of Law within 60 days. State will have 60 days to respond to same.

09/28/2021 Petitioner's Proposed Findings of Fact and Conclusions of Law filed.

11/29/2021 State's Proposed Findings of Fact and Conclusions of Law filed.

12/07/2021 Petitioner's Response to State's Proposed Findings of Fact and Conclusions of Law filed.  
PENDING.

**HABEAS:** None.

## **SATTERFIELD, ANDREW S.**

DOB: 09/21/1975 White Male DOC# 243850 Location: Wabash Valley Level 3 Facility

Pike County Circuit Court Judge Jeffrey L. Biesterveld

Trial Cause #: 63C01-1112-FB-00564



**Defense:** Douglas Walton

**Prosecutor:** Noah Schafer, Deputy Prosecutor

**Date of Murder:** December 8, 2011

**Victim:** Kathy Satterfield W / F / 58 (Mother)

**Method of Murder:** Shooting with firearm / Arson

**Summary:** Satterfield shot his mother, Kathy Satterfield, multiple times at their home located at 2515 West C.R. 350 North near Petersburg. In the early hours of December 8, 2011, he first shot her in their kitchen and kept shooting her as she fled into the bathroom. While she lay dying, Satterfield took a gasoline can and poured fuel around the house, locked the doors to the house, and lit it on fire. Satterfield stayed inside the house while it started burning, and he later claimed that his motive for starting the fire was to kill himself. But he changed his mind and decided to flee the house after sustaining serious burns. The fire destroyed much of his clothing; so, after escaping the inferno, he took off all his clothes except his underwear. Then, still wearing only his underwear

despite the freezing temperatures, he drove to a gas station, pumped gas, and left without paying. Several hours later, Satterfield sought medical help for his burns at Good Samaritan Hospital in Vincennes. Due to the severity of his burns, Good Samaritan Hospital soon transferred Satterfield to Wishard Hospital in Indianapolis. During treatment at each hospital, Satterfield spoke about the murder and fire with multiple detectives, admitting most of the above described actions.

**Request for LWOP Filed:** January 4, 2012

**Conviction:** Murder, Arson (Class B Felony), Attempted Arson (Class B Felony)  
Insanity defense  
Jury Trial November 19-21, 2013; Verdict: Guilty all Counts  
LWOP Jury Trial November 22, 2013; Verdict: Recommend LWOP

**Sentencing:** December 20, 2013 (LWOP, 20 years, Merged, concurrent)

**Aggravating Circumstances:** b (1) Arson

**Mitigating Circumstances:** Mental Illness

**DIRECT APPEAL:** Satterfield v. State, 33 N.E.3d 344 (Ind. June 26, 2015) (63S00-1401-LW-306)  
Conviction Affirmed 5-0 LWOP Affirmed 4-1  
Opinion by Rush; Dickson, Rucker, David, Massa concur.  
For Defendant: Michael C. Keating, Yvette M. LaPlante, Evansville  
For State: Henry A. Flores, Jr., Deputy Attorney General (Zoeller)

**PCR:** None.

**HABEAS:** None.

## **SCHLABACH, GERALD WAYNE**

DOB: 01/12/1968 White Male DOC# 964410 Location: Indiana State Prison

Elkhart County Circuit Court Judge Gene R. Duffin

**Trial Cause #:** 20C01-9607-CF-00035

**Defense:** Clifford R. Williams, PD

**Prosecutor:** Michael A Christofeno

**Date of Murder:** July 8, 1996

**Victim:** Brooke Renee Doriot W / F / 39 (No relationship)

**Method of Murder:** Stabbing with knife

**Summary:** Brooke Doriot, 39, a teacher at Goshen Middle School, was murdered on July 8, 1996 in her Bashor Road home by Gerald W. Schlabach, a homeless man. He cut through her screen door, unlocked the door and stabbed Doriot several times. Schlabach was arrested minutes later in the 600 block of Indiana Avenue, near to the Doriot home.

**Request for LWOP Filed:** August 12, 1996

**Conviction:** Murder

Guilty Plea by Plea Agreement filed August 12, 1996

(In exchange for Prosecuting Attorney not filing a request for the death penalty)

**Sentencing:** August 29, 1996 (LWOP)

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **SCOTT, AUSTIN BRYAN NELSON**

DOB: 10/25/1994      Mixed Male      DOC# 249727      Location: Wabash Valley Level 3 Facility

Harrison County Circuit Court Special Judge Vicki L. Carmichael

**Trial Cause #:** 31D01-1308-MR-000507



**Date of Murder:** August 3, 2013

**Victims:** Gary Henderson W / M / 70; Asenath Arnold W / F / 57 (No relationship)

**Method of Murder:** Stabbing with knife (Henderson); Beating with Singletree (Arnold)

**Summary:** Asenath Arnold was found dead in her Harrison County farm home on the morning of August 3, 2013. Arnold, a mostly-bedridden 57 year old woman, had been brutally beaten in her bedroom; her head was significantly disfigured, and blood was splattered on the walls and pooled underneath her bed. Gary Henderson, who slept in an upstairs bedroom in the same home, was also found dead with multiple stab wounds.

Later that day in adjacent Floyd County, New Albany police officers responded to a call about gun shots fired in a residential neighborhood. Police located Austin Scott and Kevin Schuler shortly thereafter and placed them under arrest. During questioning, Scott offered that he "killed a man last night" and that Schuler killed someone as well. Interrogators learned that Schuler and Scott were driving a four-wheeler early that morning and stopped at Arnold and Henderson's farmhouse to siphon gas from a tractor. Schuler knew the home because he had done work on the property a few years earlier. Schuler admitted to police that he followed Scott into the home where Scott pulled out a knife, went upstairs, and killed Henderson. The two took several items from the house including rifles and prescription medication but returned when Schuler realized he left his backpack at the scene. Schuler and Scott re-entered the home to see if they could find any more pills. At some point, Schuler found a singletree (a wooden bar normally used to hold horses together) on the property and carried it into the house.

Once Schuler and Scott were back in the house, Arnold called out to the intruders and started to emerge from her bedroom on the first floor. Schuler punched Arnold and she stumbled back to her bed. Schuler then took the singletree and struck Arnold on top of her head. Arnold prayed and pleaded with Schuler for her life. According to Scott, Schuler swung the singletree with two hands "like a sledgehammer," striking Arnold at least twice and as many as four times. Scott claimed that he stabbed Arnold in the area of her left eye with a steak knife he had obtained from the kitchen. He claimed that he did not want Ms. Arnold to suffer and said "I made sure it hit her brain." Although he couldn't be completely sure whether he or Scott killed Arnold, Schuler told police, "I'm almost positive I killed her." An autopsy determined Arnold died of multiple blunt force injuries and sharp force wounds to the head. Schuler and Scott took Arnold's rings and medication before leaving the home.

**Request for LWOP Filed:** January 14, 2014

**Conviction:** Murder, Felony Murder

Guilty Plea by Plea Agreement filed August 27, 2016; DP Withdrawn

**Sentencing:** September 6, 2016 (LWOP, LWOP)

Accomplice Kevin Andrew Schuler pled guilty pursuant to a Plea Agreement to Murder and Felony Murder in the Harrison County Superior Court (31D01-1308-MR-508), and on February 9, 2017 was sentenced by Special Judge Vicki L. Carmichael to LWOP (Murder of Arnold), and to 65 years imprisonment (Felony Murder of Henderson). Schuler died in prison on November 14, 2019.

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

### **SHANK, CRAIG NATHAN**

DOB: 10/26/1982    White Male    DOC# 161050    Location: Wabash Valley Level 3 Facility

Madison County Circuit Court #1 Judge Fredrick R. Spencer

**Trial Cause #:** 48C01-0603-MR-00111



**Defense:** John C. Reeder, Angela Warner Sims

**Prosecutor:** Rodney J. Cummings, Prosecuting Attorney

**Date of Murder:** March 19, 2006

**Victims:** Lynsey Schildmeier W / F / 20; Joshua S. Summitt W / M / 23 (Acquaintances of Shank)

**Method of Murder:** Stabbing/Slashing throat and neck

**Summary:** Sunday afternoon on March 19, 2006, firefighters found the bodies of Lynsey Schildmeier (20) and Joshua Summitt (23) in the burning Schildmeier home located at 217 E. 35th St. Firefighters were called to the two-story home just before 1 pm after a neighbor reported seeing smoke coming out of a vent. The fire department made entry into the house and discovered two victims inside the house. Resuscitation was not successful. The fire caused minimal damage and was mostly contained to a bedroom.

A responding police officer picked up the house phone and discovered a number in the caller ID. Upon calling she found it belonged to a Cheryl Shank of 1029 Rangeline Road. Police went to her home and as they were interviewing her, her son, Craig Shank, came home from his job as a meat cutter at Payless Super Market . He had a knife at his right side.

Shank was brought to the Anderson Police Department where under questioning he admitted to the murders. According to Shank, the night before he and Joshua Summitt went barhopping and ended up at IHOP, then went to the Schildmeier house. Once there, they used some cocaine and then got into a heated argument over the amount used. Summit came at him with a knife and he was able to deflect it. He then used a kitchen knife to stab Summit once in the throat and once more in the neck. Schildmeier, who was in the back bedroom, came out when she heard the noise. At knifepoint, he made her take a shower. He affirmed he raped her, but said his memory is sketchy or blocked. Then he stabbed her in the same way as Summit. He

left her body, naked, in the bathtub with the water running. Later DNA testing confirmed that he did have intercourse with her.

To make the killings look like a burglary, Shank ransacked the home and stole a collector's gun. He cleaned the knife and put it back in the kitchen drawer. He then torched the house, first by taking his lighted cigarette and throwing it into her bathroom, and by using a lighter on some papers in the living room and left the house.

**Request for LWOP Filed:**

**Conviction:** Murder, Murder

Guilty Plea by Plea Agreement filed September 7, 1996;  
Count I, Murder; Count II, Murder; Count III, Rape; Count IV, Arson; and Count VIII, LWOP  
Dismiss - Count V, Robbery; Count VI, Robbery; Count VII, Criminal Deviate Conduct  
Defendant shall be sentenced to Life Without Parole.

**Sentencing:** October 5, 2006 (LWOP, LWOP)

**Aggravating Circumstances:** b (1) Rape  
b (1) Arson  
b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**SHANNON, MICHAEL P.**

DOB: 01/28/1982    White Male    DOC# 988424    Location: Pendleton Correctional Facility

Marion County Superior Court Judge

**Trial Cause #:** 49G02-0109-CF-185104



**Defense:** Brent L. Westerfeld, Kay Beehler

**Prosecutor:** Carl Brizzi, Prosecuting Attorney, Barbara Crawford, Ralph Staples, Deputies

**Date of Murder:** September 17, 2001

**Victim:** Marion County Sheriff Deputy Jason Baker W / M / 24 (No relationship to Shannon)

**Method of Murder:** Shooting with Assault Rifle

**Summary:** Marion County Sheriff's Deputy Jason Matthew Baker, 24, was killed in a gun battle on Monday, September 17, 2001, that began during a chase and ended in a near-north side neighborhood. Prior to the shooting, Deputy Baker had been dispatched on a call to 46th Street and Emerson Avenue. While en route to the scene, he encountered a suspicious vehicle containing four young men and attempted to make a traffic stop of the vehicle at 52nd Street and Keystone Avenue at 7:19 pm. The driver of the 1983 Chevrolet Monte Carlo refused to stop, and a chase followed.

One of the four men jumped out of the car before the shooting started. As the car took off, a second suspect, later confessed to be Michael Shannon, fired an assault rifle through the back windshield of the car. The bullets shattered Deputy Baker's windshield and struck his car's engine. Under attack, Deputy Baker continued in pursuit, remaining calm, but issuing a radio call for assistance under the highest priority, saying "I've got glass in my face. I think I'm all right."

Deputy Lawrence Conley soon joined the pursuit, taking the lead, with Deputy Baker close behind. The pursuit turned from Keystone Avenue onto 32nd Street and north from 32nd into a residential area, onto Brouse Avenue. Residents in the area said shots were being fired as the cars raced through the neighborhood. Shannon emptied the clip on the assault rifle, reloaded, and fired again.

A witness told police she saw the Monte Carlo slow down after the turn onto Brouse Avenue, as if waiting for the pursuing squad cars to round the corner. Deputy Conley, in the first patrol car, turned wide. Deputy Baker turned sharp right into the field of fire, and was struck in the head by a shot from the assault rifle. Deputy Baker's car struck Deputy Conley's car from behind and traveled through the yards of two homes, coming to a stop against a third. The suspect car crashed into the back of a house on N. Baltimore Avenue, and the suspects scattered on foot.

By about 8:30 pm, dozens of Officers converged in the area around the 3300 block of Baltimore Avenue. A State Police helicopter was in the air to assist in the search, but was forced to break off the search when shots were fired at it. Armored cars and SWAT officers were also called to the scene.

The vehicle's driver, Allen Dumperth, and Shannon both were armed with high-powered assault rifles and continued their gunfire. They sustained that fire through the entire chase, until Shannon ran out of ammunition. Dumperth was shot and killed by members of the MCSD SWAT unit in a wooded area along Baltimore Avenue at about 3:30 Tuesday morning after pointing his weapon at the officers. Shannon eluded police for several additional hours, having been aided by a local resident, Anthony Carter, who let him stay in his home overnight. Shannon was apprehended at 6:30 am on Tuesday as Carter tried to drive him out of the area.

In addition to the two assault rifles, Dumperth's car was found to contain three ammunition magazines, smoke bombs, a bandoleer-style utility vest, a gas mask, binoculars, a compass and camouflage pants with shotgun shells in the pocket. Shannon was listed by the U.S. Army as a deserter.

**Request for DP Filed:** November 14, 2001

**Conviction:** Murder, Attempted Murder (Class A Felony), Attempted Murder (Class A Felony), Resisting Law Enforcement (Class A Misdemeanor)  
Guilty Plea by Plea Agreement at DP Trial filed on February 18, 2003; DP withdrawn

**Sentencing:** March 19, 2003 (LWOP, 50 years, 50 years, 1 year)  
(Consecutive 50-year sentences for the Attempted Murders of Deputy Lawrence Conley, and by-stander John Hagan, who survived, partially paralyzed, from a bullet to the head.)

Accomplice Anthony Carter was arrested for his involvement in helping Shannon evade police after the shooting. In May 2002, he pleaded guilty to Assisting a Criminal (Class C Felony) and was sentenced to two years in prison and two years' probation.

Accomplice Joshua Meadows was arrested for supplying the assault rifles used by Dumperth and Shannon. Meadows had purchased the SKS and AK-47 rifles for Dumperth, a convicted robber who could not legally purchase them himself. Found guilty by a jury in the Marion Superior Court of Possession of Firearm by Serious Violent Felon (Class B felony ) (2 Counts), and False Informing (Class B Misd), he was sentenced to 40 years imprisonment. (49G02-0109-CF-186492); Meadows v. State, 853 N.E.2d 1032 (Ind. App. 2006).

**Aggravating Circumstances:** b (6) Victim was Law Enforcement Officer

**Mitigating Circumstances:** mental health treatment as a teenager  
almost no criminal history

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**SHOLES, DAVID T.**

DOB: 12/03/1955    White Male    DOC# 973468    Location: Indiana State Prison

Wabash County Circuit Court Special Judge Thomas Hakes  
**Trial Cause #:** 85C01-9608-CF-000047**Defense:** Joe Keith Lewis, Bruce Elliot**Prosecutor:** Alfred H. Plummer, III, Prosecuting Attorney**Date of Murder:** April 6, 1996**Victims:** Charles E. Neal W / M / 56 (No relationship to Sholes)

John Swan II W / M / 18

Fred L. Griffith Jr. W / M / 46

**Method of Murder:** Shooting with firearm

**Summary:** In the early afternoon of April 6, 1996, David T. Sholes (41), a former drug and alcohol counselor, was driving his pick-up truck and pulling his fishing boat along a narrow, rural road near Wabash, Indiana. A passing motorcyclist hit the boat, causing Sholes to explode into a rage, then he pulled out a gun and started shooting. The motorcyclist was killed, and a stray bullet killed a person who lived nearby. Then Sholes shot two passing motorists, "good Samaritans" who stopped at the scene to see if anyone needed help. One was killed and the other hospitalized in critical condition. When police arrived at the scene, Sholes was pinned upside down in his truck, which he had driven into a telephone pole as he tried to flee the area. He was treated at Wabash County Hospital for minor injuries and released into the custody of officers. A witness who lives nearby said, "He pulled his gun out and started shooting. I got the hell back."

**Request for DP Filed:** January 7, 1997**Conviction:** Murder, Murder, Murder, Attempted Murder (Class A Felony) (James Mitchell)

Guilty Plea by Plea Agreement filed January 30, 1997

DP withdrawn, Agree to LWOP on Ct. I; Open Plea with Judge discretion on remaining Counts

**Sentencing:** March 7, 1997 (65 years, LWOP, 65 years, 50 years, consecutive)See, "Death by Lethal Subjection," by David T. Shoals at <https://deathbylethalsubjection.wordpress.com/>**Aggravating Circumstances:** b (8) Multiple Murders**Mitigating Circumstances:**

**DIRECT APPEAL:** Sholes v. State, 878 N.E.2d 1232 (Ind. January 9, 2008) (85S00-0612-CR-530)  
Conviction Affirmed 5-0   LWOP Affirmed 5-0  
Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.  
(Belated Appeal allowed by trial court - Where a plea agreement includes a defendant's agreement to a specific sentence (LWOP), such defendant may not challenge the sentence by means of a timely or belated direct appeal. For more than eight years from the date of his sentences in 1997 until 2006 when he sought permission to file this belated appeal, the defendant failed to challenge his term-of-years sentences on Counts I, III, and IV. The defendant failed to establish the diligence element required for permission to challenge his term-of-years sentences on Counts I, III, and IV. We dismiss the appeal.)  
For Defendant: Pro Se  
For State: Kelly A. Miklos, Deputy Attorney General (S.Carter)

**PCR:** Sholes v. State, Unpub., 720 N.E.2d 1281 (Ind. App. December 10, 1999) (85A04-9903-PC-113)  
Affirmed.  
Sholes v. State, 735 N.E.2d 229 (Ind. April 5, 2000) (Transfer denied)  
Sholes v. State, Unpub., 779 N.E.2d 981 (Ind. App. November 25, 2002) (85A02-0111-PC-740)  
Affirmed.  
Sholes v. State, 812 N.E.2d 800 (Ind. April 1, 2004) (Transfer denied)  
Sholes v. Indiana, 543 U.S. 882, 125 S. Ct. 180 (October 1, 2004) (Cert. denied)

**HABEAS:** None.

## **SHOUN, MICHAEL TODD**

DOB: 01/29/1987    Black Male    DOC# 121207    Location: Indiana State Prison

Elkhart County Circuit Court Judge Terry C. Shewmaker

**Trial Cause #:** 20C01-1311-MR-000007



**Defense:** Clifford R. Williams, Peter D. Todd, PD

**Prosecutor:** Vicki E. Becker, David L. Francisco, Deputy Prosecutors

**Date of Murder:** November 2, 2013

**Victim:** Tiana E. Alter B / F / 17 (Girlfriend)

**Method of Murder:** Stab/Slash/Cut with Knife

**Summary:** In November 2013, Michael Shoun (26) was dating Tiana Alter, who was 17 years old at that time. Shoun was approximately 8-9 years older than Alter and had been dating her since she was 13. Alter lived with Shoun's sister, Aeirel. Shoun was supposed to be residing in a work release facility as part of his sentence for a Class C Felony Habitual Traffic Offender conviction; however, Shoun was a fugitive from the facility and was staying in Alter's room at his sister's home. Both Alter and Shoun used synthetic drugs. Alter would fall into a deep sleep as a result of her drug use, while Shoun would become very paranoid as a result.

On November 2, 2013, several members of Shoun's family gathered at Aeirel's home for a small party, including Shoun's cousin, Michael Lewis. Aeirel was not home, and while Shoun and Alter were there, they spent most of the time in Alter's room with the door shut, apparently smoking synthetic marijuana. When Shoun came out of the bedroom, Lewis noticed blood on him. Lewis asked Shoun why he was bleeding and Shoun indicated that it was not his blood. Fearing something bad had happened, Lewis then asked to be let into the room. At about the same time, Aeirel returned home. Once let into the room, Shoun saw Alter rolled up inside carpet that had been pulled up from the floor. He saw and smelled a large amount of blood. He shook Alter's shoulder and called out her name, but she did not respond; she was cold to the touch. Shoun told Lewis he needed help to get rid of the body and then started talking about satellites, the devil and empires. Lewis told the others that Alter was dead and he and Aeirel decided to leave the home. Aeirel called 911 and reported that she believed her brother killed his girlfriend.

When police arrived at the home, they handcuffed Shoun. He told one of the officers "she's dead." They located Alter's body in her bedroom. Police arrested Shoun and placed him in a patrol car, where he was belligerent and argumentative. During a pat-down search, police recovered Alter's identification and a hand-rolled cigarette that Shoun said contained K2 (a synthetic marijuana) from Shoun's person. On the way to the station, Shoun sometimes made nonsensical statements such as quoting nursery rhymes. His behavior was sometimes lucid and cooperative and at other times argumentative and aggressive. He continued to make nonsensical statements.

Meanwhile, a crime scene investigator entered Alter's room, unrolled the carpet, noticed a large area of blood staining on the carpet and the floor and found Alter's body to have a large abdominal injury with her entrails showing. He found a knife blade under Alter's left arm, a knife handle and another knife nearby. Testing revealed Alter's DNA on both knives. The investigator also found three synthetic drug packages in the room, two of which were empty.

An autopsy revealed that parts of Alter's internal organs had been separated from their normal positions and entangled with her intestines. Her body had a large gaping wound over nine inches in length from the lower chest area to below the navel and multiple sharp force injuries to internal organs. Shoun inflicted so many cut and stab wounds to Alter's body that the forensic pathologist who completed her autopsy was unable to accurately count them. Shoun inflicted stab wounds to her stomach, rib cage, liver, diaphragm, kidneys, small and large intestines, pancreas, vena cava, and her aorta. Other injuries indicated that Shoun may also have strangled Alter. Nearly all of Alter's wounds displayed bleeding that indicated the heart was beating when the wounds were inflicted, and thus, a vast majority of Alter's wounds were inflicted while she was still alive. Alter had alcohol and synthetic marijuana in her system.

**Request for LWOP Filed:** September 25, 2014

**Conviction:** Murder

Pretrial Motion regarding intellectual disability/competency filed, then withdrawn after exams.

Jury Trial November 30-December 2, 2015; Verdict: Guilty of Murder

LWOP Jury Trial December 3, 2015; Verdict: Recommend LWOP

**Sentencing:** January 7, 2016 (LWOP)

**Aggravating Circumstances:** b (9) In Custody of Indiana DOC

b (11) Mutilated Murder Victim While Alive

**Mitigating Circumstances:** Mild intellectual disability  
Use of Controlled Substances

**DIRECT APPEAL:** None.

**PCR:** (20C01-1707-PC-000039 / 20C01-1311-MR-000007)

Judge Michael A. Christofeno

07/28/2017 Pro Se Petition for Post Conviction Relief filed

08/29/2017 State's Answer To Petition For Post-Conviction Relief

09/22/2017 Appearance filed by Deputy State Public Defender Kathleen Cleary

02/17/2022 Status Conference set.

**HABEAS:** None.

**SLATER, REGGION DION**

DOB: 12/18/1969    Black Male    DOC# 112650    Location: Indiana State Prison

Porter County Superior Court Judge Roger Bradford

**Trial Cause #:** 64D01-9911-CF-627**Defense:** Gary Germann, PD**Prosecutor:** James Douglas, Prosecuting Attorney**Date of Murder:** August 10, 1999**Victim:** Kathryn Elizabeth "Kate" Pokorny W// F / 18 (No relationship to Slater)**Method of Murder:** Shooting with .38 Handgun

**Summary:** On August 10, 1999, 18 year old Kathryn Pokorny worked as the night clerk at the Marathon Station convenience store located at U.S. Hwy #6 and Meridian Road in Porter County. She was just a few days away from starting her first semester at Purdue University and picked up the extra late shift because another employee recently quit. She closed the store at 10:30 that night, and signed for the doughnuts from the bakery delivery man at about 11pm. It is believed that she was killed shortly after that. Her body was found after a friend stopped by the convenience store at midnight, found the store open but with no one around, then called police. Pokorny was shot with a single bullet, either a .357 caliber or a .38 caliber round, in the back of her head. She was found partially clothed, and an autopsy showed no other marks on her body.

Reggion D. Slater (29) was working as the doughnut delivery man for American Bakery that night and made the delivery at the Marathon store. Two days before the murder, Slater was seen with a "shiny" .357 handgun. Retracing Slater's delivery route that night, police recovered a "shiny" .357 handgun and a bag of coins discarded along Highway #2, which was on the route. It is thought that both were tossed from the vehicle after the murder by Slater. Evidence unaccounted for includes the store surveillance system and VCR, the videocassette tape from that night, and Pokorny's car keys.

**Request for LWOP Filed:****Conviction:** Murder**Sentencing:** October 29, 2001 (LWOP)

Slater served 9 years in prison for two aggravated robberies in Arkansas and was paroled in 1998.

**Aggravating Circumstances:** b (1) Robbery**Mitigating Circumstances:****DIRECT APPEAL:** None.**PCR:** None.**HABEAS:** None.

**SMALLWOOD, HOWARD J.**

DOB: 06/24/1963 Black Male DOC# 900079 Location: Pendleton Correctional Facility

St. Joseph County Superior Court #2 Judge John M. Marnocha

**Trial Cause #:** 71D01-0003-CF-000146**Defense:** Neil Wiseman**Prosecutor:****Date of Murder:** March 2000**Victim:** Lamarr Ferguson B / M / 12 (No relationship)**Method of Murder:** Shooting with handgun

**Summary:** Smallwood and his accomplices broke into a residence seeking to kill a witness set to testify at trial in a criminal case against a relative of Smallwood. Upon entering, the defendant and a cohort fired five times into a person sleeping on the couch without confirming the identity of the victim. After firing two shots the defendant's gun jammed, the other man fired twice, and then the defendant was able to fire another shot into the victim. In actuality, the sleeping person was not the intended victim but a twelve-year-old boy. The defendant has a long history of both juvenile and adult criminal behavior. At the sentencing hearing, the State offered the depositions of Smallwood's four accomplices to establish a factual basis for Murder and LWOP aggravator.

**Request for DP Filed:** DP Request Withdrawn April 12, 2000**Conviction:** Murder

Guilty Plea by Plea Agreement filed two days before trial.

Plead Guilty to Murder; Dismiss Felony Murder, Conspiracy to Commit Murder, Burglary

Admit LWOP Aggravator, but Court discretion whether LWOP or Term of Years

Dismiss all Counts in 71D04-0106-DF-00560 and 71D02-0002-CF- 00089

**Sentencing:** November 1, 2001 (LWOP)

Motion to Withdraw Guilty Plea at Sentencing denied.

Smallwood was previously convicted of Dealing in Cocaine (Class B felony) and Driving While Suspended (Class D Felony) in the St. Joseph County Circuit Court, and on December 20, 1989 was sentenced to 10+ 2 years imprisonment in Case #26723.

**Aggravating Circumstances:** b (1) Burglary**Mitigating Circumstances:** Learning disability; borderline intellectual functioning; Low normal IQ

Mental Retardation; Diminished mental capacity

Suffers from post traumatic distress disorder.

Intoxication

Antisocial personality disorder

**DIRECT APPEAL:** Smallwood v. State, 773 N.E.2d 259 (Ind. August 16, 2002) (71S00-0112-CR-653)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.

(No abuse of discretion in denying defendant's request to withdraw his guilty plea)

For Defendant: Gregory L. Lewis, Deputy Public Defender (Carpenter)

For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

**PCR:** (71D02-1706-PC-000023)  
St. Joseph County Superior Court Judge John M. Marnocha

Smallwood v. State, Unpub., (Ind. App. October 20, 2010) (71A05-1001-PC-1)  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Vaidik; May, Robb concur.  
(Trial counsel not ineffective for failure to pursue mental retardation finding; Guilty Plea was voluntary, knowing, and intelligent; Use of accomplice Depositions at Sentencing not error)  
For Defendant: Pro Se  
For State: Monika Prekopa Talbot, Deputy Attorney General (Zoeller)  
Smallwood v. State, 2011 Ind. LEXIS 481 (Ind., June 3, 2011) (Transfer denied)

12/05/2014 Indiana Court of Appeals denied request to file Successive PCR  
06/19/2017 Defendant filed Successive PCR; Dismissed as Successive PCR

**HABEAS:** None.

**§1983:** Smallwood v. Williams, (S.D. Ind. Sep. 30, 2021) (1:20-cv-00404-JPH-DML)  
United States District Court for the Southern District of Indiana, Indianapolis Division  
Judges: James Patrick Hanlon  
(Suit for damages against Correctional Officers and Doctors at Pendleton Correctional Facility for providing inadequate medical care, and by denying him the right to refuse a blood draw, using excessive force against him, and sexually assaulting him - Summary Judgment granted for all defendants for failure to exhaust administrative remedies)

## **SOTELO, JOSEPH STEPHEN**

DOB: 02/19/1974 Hispanic Male DOC# 946008 Location: Indiana State Prison

Lake County Superior Court, Criminal Division 2 Judge James Letsinger, Judge Clarence D. Murray  
**Trial Cause #:** 45G02-9404-CF-000102

**Defense:** Thomas W. Vanes, Gonzalez

**Prosecutor:** John J. Burke, Deputy Prosecutor

**Date of Murder:** April 14, 1993

**Victims:** Angelo R. Munari W / M / 72 (No relationship)  
Joseph Panchisin W / M / 59 (Former employer of Sotelo)

**Method of Murder:** Stabbing with knife / Beating with kickstand

**Summary:** Joseph Stephen Sotelo (20) was a former employee and bicycle assembler at the Pla-Time Bicycle Shop in Hammond. On the afternoon of April 14, 1993 he returned to the shop, armed with a knife he brought from home, with intent to rob the store where he once worked. Upon entering, he directed the store owner, Joseph Panchisin (57), to the cash register. Panchisin opened it up and ran from behind the counter for the door. Sotelo caught him and repeatedly stabbed him near to the front door, where he collapsed. A customer then walked in on the attack. That customer was 72 year old decorated war veteran, Angelo Munari. Sotelo immediately attacked Munari, striking him with a nearby bicycle kickstand and stabbing him. He then beat Panchisin with the kickstand, grabbed \$40 from the cash register, and fled on his mountain bike he had parked outside. Both men died from their wounds.

Police would later question Sotelo two hours after the murders since he had visited the Bicycle Shop earlier in the day. Without describing any real motive for the killings, Sotelo confessed to the police that he had panicked during the above described events. He discarded the bloodstained currency and the 6" knife he used to stab both men on the way home in an alley.

Sotelo became one of the first murderers in the state of Indiana to receive a Life Without Parole sentence, first enacted by the Legislature in 1993.

**Request for DP Filed:** May 9, 1994

**Conviction:** Murder, Murder, Felony Murder, Felony Murder  
Guilty Plea by Plea Agreement filed September 26, 1994; DP Withdrawn

**Sentencing:** October 21, 1994 (LWOP, LWOP)

**Aggravating Circumstances:** b (1) Robbery  
b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **STEPHENSON, CHARLES ROBERT**

DOB: 10/04/1953    White Male    DOC# 233024    Location: Indiana State Prison



Dearborn County Circuit Court Judge James Humphrey

**Trial Cause #:** 15C01-1205-MR-000001

**Defense:** Gary W. Sorge, Jeffrey L. Sharp

**Prosecutor:** Frank Aaron Negangard

**Date of Murder:** March 29, 2012

**Victim:** Leigh Jennings W / F / 67 ("Friend")

**Method of Murder:** Striking with Skillet / Blunt force head trauma

**Summary:** Leigh Jennings was found brutally bludgeoned to death in her kitchen. She died from blunt force head trauma, and her injuries were consistent with blows from the cast iron skillet and pepper mill found hanging in her pantry with blood drips on the wall behind. Calculated from her body decomposition rate, March 29, 2012, was the probable date of death.

Jennings was a 67-year-old woman who eschewed modern medicine, distrusted banks, and was suspicious of the government. She kept cash at her house in two safes. Both safes were closed, but no money was found there or elsewhere in her home except for a twenty dollar bill in the kitchen and some change in a jar. One of Jennings's safes contained two handwritten promissory notes signed by the defendant for loans totaling \$5,000 made in October and December of 2011. On past occasions when the defendant had borrowed money from Jennings, he would stay in the front of her house and she would return from a back bedroom with various denominations of twenties and hundreds, which the defendant suspected came from a safe.

Police discovered at the murder scene a Papa John's pizza box in Jennings's kitchen labeled with the names of Jennings and the defendant. Jennings had called the defendant on March 29 at 6:55 pm and then telephoned Papa John's Pizza at 7:09 pm. Several text messages were exchanged between the defendant and Jennings until March 29. The defendant's vehicle was seen at Jennings's home on March 29.

The defendant was deeply in debt and several of his creditors were threatening imminent legal action absent immediate repayment. Personally confronted by an attorney for one lender demanding payment for a bounced check by March 28, 2012, the defendant had sought a two-day extension for repayment until March 30. On Friday morning of that date, the defendant delivered a one thousand dollar money order to the attorney for the lender. When questioned

about the source of the money, the defendant said that he had borrowed it from his friend John Rittenour, who denied loaning defendant the money.

On May 9, police discovered the defendant on his bed, covered in blood from an apparent suicide attempt. The defendant had left a suicide note written to his son, emphasizing his financial distress and declaring that he had nothing to do with Jennings's murder. A few days later, it was determined that the defendant's DNA was on the pepper grinder and that he could not be excluded from the DNA found on the skillet. Jennings's blood was found on documents inside her back bedroom safe, and the defendant's fingerprint was found on a promissory note inside another safe.

**Request for LWOP Filed:** April 15, 2013

**Conviction:** Murder

Jury Trial May 6-21, 2013; Verdict: Guilty Count I: Murder, and Count II: Robbery (Felony)  
LWOP Jury Trial May 22, 2013; Verdict: Recommend LWOP

**Sentencing:** July 2, 2013 (LWOP)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**DIRECT APPEAL:** Stephenson v. State, 29 N.E.3d 111 (Ind. April 23, 2015) (15S00-1401-LW-40)

Conviction Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Dickson; Rush, Rucker, David, Massa concur.

(Evidence sufficient to prove Robbery and Aggravator committing intentional murder  
“while” committing Robbery; Evidence of Defendant’s suicide attempt admissible)

For Defendant: Leanna K. Weissmann, Lawrenceburg

For State: Brian L. Reitz, Deputy Attorney General (Zoeller),  
Lynn M. Deddens, Dearborn County Deputy Prosecutor

**PCR:** (15C01-1602-PC-000004)

Dearborn County Circuit Court Judge James Humphrey

For Defendant: Pro Se

For State: Lynn M. Deddens, Dearborn County Deputy Prosecutor

02/22/2016 Petition for Post-Conviction Relief filed

02/24/2016 Order Appointing State Public Defender

03/18/2016 Appearance by Steven Schutte. Notice of Present Inability to Investigate.

03/21/2016 Order staying proceedings

05/16/2018 States Answer filed

05/13/2019 State PD Motion to Withdraw and Request for Court to honor pro-se filings

03/23/2020 Pro se Motion to Withdraw Petition for post-conviction relief without prejudice

03/26/2020 Motion Granted.

(15C01-2007-PC-000007)

Dearborn County Circuit Court Judge James Humphrey

For Defendant: Pro Se

For State: Lynn M. Deddens, Dearborn County Deputy Prosecutor

07/20/2020 Petition for Post-Conviction Relief Filed

08/14/2020 States Answer to PCR Petition filed

05/21/2021 PCR Hearing continued to December 21, 2021. “No further continuances shall be granted.”

12/21/2021 Petitioner’s Motion to Continue granted. PCR Hearing now set for June 2, 2022.

**HABEAS:** None.

## STEVENS, CHRISTOPHER M.

OFF DEATH ROW SINCE 06-18-07

DOB: 09/2/1972 DOC#: 952131 White Male Location: Miami Correctional Level 3 Facility

Tippecanoe County Superior Court  
Judge George J. Heid  
Venued from Putnam County

**Trial Cause #:** 67C01-9307-CF-52 (Putnam County)  
79DO2-9402-CF-24 (Tippecanoe County)

**Prosecutor:** Robert J. Lowe, Anne M. Flannelly, Delbert H. Brewer

**Defense:** Robert V. Clutter, Jeffrey A. Baldwin



Last Name  
**STEVENS**



First Name  
**CHRISTOPHER**

**Date of Murder:** July 15, 1993

**Victim(s):** Zachary Snider W / M / 10 (Neighbor of Stevens)

**Method of Murder:** Strangling, Smothering

**Summary:** Stevens was convicted of Child Molesting in Marion County in February 1993 and received a 4 year sentence with 3 years suspended and probated. His probation was transferred to Cloverdale, where he returned to live with his father. Apparently, none of his new neighbors were aware of his criminal past. Zachary Snider, age 10, lived in the same subdivision and was often seen in the company of the 20 year old Stevens. Stevens attended and videotaped one of Zachary's little league baseball games. Zachary's father eventually warned Stevens to stay away from his son when he learned that Stevens had taken the boy fishing. A month later, Zachary turned up missing one afternoon. He was last seen at a young friend's home, who was told by Zachary that he was going to Stevens' home. In the midst of a massive local search for Zachary, Stevens' brother reported to police that Stevens had confessed to him that he murdered Zachary. He then directed police to a remote location near a bridge, where Zachary's body and bicycle were recovered. Stevens was arrested and gave a complete confession. He claimed that he had been having sex with Zachary for 2 or 3 months. When Zachary came over to his house, they performed oral sex in Stevens' room. Zachary threatened to tell his parents about having sex and Stevens decided he did not want to go through what he went through in Marion County. Stevens smothered Zachary with a pillow, then strangled him with an electrical cord around his neck. When Zachary continued to gasp, Stevens got a plastic garbage bag and wrapped it over his head. He then put Zachary and his bicycle in the car, drove to a bridge in a remote area, and threw them both over. He returned the next morning, fearing that police would connect him to the trash bag, removed it from Zachary's head, and threw it out along the highway on the way home. A similar bag was recovered by police in the area described by Stevens. Stevens later admitted to psychologists that he had molested 25-30 children, and had ejaculated on Zachary when he killed him. The psychologists concluded that he was a benign pedophile and was a serious danger to society. (This case later resulted in Zachary's Law, IC 5-2-12, establishing Indiana Sex Offender Registry)

**Trial:** Information/PC for Murder and Death Penalty Filed (07-22-93); Death Sentence Request Filed (07-30-93); Venued to Tippecanoe Superior Court II (02-14-94); Voir Dire (01-30-95, 01-31-95, 02-01-95, 02-03-95); Jury Trial (02-06-95, 02-07-95, 02-08-95, 02-09-95); Verdict (02-09-95); DP Trial (02-09-95, 02-10-95, 02-13-95, 02-14-95, 02-15-95); DP Verdict (02-15-95); Court Sentencing (03-14-95).

**Conviction:** Murder

**Sentencing:** March 14, 1995 (Death Sentence)

**Aggravating Circumstances:** b (1) Child Molesting  
b (12) Victim less than 12 years of age  
b (9) On Probation

**Mitigating Circumstances:** confession to Police  
20 years old at murder  
parents divorced when he was a child  
father jailed for molesting his stepsister  
mother jailed for drug dealing  
mental health treatment for depression in 1992  
average intelligence with good insight  
manipulative, shallow, poor impulse control

**Direct Appeal:** Stevens v. State, 691 N.E.2d 412 (Ind. December 31, 1997) (79S00-9507-DP-828)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Brent L. Westerfeld, Jeffrey A. Baldwin, Indianapolis  
For State: Geoff Davis, Deputy Attorney General (Modisett)  
Stevens v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

**PCR:** PCR Petition filed 12-02-98. Amended PCR Petition filed 04-16-99, 07-22-99)  
Answer filed 02-04-99.  
PCR Hearing held 08-30-99; PCR denied 09-14-99.  
Stevens v. State, 770 N.E.2d 739 (Ind. June 26, 2002) (79S00-9804-PD-00250)  
(Appeal of PCR denial by Tippecanoe County Superior Court Judge George J. Heid)  
Conviction and Sentence Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Thomas C. Hinesley, Barbara S. Blackman, Deputy Public Defender (Carpenter)  
For State: Andrew L. Hedges, Deputy Attorney General (Freeman-Wilson)  
Stevens v. Indiana, 124 S.Ct. 69 (2003) (Cert. denied)

**Habeas:** 01-17-03 Notice of Intent to File Petition for Writ of Habeas Corpus; Motion for Stay  
11-03-88 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Christopher M. Stevens v. Daniel McBride, Superintendent (4:03-CV-00005-AS)  
Judge Allen Sharp  
For Defendant: Alan Rossman, Cleveland, OH, Kathy Lea Stinton-Glen, Zionsville, IN  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

06-15-04 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-17-04 Motion to Dismiss by Stevens  
01-13-05 Writ of Habeas Corpus denied.  
02-18-05 Certificate of Appealability granted.  
Stevens v. McBride, \_\_\_ F.Supp.2d \_\_\_ (N.D. Ind. January 13, 2005)  
U.S. District Judge Allen Sharp, Northern District of Indiana, denied the Petition for Writ of Habeas Corpus, rejecting claims of ineffective assistance of trial and appellate counsel.

Stevens v. McBride, 489 F.3d 883 (7th Cir. June 18, 2007) (05-1442)  
Opinion by Judge Kenneth F. Ripple Granting Writ of Habeas Corpus as to Death Sentence only, holding that investigation and presentation of expert psychological testimony at his penalty trial amounted to ineffective assistance of counsel; Judge Diane P. Wood concurs and would grant Writ as to both conviction and sentence; Judge Daniel A. Manion dissents and would grant Writ on neither.  
For Defendant: Kathy Lea Stinton-Glen, Zionsville, IN  
For State: James B. Martin, Deputy Attorney General (S.Carter)

("The case is remanded with instructions to issue a conditional writ of habeas corpus that sets aside the sentence of capital punishment unless, within 120 days, the State affords Stevens another penalty hearing.")

Stevens v. Buss, 128 S.Ct. 2423 (May 12, 2008) (Cert. Denied).

Buss v. Stevens, 128 S.Ct. 2429 (May 12, 2008) (Cert. Denied).

**On Remand:** On December 14, 2009, Stevens entered a guilty plea pursuant to a plea agreement and was sentenced by Tippecanoe County Superior Court #2 Judge Thomas H. Busch to Life Without Parole.

For State: Tim Bookwalter, Prosecuting Attorney

For Defense: Jessie Cook

- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **STOCKELMAN, ANTHONY RAY**

DOB: 11/16/1966    White Male    DOC# 159336    Location: Indiana State Prison



Jackson County Circuit Court Judge William E. Vance

Trial Cause #: 36C01-0505-MR-000002

**Defense:** James R. Kilburn, Brian R Chastain

**Prosecutor:** Stephen Pierson, Jackson County Prosecutor

**Date of Murder:** January 25, 2005

**Victim:** Katlyn Maria Collman W / F / 10 (No relationship)

**Method of Murder:** Drowning

**Summary:** Katie Collman left her home in Crothersville, Indiana at about 3 p.m. on January 25, 2005, to run an errand for her mother to the local Dollar General Store. She was never seen alive again. The State Police discovered her body five days later in a creek near Cypress Lake. Her hands and feet were tied, she had been sexually assaulted, and her cause of death was drowning. The State Police Laboratory matched Stockelman's DNA to swabs taken from the victim's body, to cigarette butts at the crime scene, and to red carpet fibers taken from her body and from the carpet in the home of Stockelman's mother. A local witness had also seen the victim riding in a Ford truck that matched Stockelman's.

Investigators interviewed Stockelman soon after Katie disappeared because he matched the description of a man seen with her that day. Police dismissed him as a suspect when a lie detector test was inconclusive and another man confessed. Charles "Chuckie" Hickman told police he killed the girl after she discovered their methamphetamine operation. Police and prosecutors later dismissed Hickman's confession as false after Indiana State Police linked Stockelman to Katie's death through DNA evidence. It is unknown why Hickman confessed to a crime he did not commit.

An inmate accused of tattooing his slain 10-year-old cousin's name onto her convicted killer's forehead in prison testified that the man submitted to avoid further abuse. "I told him if he would allow me to place this tattoo on his forehead, everything would be taken care of and he wouldn't have to worry about any future attacks," Jared Harris testified. When I brought this idea up to him, he agreed to it." Harris, 22, a cousin of Katlyn "Katie" Collman, is serving time for burglary at Wabash Valley Correctional Complex in Carlisle, the same prison where her killer, Anthony Ray Stockelman is being held. Harris was charged with battery for tattooing "KATIE'S REVENGE" across Stockelman's forehead in September 2006, and had seven years added to his sentence for breaking prison rules because of the incident.

**Request for DP Filed:** May 26, 2005

**Request for LWOP Filed:** March 24, 2006

**Conviction:** Murder, Child Molesting (Class A Felony)

Guilty Plea entered March 24, 2006 pursuant to Plea Agreement

DP Withdrawn, Criminal Confinement dismissed; Agree to LWOP Bench Trial

**Sentencing:** April 20, 2006 (LWOP, 30 years, consecutive)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age

**Mitigating Circumstances:** No significant history of prior criminal conduct

Under the influence of extreme mental or emotional disturbance

Father recently died after long sickness

Guilty Plea

Incarceration will impose a significant hardship on his two sons, 6 and 13

**DIRECT APPEAL:** Stockelman v. State, 868 N.E.2d 416 (Ind. June 20, 2007) (36S00-0608-CR-285)

Conviction Affirmed 5-0 DP Affirmed 5-0

Opinion by Shepard, Sullivan, Boehm, Rucker concur.

Dickson concurs in result with separate opinion.

For Defendant: Dustin Houchin, Salem

For State: J.T. Whitehead, Deputy Attorney General (S. Carter)

**PCR:** (36C01-0505-MR-000002)

10/16/2007 Petition for Post Conviction Relief filed Pro se. Copy to Prosecutor, State Public Defender.

12/06/2007 Laura Volk, Deputy State Public Defender, files an appearance

Notice of Present Inability To Proceed And Motion To Stay Proceedings filed.

11/21/2011 State's Answer To Petition For Post-Conviction Relief filed.

10/25/2012 Notice Of Withdrawal Of Appearance and Certification filed by Laura L. Volk.

10/01/2018 Correspondence to/from Court Filed

**HABEAS:** None.

## **STROMINGER, RAYMOND**

DOB: 02/23/1967 White Male DOC# 160814 Location: Indiana State Prison

Marion County Superior Court Judge Grant W. Hawkins

**Trial Cause #:** 49G05-0604-MR-072852



**Defense:** Kevin McShane

**Prosecutor:** Mark Hollingsworth, Carl Brizzi

**Date of Murder:** April 21, 2006

**Victims:** Angelic Sanders B / F / 29 (ex-girlfriend)

Delores Taylor B / F / 54 (her mother)

Martin Joseph Richardson B / M / 28 (her new boyfriend)

**Method of Murder:** Cutting throat of Sanders; Shooting Richardson and Taylor with handgun

**Summary:** On April 21, 2006 Raymond Strominger drank a fifth of whiskey and in a jealous rage killed his ex-girlfriend, Angelic Sanders (29), her new boyfriend, Martin Richardson (28), and Sanders' mother, Delores Taylor (54). Sanders was killed by a knife to the throat, and her mother and boyfriend by two gunshots each. Sanders' son, Kobe (7), was bound with duct tape in the house on the west side of Indianapolis and left in the house for more than a day before discovery of the bodies. He survived after witnessing the murders. Strominger surfaced Monday, April 24 in a Pennsylvania hotel after suffering a seizure and possible heart attack that followed a suicide attempt with prescription drugs. He appeared for his Initial Hearing wheeled into the courtroom on a hospital gurney by jail officers.

Sanders had broken off a relationship with Strominger some time ago, but he was obsessed with her. He was stalking her recently and she obtained a Protective Order which is still active. Police believe Strominger broke into the house through the back door, tied up the victims using plastic cuff ties and duct tape and then used several weapons to kill them. Strominger was described as a white male, six foot two inches in height, weighing between 350 and 400 pounds. He was last seen driving a Ford F-150 pickup truck.

**Request for LWOP Filed:** September 8, 2006

**Conviction:** Murder, Murder, Murder

Guilty Plea by Plea Agreement filed September 8, 2006;

Dismiss Counts 4-10: Murder, Burglary, Confinement (4 Counts), Robbery

**Sentencing:** September 8, 2006 (LWOP, LWOP, LWOP, consecutive)

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

**OTHER:** Strominger, who is confined to a wheelchair, weighs 350+ pounds, and is unable to walk, has filed numerous pro se civil lawsuits against IDOC, Corrections Officers and other officials at Wabash Valley, Pendleton Correctional, and Indiana State Prison, alleging improper and inadequate medical care, physical abuse, and violations of the Americans with Disabilities Act. None have yet been successful.

Strominger v. Lang, 119 N.E.3d 237 (Ind. Ct. App. 2018)

Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Nov. 1, 2013)

Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Nov. 14, 2013)

Strominger v. Brock, No. 2:10-cv-00158-LJM-DKL (S.D. Ind. Jan. 23, 2014)

Strominger v. Brock, 592 F. App'x 508 (7th Cir. 2014)

Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. June 2, 2014)

Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Oct. 22, 2014)

Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Feb. 6, 2015)

Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Mar. 26, 2015)

Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-DML (S.D. Ind. Dec. 28, 2015)

Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-DML (S.D. Ind. Jan. 27, 2016)

Strominger v. Wilson, No. 1:16-cv-00253-TWP-MJD (S.D. Ind. June 7, 2016)

Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-MPB (S.D. Ind. Oct. 11, 2016)

Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-MPB (S.D. Ind. Sep. 25, 2017)

Strominger v. Neal, No. 3:20-CV-266-RLM-MGG (N.D. Ind. Aug. 28, 2020)

Strominger v. Neal, No. 3:20-CV-266-RLM-MGG (N.D. Ind. Dec. 7, 2020)

Strominger v. Ind. Dep't of Corr., No. 3:20-CV-1014-JD-MGG (N.D. Ind. Apr. 8, 2021)

Strominger v. Ind. Dep't of Corr., No. 3:20-CV-1014-JD-MGG (N.D. Ind. Apr. 8, 2021)

Strominger v. Neal, No. 3:20-CV-266-RLM-MGG (N.D. Ind. Apr. 8, 2021)

## STROUD, PHILLIP ANDREW

OFF DEATH ROW SINCE 05-25-04

DOB: 12-30-78 DOC#: 932249 Black Male Location: Pendleton Correctional Facility

St. Joseph County Superior Court #4 Judge William T. Means

**Trial Cause #:** 71D04-0009-CF-00434

**Prosecutor:** John M. Maciejczyk, Michael J. Tuszynski

**Defense:** Philip Skodinski, James F. Korpal

**Date of Murder:** September 14, 2000



**Victims:** Wayne Shumaker W / M / 59; Corby Myers W / M / 30;  
Lynn Ganger W / M / 54 (No relationship to Stroud)

**Method of Murder:** shooting with .9 mm handgun

**Summary:** Wayne Shumaker, Corby Myers, and Lynn Ganger were building a loft in a pole barn at an upscale home in Lakeville, Indiana when Stroud and 3 men from Detroit (Wade, Carter and Seabrooks) came to burglarize the house. After one of the workers came out of the barn, Stroud decided they needed to be killed because he may have seen the license plate on their car. Instead of fleeing the scene, they went to the barn, where Stroud ordered the men tied up and robbed. Stroud then shot each victim in the head with a Tech .9 mm semiautomatic handgun. Stroud and accomplices then returned to the home to finish the burglary. In statements later given to police, Stroud claimed that his only role was as a lookout and that he was not involved in the killings. Another accomplice, Ronald Carter of Detroit, testified that Stroud was the shooter, as did 2 friends of Stroud who said Stroud admitted to them he shot the workmen. The men were told about the house, the valuables in it, and how to bypass the burglar alarm in order to get in, by 18 year old Charity Lynn Payne, who had once dated a member of the family. Payne cooperated by testifying at trial and later received 151 years imprisonment. Wade received 55 years and Carter 45 years. DNA from dog feces found outside the house matched the DNA in feces on the Nike athletic shoes police took from the apartment of Stroud's girlfriend.

At the time of the murders, Stroud was released on bail for charges of Dealing in Cocaine, for which he was later convicted on 01-16-02 in the St. Joseph Superior Court and sentenced to terms of 50 years imprisonment in Cause # 71D08-9907-CF-0414, and 20 years imprisonment in Cause # 71D08-9907-CF-0410.

**Trial:** Information/PC for Murder filed (09-18-00); Motion for Speedy Trial (10-02-00); Amended Information for DP filed (11-09-00); Voir Dire (02-20-02, 02-21-02, 02-22-02, 02-26-02, 02-27-02, 02-28-02, 03-01-02, 06-24-02, 06-25-02, 06-26-02, 07-01-02, 07-02-02, 07-03-02, 07-05-02, 07-09-02, 07-10-02); Jury Trial (07-11-02, 07-12-02, 07-13-02, 07-15-02, 07-16-02, 07-17-02, 07-18-02, 07-19-02); Deliberations over 2 days; Verdict (07-20-02); DP Trial (07-22-02, 07-23-02, 07-24-02); Verdict (07-24-02); Court Sentencing (09-04-02).

**Conviction:** Murder (3 counts), Felony-Murder (3 counts) Burglary (A Felony), Robbery (A Felony) (2 counts), Attempted Robbery (A Felony)

**Sentencing:** September 4, 2002 (Death Sentence, Death Sentence, Death Sentence, 20 years, 20 years, 20 years, 20 years - Consecutive to each other and consecutive to sentences in other cases: Cause # 71D08-9907-CF-0414 (50 years), Cause # 71D08-9907-CF-0410 (20 years). Felony Murder counts merged. Class A Felony Burglary and Robbery counts reduced to Class B Felony.

In sentencing order, Judge Means stated that he believed Indiana's amended death penalty statute required him to follow the jury's recommendation. If he were not so constrained, however, he said he would "be inclined to judicially override the jury recommendation for death."

**Aggravating Circumstances:** b (1) Burglary, Robbery  
b (8) 3 Murders

**Mitigating Circumstances:** 21 years of age  
Disadvantaged childhood; Rarely saw father  
Mistreated by Mother's boyfriends  
Abandoned by Mother  
Caring towards younger half-brother  
Emotional hardship on family and friends

**Direct Appeal:** Stroud v. State, 809 N.E.2d 274 (Ind. May 25, 2004) (71S00-0011-DP-00642)  
Convictions Affirmed 5-0 DP Vacated 5-0  
Sullivan Opinion; Shepard, Dickson, Rucker and Boehm concur.  
For Defendant: Eric K. Koselke, Brent L. Westerfeld, Indianapolis, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
(DP vacated on grounds that jury was improperly instructed that verdict was only a "recommendation." Remanded for new penalty and sentencing phases. Rucker and Boehm concurred with separate opinion, noting that "accordingly" in new statute does not compel Judge to follow jury recommendation for death)

**On Remand:** 05-24-05 Citing a severe breakdown in the attorney-client relationship, lead defense attorney James F. Korpal allowed to withdraw.  
For State: Frank Schaffer, James Fox, Deputy Prosecutors  
07-11-05 Stroud entered a guilty plea pursuant to a Plea Agreement and was sentenced by St. Joseph County Superior Court Judge William T. Means to Life Without Parole, and consecutive sentences of 20 years (Burglary), 20 years (Robbery), 20 years (Robbery), 20 years (Attempted Robbery).

**PCR:** None.

**HABEAS:** None

- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE + 80 YEARS.

## **STURGEON, CHARLES DANIEL**

DOB: 01/28/1944 White Male DOC# 984270 Location: Indiana State Prison

Marion County Superior Court Judge Jane Magnus-Stinson

Trial Cause #: 49G06-9503-CF-035113

**Defense:** Luther Garcia, Mark Inman

**Prosecutor:** Jane Conley, Sheila A. Carlisle

**Date of Murder:** March 5, 1995

**Victim:** James "Jack" Coffman W / M / 56 ("Friend")

**Method of Murder:** Stabbing with knife x12, Striking with Crowbar

**Summary:** On March 4, 1995, Sturgeon, James Coffman, and several of their co-workers went to the Puck Around bar and the Bungalow Inn after work. At some point, Sturgeon called his girlfriend, Leslie Hauk, and she came to the Bungalow Inn. Sturgeon also called Gregory Anderson and asked him to pick up some drugs for the group. When Anderson arrived, Sturgeon told him that he planned to rob Coffman, who had about \$800 in cash on him. Coffman eventually awakened and went into Sturgeon's house. Anderson made two drug runs for Sturgeon and Coffman, then left.

The next day, Sturgeon went to Anderson's home and told him that Hauk had a fight with Coffman, during which Hauk stabbed Coffman with a knife and Coffman took the knife from her. Sturgeon said that he had to "mess Coffman up."

Over the next two days, Sturgeon did not go to work, but Anderson saw him driving Coffman's car. Anderson went to Sturgeon's home, where he saw Coffman's dead body on the floor. Sturgeon then asked Anderson to help him move the body out of the house. The two men carried the body to Coffman's car and placed it in the trunk, hitting the legs with a tire iron or crowbar in order to make the body fit. Sturgeon drove the car away. On Wednesday, March 18, 1995, Coffman's son located the car in a parking lot about one block from the office where Coffman and Sturgeon had worked; he found Coffman's body inside.

Coffman had some twelve stab wounds in the right side of his back and five or six blunt force injuries to his head. The head injuries were caused by an object with a distinctive geometric shape, consistent with a crowbar. The wounds on Coffman's head and back had occurred about the same time and were likely inflicted by two people. The combination of wounds caused Coffman's death. No money was found in the car. Later, two police detectives went to Sturgeon's house to question him. When they arrived, Sturgeon and several friends were cleaning the living room and taking up the carpet. After some questioning, Sturgeon consented to a search of his home. The search revealed blood on top of a table and blood spatters on a wall calendar which were consistent with a beating or stabbing. The blood on the table matched Hauk, while the blood stains on the calendar matched Coffman. An evidence technician also located swipe marks on the wall and it appeared that someone had cleaned the storm door.

On Sunday, March 5th, Hauk was arrested for driving while intoxicated after causing a traffic accident. She had blood on her pants and shoes and a blood stain on the back of her t-shirt. The blood matched both Hauk and Coffman. The police also found a bloody knife in the back of her car; the blood on the knife matched Coffman.

**Request for LWOP Filed:** September 5, 1995

**Conviction:** Murder, Robbery (Class B Felony)

Jury Trial February 17-20, 1998; Verdict: Guilty Counts 1-3 (Murder, Murder, Robbery (A Fel) LWOP Jury Trial February 20, 1998; Jury chooses not to make a Recommendation

**Sentencing:** April 17, 1998 (LWOP, Merged, 20 years)

Accomplice Leslie Renae Hauk was convicted after a jury trial of Murder, Felony Murder and Robbery (Class B Felony), and on November 29, 1997 was sentenced in the Marion County Superior Court to concurrent terms of 55 years and 20 years imprisonment. (49G06-9503-CF-35112)

Accomplice Gregory Anderson pled guilty and was convicted of Assisting a Criminal (Class C Felony) pursuant to a plea agreement, and on April 24, 1996 was sentenced in the Marion County Superior Court to 2 years imprisonment. (49G03-9509-CF-135255)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:**

**INTERLOCUTORY APPEAL:** Sturgeon v. State, 683 N.E.2d 612 (Ind. App. 1997) (49A02-9612-CR-823)  
Opinion by Kirsch; Sullivan, Chezem concur.  
(Affirmed 3-0; Defendant was not entitled to discharge and speedy trial rights not violated despite State's negligence in obtaining blood test results)  
For Defendant: John G. Forbes, Karl L. Mulvaney, Indianapolis  
For State: Christopher L. Lafuse, Deputy Attorney General (Modisett)

**DIRECT APPEAL:** Sturgeon v. State, 719 N.E.2d 1173 (Ind. November 18, 1999) (49S00-9805-CR-307)  
Convictions Affirmed 5-0 LWOP Vacated 5-0  
Opinion by Shepard; Dickson, Sullivan, Boehm concur.  
For Defendant: John Pinnow, Greenwood  
For State: James A. Garrard, Deputy Attorney General (Modisett)

**PCR:** (49G06-9503-CF-035113)  
09/21/2000 Petition for Post-Conviction Relief filed  
10/02/2000 Petition for Post-Conviction Relief filed  
10/25/2000 Attorney Steven Schutte files appearance  
11/20/2000 Defendant files Verified Inability to Investigate;  
Amended PCR Petition; Request to Defer Proceedings  
12/09/2003 Defendant Files Amended PCR Petition  
02/07/2003 Post Conviction Relief Hearing; Defendant Waives Being Present  
State of Indiana by Priscilla Fosum.  
06/02/2003 Court now finds for the State and against the Petitioner, denying Petition for PCR  
Enters Findings of Fact and Conclusions of Law and Judgment  
01/09/2015 Successive PCR submitted - Denied by Indiana Court of Appeals  
Petitioner has failed to establish possibility that he is entitled to post-conviction relief

Sturgeon v. State, Unpub., 807 N.E.2d 806 (Ind. App. April 6, 2004) (49A02-0307-PC-591)  
Affirmed 3-0; Bailey, Riley, Darden  
Sturgeon v. State, 812 N.E.2d 808 (Ind. June 24, 2004) (Transfer denied)

**HABEAS:** None.

## TATE, DYLAN THOMAS

DOB: 05/23/1991 White Male DOC# 245198 Location: Miami Correctional Level 3 Facility

Madison County Circuit Court #1 Judge Angela G. Warner Sims  
**Trial Cause #:** 48C01-1810-MR-002542 / 48C01-1804-F1-1126



**Defense:** Cody Cogswell

**Prosecutor:** Stephen Koester, Chief Deputy Prosecutor, T. Grey Chandler

**Date of Murder:** February 23, 2018

**Victim:** Harlan Haines W / M / 18mo (Girlfriend's son)

**Method of Murder:** Multiple blunt-force trauma with traumatic brain injury

**Summary:** Tate's convictions arise from the death of H.H., the 18 month old toddler son of his girlfriend, Jennifer Harris. In February 2018, Tate and Harris put H.H. to bed after spending the day running errands. Tate then began drinking and around midnight, the couple went to sleep. Four hours later, while Harris was still asleep, Tate crashed his car, pulled H.H. from the vehicle, and rushed him

to the hospital. Hospital staff saw that H.H. was the victim of life-threatening trauma, was not breathing, and was bruised all over his body. Examining H.H., they found myriad injuries, including significant brain damage; tearing, bleeding, and bruising around H.H.'s anus; scrapes around his genitals; a paper towel in his airway; and what appeared to be a burn mark on his back and bite marks on his left arm and leg. Although doctors temporarily brought H.H. back to life, they declared him brain dead two days later. The coroner determined the cause of death was multiple blunt-force trauma with traumatic brain injury. There is uncontested evidence that when H.H. went to bed that night, he was nearly injury free.

Police interviewed Tate three times about the boy's injuries. After the investigation, the State charged Tate with crimes resulting in H.H.'s death. At trial, the State argued that Tate had beaten H.H., stuffed a paper towel down his throat to quiet his screaming, molested him, and then crashed his car to cover up these crimes. In addition to testimony from H.H.'s mother and the medical personnel who treated H.H., the State relied on Joshua Basey, a fellow inmate in Tate's cell block. Basey testified that Tate admitted to shoving the paper towel down H.H.'s throat and crashing the car to cover up the cause of H.H.'s injuries.

**Request for LWOP Filed:** October 1, 2018

**Conviction:** Neglect of Dependent Resulting in Death (Level 1 Felony), OWI-Prior (Level 6 Felony), Murder, Child Molesting (Level 1 Felony)

Jury Trial June 5-14, 2019; Verdict: Guilty all Counts

LWOP Jury Trial June 14, 2019; Verdict: Find all 3 Aggravators, Recommend LWOP

**Sentencing:** July 9, 2019 (40 years, 2.5 years, LWOP, 50 years, consecutive Counts: 2, 3, 4)

Tate previously pled guilty and was convicted of Dealing Methamphetamine (Class B Felony), Possession of Methamphetamine (Class D Felony), Possession of Precursors (Class D Felony) and Maintaining a Nuisance (Class D Felony), and on July 29, 2013 was sentenced in the Madison Circuit Court #4 to 10 years with 4 years suspended. Discharged from IDOC in 2015. (48C04-1305-FB-001082)

Accomplice Jennifer Lynn Harris was convicted of Neglect of a Dependent (Level 1 Felony) following a jury trial on January 23 - February 3, 2020 in the Madison County Circuit Court, and on March 3, 2020 was sentenced to 40 years imprisonment. (48001-1804-F1-001108)

**Aggravating Circumstances:** b (1) Child Molesting  
b (11)(A) Tortured while alive  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:** Intoxication

**DIRECT APPEAL:** Tate v. State, 161 N.E.3d 1225 (Ind. January 28, 2021) (19S-LW-444)

Convictions Affirmed 5-0 LWOP Affirmed 5-0

Opinion by Slaughter; Rush David, Massa, Goff concur.

(More than sufficient evidence to prove torture and b(1) Child Molestation Aggravators. In any event, the Victim Less Than 12 yr old Aggravator is not even challenged, making any insufficiency harmless error)

For Defendant: Paul J. Podlejski, Anderson

For State: Tyler G. Banks, Deputy Attorney General (Rokita)

**PCR:** None.

**HABEAS:** None.

**TREADWAY, JEFFREY A.**

DOB: 03/02/1959    White Male    DOC# 942643    Location: Indiana State Prison



Marion County Superior Court, Criminal Division 5 Judge Grant W. Hawkins

**Trial Cause #:** 49G05-0511-MR-188188 / 49G05-0511-PC-188188**Defense:** Thomas Fisher and David A. Shircliff**Prosecutor:** Mark Hollingsworth, Denise Robinson, Deputy Prosecutors**Date of Murder:** October 15, 2005**Victim:** Donald Carroll W / M / 82 (Previously hired Treadway to do yard work)**Method of Murder:** Striking in head with brick

**Summary:** In the late evening hours of October 15, 2005, Treadway knocked on the door of a home occupied by an elderly couple, 82 year old Donald Carroll and his 80 year old wife Betty Carroll. Two years earlier Treadway had performed minor yard work for the couple for which Mrs. Carroll paid him \$25. When Mr. Carroll answered the door Treadway struck him in the head repeatedly with a brick and took his wallet. As Mrs. Carroll attempted to intervene, Treadway swung at her with the brick and pushed her onto a couch causing injuries to her arms and hands. In response to Treadway's demand for money Mrs. Carroll gave Treadway \$200.00 and he fled the scene. Mrs. Carroll called 9-1-1. After the police arrived Mr. Carroll was taken to Methodist Hospital where he died as a result of blunt force injury to the head. When questioned by the police Mrs. Carroll gave a description of the attacker, noting that he had unkempt gray hair, a full beard, vivid eyes, wore a blue plaid jacket, that his name was "Jeff" and that he had done yard work for her in the past.

A few days later with the assistance of a sketch artist, Mrs. Carroll created a picture of Treadway that was thereafter released to the news media. On October 23, 2005, Treadway was arrested in the state of Minnesota on an unrelated charge and was questioned by officers of the Fairmont Police Department. During questioning Treadway made references of being wanted in Indianapolis and that he was "going for life."

**Request for LWOP Filed:** January 20, 2006**Conviction:** Murder, Robbery (Class B Felony), Battery (Class C Felony)

Jury Trial October 19 - November 1, 2007; Verdict: Guilty all Counts

LWOP Jury Trial November 5, 2007; Verdict: Recommend LWOP

**Sentencing:** November 13, 2007 (LWOP, 20 years-consecutive, 8 years-concurrent)

Treadway was previously convicted Burglary (Class B felony) in the Marion County Superior Court, and on August 26, 2004 was sentenced to 2 years imprisonment. He was discharged from IDOC on November 16, 2006. (49G01-9312-CF-173336)

Treadway was previously convicted Burglary (Class B felony) in the Marion County Superior Court, and on April 19, 1994 was sentenced to 15 years imprisonment. He was discharged from IDOC on February 16, 2004. (49G01-9312-CF-173336)

Treadway was previously convicted Auto Theft (Class C felony) in the Marion County Superior Court, and on April 19, 1994 was sentenced to 4 years imprisonment. He was discharged from IDOC on December 27, 1997. (49G01-9312-CF-173336)

**Aggravating Circumstances:** b (1) Robbery  
b (9) On Parole

**Mitigating Circumstances:**

**DIRECT APPEAL:** Treadway v. State, 924 N.E.2d 621 (Ind. April 8, 2010) (49S00-0803-CR-147)  
Convictions Affirmed 5-0 DP Vacated 5-0  
Opinion by Rucker; Shepard, Dickson, Sullivan Boehm concur.  
(Evidence sufficient to prove b(9) Aggravator "On Parole." No requirement to prove that murder was intentional.)  
Defendant: Robert J. Hill, Katherine Cornelius, Public Defender, Indianapolis  
For State: Matthew Whitmire, Deputy Attorney General (Zoeller), Indianapolis, Indiana.

**PCR:** (49G05-0511-PC-188188)  
04/21/2011 Petitioner filed Petition for Post-Conviction Relief  
04/03/2013 Petitioner filed Motion To Withdraw Petition for PCR Without Prejudice. Granted.

**HABEAS:** None.

**TURNER, DESMOND DARREL**

DOB: 02/24/1978 Black Male DOC# 953755 Location: Out of State Facilities

Marion County Superior Court, Criminal Division #2 Judge Robert Altice  
**Trial Cause #:** 49G02-0606-MR-101336

**Defense:** Brent L. Westerfeld, Lorinda Meier Youngcourt  
**Prosecutor:** Carl Brizzi, Prosecuting Attorney  
Jennifer Haley, Janna Skelton, Deputy Prosecutors

**Date of Murder:** June 1, 2006

**Victims:** Emma Valdez H / F / 46  
Alberto Covarrubias Sr . H / M / 56 (Valdez's husband)  
Flora Alderran H / F / 22 (Valdez's daughter)  
Magno Aldarran H / M / 29 (Flora Alderran's husband)  
Luis Aldarran H / M / 5 (Flora Alderran's son)  
David Covarrubias H / M / 8 (Son of Covarrubias)  
Alberto Covarrubias Jr. H / M / 11 (Son of Covarrubias) (No relationship to Turner)



**Method of Murder:** Shooting with assault rifle with high velocity ammunition

**Summary:** On June 1, 2006 around 10:00 p.m., Indianapolis police were dispatched to the 500 block of North Hamilton Avenue on the report of shots fired. Upon arrival, police found a woman — later identified as Reina Banegas — crying and screaming in front of 560 North Hamilton, the home of Emma Valdez and Alberto Covarrubias. Police entered the house through the front door. The smell of gun smoke was still in the air.

Police found four adults and three children dead on the first floor of the house. The four adults were Emma Valdez, Alberto Covarrubias, Sr., Flora Albaran, and Magno Albaran. The three children were Alberto Covarrubias, Jr., age 11, David Covarrubias, age 8, and Luis Albaran, age 5. Later autopsies revealed that all died from multiple gunshot wounds from high velocity bullets. Many of the wounds were inflicted at close range. Evidence technicians recovered 23 discharged 7.62x39 mm cartridge casings from the scene. These cartridges

accommodate high velocity caliber bullets used in AK-47 and SKS-type assault rifles. The house had been ransacked; furniture had been turned over, drawers taken out of place, and clothing and other items dumped.

They were the members of a working class family who were honest and hardworking, victims of James Stewart and Desmond Turner, two criminals who mistakenly thought the family were hoarding a large quantity of cash and drugs.

Testimony at trial revealed Turner had lived on the 500 block of North Hamilton several years before the shootings, but had begun coming back around. Shortly before the murders, Turner visited an old family friend, Harroll Couch. Couch owned an air-powered pellet gun and Turner asked where he could get such a gun. Couch told him that he would not know where to find a real "chopper." Turner left and about twenty minutes later, he telephoned Couch and insisted that Couch tell him where he could get a "chopper."

In the afternoon of June 1, 2006 several of the neighborhood children and teenagers were playing football in front of an abandoned house at 555 North Hamilton when Turner drove up in a red or burgundy pick-up truck and spoke to Brandon Griffith, one of the teenagers. Griffith jumped into the passenger's seat, and Turner drove to a nearby Speedway gas station located a few blocks away.

In the evening hours of June 1, Turner returned to the area, still driving the burgundy truck, and stopped at Swartz's house. Turner walked onto the porch, followed by Griffith, and asked Swartz if he had any duct tape. When Swartz asked why he needed the tape, Turner replied that he was going to "hit a lick" at "the Mexicans down the street." While Turner was inside Swartz's house a black male — later identified as James Stewart — who was shirtless and had a stocky muscular build, exited the truck, inquired of Turner's whereabouts, and said that Turner needed to hurry up. Turner came outside and spoke to Griffith and asked whether the "Mexicans on the corner at the alley . . . got money and stuff." Griffith heard Turner say, "he was going to get his buddy and his chopper and he'd be back."

A few minutes later several witnesses who were near the porch saw Turner's truck in the alley behind 560 North Hamilton. They saw two black men walk up along the side of the house onto the front porch. At least one witness identified Turner as one of the men and had a dark colored mask around his face. Turner was carrying a long gun that looked like an AK-47, and the other man had a small handgun. The two men knocked on the door and when it opened forced their way into the house. A woman was seen through another window, and appeared to be on her knees with hands behind her head and a gun held to her head. Almost immediately, there was a single gunshot, followed by a large number of rapid gunshots that sounded different from the first. The two masked men then ran out of the house and around to the alley. One of them was carrying what appeared to be a pillowcase with items inside.

Following several unsuccessful attempts to go to Alabama, Turner later surrendered to police. A search of Clifton's home where Turner slept revealed, among other things, one unfired 7.62x39 mm cartridge and Turner's clothing soaking in the bathtub next to bottles of hydrogen peroxide and rubbing alcohol.

**Request for DP Filed:** June 7, 2006; Amended May 14, 2009

**Conviction:** Criminal Confinement (Class B Felony) (7 Counts), Robbery (Class C Felony), Burglary (Class B Felony), Murder (7 Counts)  
Separate trials ordered for James Stewart and Desmond Turner on March 14, 2009  
Waiver of Jury Trial September 15, 2009; Dismissal of DP Request  
Bench Trial October 5-22, 2009; Verdict: Guilty on all 25 Counts  
LWOP Bench Trial October 23, 2009; Verdict: LWOP, Find 6 Aggravators

**Sentencing:** November 29, 2009 (10 years each - 7 Counts), 8 years, 10 years, LWOP each - 7 Counts)  
All consecutive for total sentence of LWOP plus 88 years.

Turner was previously convicted of Battery (Class D Felony) in the Marion County Superior Court, and on September 18, 2008 was sentenced to 3 years imprisonment. (49G02-0701-FD-018395)

Turner was previously convicted of Battery by Bodily Waste (Class D Felony) and Resisting Law Enforcement (Class A Misdemeanor) in the Marion County Superior Court, and on June 26, 2008 was sentenced to 3 years and 1 year imprisonment. (49G02-0612-FD-241372)

Turner was previously convicted of Pointing a Firearm (Class D Felony), Criminal Recklessness (Class D Felony), Carrying a Handgun without License (Class C Felony) in the Marion County Superior Court, and on March 1, 2002 was sentenced to 1.5 years, 1.5 years, and 6 years imprisonment. (49G04-0105-CF-106845)

Turner was previously convicted of Possession of Cocaine/Narcotic (Class C Felony) and Resisting Law Enforcement (Class A Misdemeanor) in the Marion County Superior Court, and on May 22, 1998 was sentenced to 5 years, and 1 year imprisonment. (49G05-9709-CF-136206)

Accomplice James Stewart was convicted following a separate jury trial in the Marion County Superior Court of Murder (7 Counts), Criminal Confinement (Class B Felony) (6 Counts), Possession of a Handgun without License (Class A Misdemeanor), and Burglary (Class B Felony), and on January 6, 2010 was sentenced to a total term of 425 years imprisonment. (49G02-0606-MR-101221) Stewart v. State, 945 N.E.2d 1277 (Ind. App. 2011).

**Aggravating Circumstances:** b (8) Multiple Murders  
b (9) On Parole  
b (12) Victim less than 12 years of age

**Mitigating Circumstances:**

**DIRECT APPEAL:** Turner v. State, 953 N.E.2d 1039 (Ind. September 28, 2011) (49S00-0912-CR-565)  
Convictions Affirmed 5-0 DP Vacated 5-0  
Opinion by Rucker; Shepard, Dickson, Sullivan, David concur.  
For Defendant: Brent Westerfeld, Indianapolis, Lorinda Meier Youngcourt, Huron  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

**PCR:** None.

**HABEAS:** None.

**TURNER, DUANE E.**

DOB: 11/13/1974 Black Male DOC# 952429 Location: Miami Correctional Level 3 Facility

Delaware County Superior Court Judge Robert Barnet Jr.

**Trial Cause #:** 18D01-9410-CF-000047

**Defense:** Kelly Bryan, Public Defender

**Prosecutor:** Richard W. Reed, Prosecuting Attorney, Jeffrey Arnold, Deputy Prosecutor

**Date of Murder:** September 24, 1994

**Victim:** Christopher James Coyle W / M / 19 (No relationship to Turner)

**Method of Murder:** Shooting with handgun

**Summary:** On September 23, 1994, Newton and a fellow member of the "Fly Gang," Duane Turner, attended a party on the Ball State University campus. Duane was kicked out of the party. The following night, Newton, Turner, and other members of the gang were gathered in a graveyard discussing the previous night's events. Newton decided he "felt like killing somebody" in retaliation for Duane being kicked out of the party, and said he was "hyped and wanted to get revenge." Newton borrowed a handgun from another gang member, Scott Turner. Duane agreed to participate in Newton's idea, and their friend Chad Wright agreed to drive them.

In the early morning hours of Sunday, September 25, 1994, Wright drove Newton and Duane to the Ball State campus. Newton and Duane spotted 19 year old Christopher Coyle, a Ball State student whom they did not know, walking alone near the campus. Newton and Duane ran up to Coyle and forced him into Wright's car. Once in the car, Newton and Duane attempted to rob him, but he had no money. They took Coyle to an alley where Newton shot Coyle in the back of the head, killing him. He then handed the gun to Turner, who shot Coyle's body, now lying on the ground, in the shoulder. Coyle died from the first shot. Police found Coyle's body at approximately 2:46 am on Sunday, in the alley where he was shot.

After the murder, Newton and the others retreated to a friend's house where Scott was staying. Newton was "smiling" and told Scott he "shot someone." Newton returned the gun to Scott and requested he destroy it. Scott attempted to destroy the gun by throwing the grips out of a car window, throwing some parts of the gun into the White River, and putting the remainder of the gun in the Prairie Creek Reservoir. A few days later, Newton confessed to the murder.

**Request for DP Filed:** October 19, 1994

**Conviction:** Murder, Criminal Confinement (Class B Felony), Attempted SBI Robbery (Class A Felony)  
Jury Trial May 8-11, 1995; Verdict: Guilty all Counts  
DP Jury Trial May 12, 1995; Verdict: Deadlocked  
"The Court will proceed as if the hearing in Phase II had been to the Court alone."

**Sentencing:** June 8, 1995 (LWOP, 20 years, 10 years)  
(On PCR Appeal, Attempted SBI Robbery reduced from Class A Felony to class B felony)

Accomplice Larry W. Newton Jr. was convicted following a jury trial in the Delaware County Superior Court of Murder, Criminal Confinement (Class B Felony), Attempted SBI Robbery (Class A Felony), and on December 29, 1995 was sentenced to LWOP, 20 years, 45 years imprisonment, consecutive. (18D01-9410-CF-000046)

**Aggravating Circumstances:** b (1) Robbery  
b (1) Criminal Gang Activity

**Mitigating Circumstances:** Troubled childhood and upbringing  
Absent father and a drug-addicted and often incarcerated mother  
Age of 19 at the time of the murder  
His assistance to family members  
Lack of a prior felony or crime against the person

**DIRECT APPEAL:** Turner v. State, 682 N.E.2d 491 (Ind. June 24, 1997) (18S00-9510-CR-1133)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Selby; Shepard, Dickson, Sullivan, Boehm concur.  
(Double Jeopardy principles require that SBI Robbery be reduced from a Class A Felony to Class B Felony; Affirmed in all other respects)  
For Defendant: Kelley N. Bryan, Muncie  
For State: Pamela Carter, Indiana Attorney General

**PCR:** (18D01-9410-CF-000047)  
09/08/2000 Petition for Post-Conviction Relief, by Defendant, pro se  
09/25/2000 State's Answer to Defendant's Motion for Post-Conviction Relief herein filed

09/25/2000 Appearance Form of Hope Fey, Deputy Public Defender  
09/25/2000 Verified Notice of Present Inability to Investigate and Amend Pro Se Petition for Post-Conviction Relief and Request to Defer Ruling Until Certificate of Readiness is Filed  
07/16/2003 Notice of Substitution of Counsel filed. Kathleen Cleary, Deputy State Public Defender  
05/03/2010 Amendment to Pro Se Petition for Post-Conviction Relief, Motion for Summary Judgment as to Penalty and Sentencing  
05/10/2010 Case assigned to Eric Hoffman and Jeffrey Arnold  
08/02/2010 State of Indiana's Answer to Defendant's Amended Petition for Post-Conviction Relief  
08/02/2010 State of Indiana's Motion for Summary Disposition filed.  
08/24/2010 Response to State's Motion for Summary Judgment  
08/25/2010 By stipulation of parties, Joint Exhibits 1, 2, and 3 admitted. Arguments submitted. The Court now takes this matter under advisement.  
09/17/2010 State of Indiana's Tender of Proposed Findings of Fact and Conclusions of Law on Summary Disposition herein filed.  
09/20/2010 Tender of Proposed Findings of Fact and Conclusions of Law by Petitioner  
10/08/2010 Findings of Fact, Conclusions of Law and Judgment on Summary Disposition signed and filed. It is Ordered that any and all documents from Appendix F filed in support of the Defendant's Motion for Summary Judgment, with the exception of any published opinions of precedential value, are hereby ordered stricken. It is further Ordered that the Defendant's Motion for Summary Judgment is hereby Denied. It is further Ordered that the State of Indiana's Motion for Summary Disposition is hereby Granted. Judgment on Claims 8(c), 9(c)(1), 9(c)(2), 9(c)(3) of the Defendant's Amended Petition for Post Conviction Relief is hereby entered in favor of the State and against the Defendant  
05/02/2011 It is ordered that cause is set for Further Evidentiary Hearing on remaining issues of Defendant's Amended Petition for Post-Conviction Relief on August 16, 2011  
11/11/2011 State of Indiana's Tender of Proposed Findings of Fact and Conclusions of Law filed  
11/14/2011 Tender of Turner's Proposed Findings of Fact, Conclusions of Law, and Judgment  
12/02/2011 Findings of Fact, Conclusions of Law and Judgment signed and filed. It is Ordered that Judgment is entered in favor of the State of Indiana and against Petitioner, Duane Turner.

Turner v. State, 974 N.E.2d 575 (Ind. App. September 19, 2012) (18A05-1112-PC-697)

Convictions Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Riley; Bailey, Crone concur.

For Defendant: Kathleen Cleary, Deputy Public Defender (Owens)

For State: Jodi Kathryn Stein, Deputy Attorney General (Zoeller)

Turner v. State, (Ct. App. Dec. 4, 2012) (18A05-1112-PC-697) (Rehearing denied)

Turner v. State, 982 N.E.2d 1016 (Ind. 2013) (Transfer denied)

**HABEAS:** Turner v. Brown, (S.D. Ind. Feb. 18, 2015) ( 2:14-cv-0020-WTL-DKL)

United States District Court for the Southern District of Indiana, Terre Haute Division

Judge William T. Lawrence

("Habeas corpus has its own peculiar set of hurdles a petitioner must clear before his claim is properly presented to the district court." Keeney v. Tamayo-Reyes, 504 U.S. 1, 14, 112 S. Ct. 1715, 118 L. Ed. 2d 318 (1992) "In this case, Turner has encountered the hurdle produced by the 1-year statute of limitations. He has not shown the existence of circumstances permitting him to overcome this hurdle, and hence is not entitled to the relief he seeks. His petition for a writ of habeas corpus is therefore denied as untimely without a decision being made as to the merits of his claims. See Bachman v. Bagley, 487 F.3d 979, 982 (6th Cir. 2007)." Certificate of Appealability denied.

Turner v. Brown, 845 F.3d 294 (7th Cir. 2017) (Affirmed)

Convictions Affirmed 3-0 LWOP Affirmed 3-0

Opinion by Flaum, Easterbrook, Williams concur.

For Defendant: Brian James Paul, Attorney, Indianapolis, Eldin Hasic, Fort Wayne

For State: Kelly A. Loy, Deputy Attorney General.

Turner v. Brown, 137 S. Ct. 2219 (June 5, 2017) (16-1196) (Cert. denied)

## VANN, DARREN DEON

DOB: 03/21/1971 Black Male DOC# 251937 Location: Wabash Valley Level 4 Facility

Lake County Superior Court, Criminal Division 4 Judge Samuel L. Cappas  
**Trial Cause #:** 45G04-1512-MR-000009 / 45G04-1603-MR-000002

**Defense:** Mark Allen Bates, Gojko Kasich, Matthew Norman Fech

**Prosecutor:** Bernard Carter, Prosecuting Attorney,  
Michelle Jatkiewicz, Deputy Prosecutor



**Date of Murder:** July 2013 - October 18, 2014

**Victims:** Afrika Hardy B / F / 19  
Anith Jones B / F / 35  
Teaira Batey B / F / 28  
Tracy Lynn Martin W / F / 41  
Sonya Billingsly B / F / 53  
Kristine Williams W / F / 36  
Tanya Gatlin W / F / 27 (Acquaintances / Sex workers)

**Method of Murder:** Strangulation

### Summary of Stipulated Factual Basis for Guilty Plea:

That on October 17, 2014, the Defendant, Darren Deon Vann was located in Room 158 of the Motel 6 in Hammond, Lake County, Indiana, with Afrika Hardy. During the course of a sex act, Vann became rough, which caused her to strike him. The Defendant then choked Afrika Hardy with a brown extension cord he brought with him to the motel. After Afrika Hardy was dead, the Defendant placed her in the shower and began to clean up the room while wearing a pair of white gloves he also brought to the hotel. Death was caused by ligature strangulation.

That on October 18, 2014, Vann was apprehended at his sister's house in Gary, wearing the same clothing the detectives viewed in the surveillance video from the Motel 6. Vann does not dispute he was wearing the same clothing seen in the Motel 6 surveillance video. After advising Vann of his rights, he admitted he had strangled Afrika Hardy. During the course of the interview he also admitted to the murder of several other women. Over the course of two (2) days while in custody of the Hammond Police Department, Vann personally led detectives to six bodies in Gary, Lake County, Indiana.

Vann led detectives to 421 East 43rd Street, Gary, Lake County, Indiana. Vann knew this woman as "Deja", later identified as Anith Jones. He explained to detectives that they would have to go inside the door, take the stairs down to the basement, lift a door up to gain access to the basement. Once in the basement, he advised the remains of Anith Jones were located, under some tires and a teddy bear. Detectives discovered the remains in the exact manner described. Vann admitted to killing "Deja" a few weeks before he killed Afrika Hardy. The cause of death was strangulation. Vann admits to the strangulation murder of Anith Jones using the brown cord he used in the strangulation murder of Afrika Hardy.

Vann also led detectives to an abandoned house at 1800 East 19<sup>th</sup> Avenue, in Gary, Lake County, Indiana. He knew this woman as "Tae". "Tae" was later identified as Teaira Batey. Vann explained he lured Teaira Batey to the abandoned house with the promise of crack cocaine in exchange for sex. The Defendant had sex with Teaira Batey then killed her by using a rope to strangle her. Vann gave specific directions to the location of the abandoned house, how to walk through the residence, then entering a room with a door propped shut with a dresser. Vann advised that her body would be inside the room under a wooden bench. Teaira Batey was found in the location and manner described to detectives by Vann. The cause of death as strangulation. Vann admits to the strangulation murder of Teaira Batey.

Vann also led detectives to the 2200 block of Massachusetts, Gary, Lake County, Indiana. The Defendant advised he killed a victim named "V," later identified as Tracy Martin. Vann promised to pay her for sex but began punching her once they entered the abandoned house. Vann then punched, kicked, choked, and had

sex with "V" and placed her remains in a closet where she was discovered by police. The cause of death was strangulation. Vann admits to the strangulation murder of Tracy Martin.

Vann also led detectives to an abandoned house between 42nd and 43rd Street, in Gary, Lake County, Indiana. He called this woman "Casper", later identified as Kristine Williams. He beat Kristine Williams over a drug debt which led to her strangulation. Vann explained that the body of Kristine Williams was underneath some plastic in the basement. He directed police to go inside the rear door, take the stairs down to the basement and the body would be underneath the plastic behind the stairs. The police recovered the remains of Kristine Williams in the location described by the Defendant. The cause of death was strangulation. Vann admits to the strangulation murder of Kristine Williams.

Vann also led the detectives to 413 East 43<sup>rd</sup> Avenue, Gary, Lake County, Indiana, which was within sight of 421 East 43rd Street, the location of Anith Jones's body. Vann told police that there was a door along a back wall of the basement and two bodies would be located in the area. Police looked in the area described and found the remains of two women later identified as Sonya Billingsley and Tanya Gatlin. The Defendant admits to strangling both women with either a rope or clothes line. The cause of death of both women was strangulation. The Defendant admits to the strangulation murder of Sonya Billingsley and Tanya Gatlin.

A button was located in the Motel 6 during the processing of the crime scene of Afrika Hardy. When apprehended, Vann was missing a button on his shirt similar in color and size to the button that was found. The major DNA profile obtained was consistent with Afrika Hardy and estimated to occur once in every 550 billion unrelated individuals. Vann admits the button found came from his shirt worn by him on the day of the murder of Afrika Hardy.

When apprehended, Vann was wearing a pair of shoes consistent with the shoes the detectives saw in the video surveillance at Motel 6. A major DNA profile was obtained on the right shoe. The major profile was consistent with Anith Jones and is estimated to occur once in more than eight (8) trillion unrelated individuals. The Defendant admits the shoes seen in the Motel 6 video were the same shoes he wore when he murdered Anith Jones.

A brown cord was located at Vann's sister's house. DNA profile obtained from the brown cord is consistent with a mixture of at least three (3) individuals where Afrika Hardy and Anith Jones cannot be excluded; an estimate of one and 320 million unrelated individuals could have contributed to the mixed major profile. Afrika Hardy's DNA profile was also obtained from two other swabs taken from the brown cord; and estimated to have occurred in 2.8 trillion and 2.5 billion unrelated individuals. The Defendant admits to using the brown cord to murder Afrika Hardy and Anith Jones.

The first spark on the fuse that led police to Vann came when 19 year old Africa Hardy, a sex worker for an escort service called "Big Boy Appetite", texted a co-worker to say she was meeting a "john" at a Motel 6 in Hammond. When she failed to send a follow-up text, she went to the motel where she found Ms Hardy's body in the bathroom. Police said they were able to connect the murder to Mr Vann in part by tracing communications with the escort agency to his phone. He and his car were also captured by a motel surveillance camera. Officials said that upon his arrest he confessed to killing Ms Hardy and then quickly told them of the six other bodies and where they were.

**Request for DP Filed:** October 20, 2014

**Conviction:** Judgment of conviction entered on Ct. I: Murder; Ct. IV: Murder; Ct. IX: Murder; Ct. X: Murder; Ct. XI: Murder; Ct. XII: Murder and Ct. XIII: Murder.  
Agreed Joinder of 45G04-1512-MR-000009 / 45G04-1603-MR-000002  
45604-1603-FA-00001/45G04-1603-F6-00046 (Battery by Bodily Waste) Agreed Dismissal.  
Guilty Plea by Plea Agreement filed May 4, 2018; DP Withdrawn

**Sentencing:** May 25, 2018 (LWOP, LWOP, LWOP, LWOP, LWOP, LWOP, concurrent)

Vann registered as a sex offender in Indiana with the Lake County Sheriff on July 22, 2013, and again July 22, 2014. Vann had been released from a Texas prison on July 5, 2013, following a 2009 sexual assault conviction. Vann arranged to meet a 25-year-old woman and attacked her in December of 2007. Police say he tripped her and then began to strangle her. When he felt her body go limp, he raped her, according to police reports.

In April 2004, Vann threatened to burn down or blow up the home of a man who he believed was sheltering his girlfriend. Then, in front of police, he "grabbed (his girlfriend) and told the police to back up or he would burn himself and (the girlfriend). With his left arm around the woman's neck and his right hand holding a gasoline can and lighter, Vann refused her requests for freedom, right up until police grabbed and arrested him. Vann was convicted of Residential Entry (Class D felony) and received a 1 year suspended sentence, which was later revoked, requiring him to serve 90 days. (45G03-0404-FD-000050)

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **VEAL, PAUL GREGORY**

DOB: 11/19/1977    Black Male    DOC# 106131    Location: Pendleton Correctional Facility

Marion County Superior Court Judge Gary L. Miller

Trial Cause #: 49G05-9805-CF-078282

**Defense:** Robert J. Hill Jr., Mark Earnest

**Prosecutor:** Scott Newman, Prosecuting Attorney, Jane Conley, Deputy Prosecutor

**Date of Murder:** May 15, 1998

**Victim:** Candace Tyler W / F / 19 (No relationship)

**Method of Murder:** Shooting with .9mm handgun

**Summary:** Candace Tyler (19), a Hammond High School graduate, was a student at Indiana University-Purdue University Indianapolis, and lived in her apartment on the Northwest Side of the city. On May 15, 1998 a gun-wielding Paul Veal (20) forced his way into her home and shot her in the face with a .9mm handgun near the front door. He then forced the badly wounded woman into an upstairs bedroom and raped her. Ignoring Tyler's pleas to spare her life, Veal raised the gun to the back of the college student's head and pulled the trigger, killing her. Veal then turned the gun on Tyler's dog, shooting and killing a Rottweiler-German shepherd mix named Raheem. Officers who later talked with Veal after his arrest, noted that he seemed more upset about killing the dog than raping and murdering Tyler.

**Request for DP Filed:** July 28, 1998

**Conviction:** Count I: Murder, Count IV: Rape (Class A Felony), Count VI: Criminal Confinement (Class B Felony), Count VII: Cruelty to Animal (Class Misdemeanor) - Dismiss all other Counts  
Guilty Plea by Plea Agreement filed August 10, 2000; DP Withdrawn, LWOP filed  
LWOP Sentencing Hearing September 28-29, 2000; Sentencing discretion 85 years to LWOP

**Sentencing:** October 19, 2000 (LWOP, 50 years, 20 years, 1 year, consecutive)

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** Growing up in home where he constantly was physically and mentally abused  
Growing up in a neighborhood plagued by drugs and wanton violence

**DIRECT APPEAL:** Veal v. State, 784 N.E.2d 490 (Ind. March 7, 2003) (49S00-0012-CR-785)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Boehm; Shepard, Dickson, Sullivan, Rucker concur.  
(Victim impact testimony from family at sentencing not error, since no jury and other crimes were on the table)  
For Defendant: Ann M. Sutton, Appellate Public Defender.  
For State: Monika Prekopa Talbot, Deputy Attorney General (S. Carter)

**PCR:** (49D31-1703-PC-011985)  
03/31/2017 Petition for Post-Conviction Relief filed  
06/27/2018 State's Answer to Post Conviction Relief filed  
01/02/2019 State's Answer to Amended Petition filed  
07/12/2019 Tender of Proposed Findings of Fact and Conclusions of Law by Defendant  
07/12/2019 Motion to Supplement the Post-Conviction Evidence  
06/05/2019 PCR Evidentiary Hearing  
09/30/2021 After several continuances by the State, Proposed Findings due January 31, 2022  
PENDING - Paul Veal, by counsel, Joanna Green, Deputy Public Defender

**HABEAS:** None.

### **VOSS, JEFFREY A.**

DOB: 02/09/1965 White Male DOC# 905676 Location: Wabash Valley Level 3 Facility

Marion County Superior Court Judge Grant W. Hawkins

**Trial Cause #:** 49G05-0412-MR-232452

**Defense:** Mark Inman, Robert J. Hill Jr.

**Prosecutor:** David Wyser and Brian G. Poindexter

**Date of Murder:** December 24, 2004

**Victim:** Christina Tedder W / F / 12 (Acquaintance)

**Method of Murder:** Strangulation

**Summary:** Christina Tedder (12) was last seen by her brother on Christmas Eve 2004 between 8 p.m. and 8:30 pm, when she left their home at the Eastgate Terrace Apartments on 10th Street to go to a nearby Shell gas station. When Voss was first arrested he denied any involvement in the brutal rape, torture and murder of Christina Tedder. But within hours, Voss made the first of his many admissions to the crimes. Voss led sheriff's detectives to a snowy creek bed in rural Hancock County where he had disposed of the body. Christina, an honor roll student at Stonybrook Middle School, was clad only in a pair of white socks and was found in the creek face down. There were no physical signs of trauma to the body. Voss told detectives he strangled her. An autopsy confirmed strangulation as the cause of death. She was bound with duct tape and DNA testing would later confirm that she had been sexually assaulted.

Voss was an acquaintance of the family, visiting the Tedders on Christmas Eve. Voss told police that he had seen the girl at the gas station and he "got upset." He handcuffed her and then took her back to a nearby residence on Folsom Street where he had been staying. Investigators would later recover significant physical evidence from that house, including blood, hair, and DNA.

In an unusual letter to the Prosecutor while awaiting trial dated June 14, 2005, Voss said he wished to exercise his legal right to plead guilty to the death penalty. Voss stated that he would submit to a psychological evaluation to prove his competency to make this decision.

**Request for DP Filed:** March 11, 2005

**Conviction:** Count 1: Murder, Count 6: Habitual Offender

Guilty Plea by Plea Agreement filed February 27, 2007; Dismiss Counts 2-5; DP withdrawn

**Sentencing:** April 20, 2007 (LWOP)

Voss was previously convicted in the Vigo County Circuit Court of Armed Robbery (Class B Felony), Criminal Confinement (4 Counts) (Class B Felony), and on March 11, 1991 was sentenced to 20 years imprisonment on each Count. (84C01-9007-CF-65)

Voss was previously convicted in the Putnam County Circuit Court of Armed Robbery (Class B Felony), and on February 4, 1991 was sentenced to 10 years imprisonment. (67CO1-9006-CF-45A)

Voss was previously convicted in the Lake County Superior Court of Armed Robbery (Class B Felony), and on January 24, 1991 was sentenced to 16 years imprisonment. (45GO1-9006-CF-117)

Voss was previously convicted in the Marion County Superior Court of Armed Robbery (Class B Felony) and Criminal Confinement (Class B Felony) (10 Counts), and on September 26, 1990 was sentenced to 15 years imprisonment on each Count. (49G04-9006-CF-78238)

Voss was previously convicted in the Marion County Superior Court of Attempted Armed Robbery (Class B Felony) and Criminal Confinement (Class B Felony) (4 Counts), and on September 25, 1990 was sentenced to 18 years imprisonment on each Count. (49G06-9005-CF-64927)

**Aggravating Circumstances:** b (1) Child Molesting

**Mitigating Circumstances:**

**INTERLOCUTORY:** Voss v. State, 856 N.E.2d 1211 (Ind. November 22, 2006) (49S00-0510-CR-477)

Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur. 5-0

(The State made a motion under Rule12(B) that Judge Grant Hawkins disqualify himself because of his alleged bias against the death penalty. - Held: Judge's prior representation of capital defendants, his outspoken opposition to the death penalty, and his rulings holding death penalty statute unconstitutional in other cases, was not enough to show bias sufficient to force a change of judge.)

For Defendant: Ann M. Sutton, Marion County Public Defender

For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

**DIRECT APPEAL:** None.

**PCR:** None.

**HABEAS:** None.

## **WALLS, JAMES GORDON**

DOB: 06/01/1973 White Male DOC# 957011 Location: Wabash Valley Level 3 Facility



Hamilton County Superior Court Judge

**Trial Cause #:** 29D02-9403-CF-000010

**Defense:** Sharon C. Clark, Mark D. Maynard

**Prosecutor:** Sonia J. Leerkamp, Prosecuting Attorney, Daniel E. Henke, Deputy Prosecutor

**Date of Murder:** March 17, 1994

**Victim(s):** Lisa Allemenos W / F / 13; Nick Allemenos W / M /17; Christopher James W / M / 23.

(No relationship to Walls)

**Method of Murder:** Slashed throats with knife

**Summary:** At approximately 7:00 am on March 17, 1994, Nicholas Allemenos (17), Lisa Allemenos (13), and Christopher James (23) were found dead in the home of Nicholas's and Lisa's father, George Allemenos, in Carmel. The house had been ransacked and items taken. All three victims were bound with duct tape and the throats of all three victims had been cut. Immediately after their discovery, the crimes attracted extensive coverage in both print and electronic news media. Kofi Ajabu, James Walls and Raymond Adams soon became suspects. The next night, Ajabu was arrested at Adams's apartment and was transported to the Hamilton County Jail, where he waived his rights and confessed his involvement in the robbery, but claimed Adams killed all 3 victims with a knife. James was staying with the kids while their father was out of town on vacation. Testimony indicated that Adams had been to the Allemenos house a day or two earlier to sell marijuana to James. After being told that his father was out of town, Adams was impressed by the affluence he saw there and thought the home would be an easy target. He returned later with Walls and Ajabu to rob the place. While the stories of each Defendant varied, Walls agreed to go to the home armed with intent to burglarize and rob them.

**Request for DP Filed:** April 8, 1994

**Conviction:** Murder (3 Counts), Criminal Confinement (Class B Felony - 3 Counts), Robbery (Class B Felony - 3 Counts), Burglary (Class B felony)  
Jury Selection in Vigo County September 11-14, 1995  
Jury Trial September 15- 26, 1995; Verdict: Guilty all Counts.  
"Trial Proceedings of the Sentencing Agreement and  
Defendant's Ratification of the Jury's Verdict" taken on September 28, 1995

**Sentencing:** October 30, 1995

(LWOP, LWOP, LWOP, 20 years, 20 years, 20 years, 20 years, 20 years, 20 years, 20 years)

Accomplice Raymond K. Adams was convicted in the Hamilton County Superior Court of Murder (3 Counts), and on October 30, 1995 was sentenced to 3 terms of Life Imprisonment Without Parole. (29D02-9403-CF-00009).

Accomplice Kofi Modibo Ajabu was convicted in the Hamilton County Superior Court of Murder (3 Counts), Criminal Confinement (Class B felony - 3 Counts), Robbery (Class B felony - 3 Counts), and Burglary (Class B Felony). He was initially sentenced on October 30, 1995 to 3 terms of Life Imprisonment Without Parole plus 60 years imprisonment. Following an appeal, the case was remanded and Ajabu was resentenced to 60 years for each murder count, 20 years for each robbery count, and 13 years for each confinement count. The court then ordered that the sentences for confinement and robbery run concurrently, but ordered that those sentences run consecutively to the murder sentences. This resulted in three 80-year sentences running consecutively for a total of 240 years. (71D01-9409-CF-963).

**Aggravating Circumstances:**  
b (1) Burglary  
b (1) Robbery  
b (8) Multiple Murders

**Mitigating Circumstances:**

**DIRECT APPEAL:** Walls v. State, Unpub., 804 N.E.2d 1286 (Ind. App. February 26, 2004)  
(29A04-0306-PC-310) - Affirmed 3-0. Mathias, Sharpnack, Vaidik concur.  
Walls v. State, 812 N.E.2d 804 (Ind. May 7, 2004) (Transfer denied)

**PCR:** (29D02-9403-CF-000010)  
03/14/1997 Defendant/Petitioner, James Gordon Walls, files Petition for Post-Conviction Relief  
07/20/2001 Laura L. Volk, Deputy Public Defender, files Amendment to Petition for PCR  
08/17/2001 State of Indiana files its Response to Amendment to Petition for PCR  
09/17/2001 Deputy Public Defender files Second Amendment to Petition for PCR

01/15/2002 Deputy Public Defender files Third Amendment to Petition for PCR  
01/23/2002 State of Indiana files its Objection to Motion to Amend Petition for PCR  
01/28/2002 Court now sustains State's Objection and  
denies Defendant/Petitioner's Second Motion for Leave to Amend Petition for PCR  
03/01/2002 Public Defender of Indiana files Tender of Proposed Findings of Fact, Conclusions of Law  
05/16/2003 Comes now the Court and enters its Findings of Fact and Conclusions of Law denying  
Petition for Post-Conviction Relief.

**HABEAS:** None.

**WARLICK, RICKEY P., SR.**

DOB: 10/18/1960      Black Male      DOC# 984859      Location: Miami Correctional Level 3 Facility

Allen County Superior Court #6 Judge John F. Surbeck Jr.

**Trial Cause #:** 02D04-9606-CF-000259

**Defense:** Bruce R. Snyder, P. Stephen Miller

**Prosecutor:** John F. Sullivan III, Deputy Prosecutor

**Date of Murder:** June 13, 1996

**Victim:** Annie M. Warlick B / F / 34 (Estranged Wife)

**Method of Murder:** Shooting with handgun

**Summary:** At approximately 6:00 a.m. on June 13, 1996, Annie Warlick was lying on the sofa of her sister's home where she had been staying for several weeks. She was holding her infant daughter, Tekia, and her brother was sitting at the other end of the sofa. Warlick, Annie's estranged husband, entered the home, put a gun to Annie's head, and fired two shots. Warlick then turned and walked out of the house. He drove away, threw the gun out the car window, and went to his aunt's home where he told her of the killing and asked her to take him to the police department. Warlick's aunt called his father, who upon his arrival told her to call 911, which she did.

**Request for DP Filed:** July 17, 1996

**Request for LWOP Filed:** January 21, 1998; DP Withdrawn

**Conviction:** Murder, Burglary (Class A Felony)

Guilty Plea to Counts 1-3 Without Plea Agreement February 5, 1998

Penalty Phase Hearing Held February 20, 1998

Court finds LWOP March 18, 1998

**Sentencing:** May 29, 1998 (LWOP, 30 years, concurrent)

**Aggravating Circumstances:** b (1) Burglary

**Mitigating Circumstances:** Remorse

Lack of criminal history

"Acceptance of responsibility" by surrendering to police and pleading guilty

**DIRECT APPEAL:** Warlick v. State, 722 N.E.2d 809 (Ind. January 27, 2000) (02S00-9810-CR-539)

Convictions Affirmed 5-0      LWOP Affirmed 5-0

Opinion by Boehm; Shepard, Dickson, Rucker concur. Sullivan concurs in result.

For Defendant: Bruce R. Snyder, P. Stephen Miller, Fort Wayne

For State: Kathryn Janeway, Deputy Attorney General (Modisett)

**PCR:** (02D04-9606-CF-000259)  
09/15/2000 Petition for Post Conviction Relief filed Pro Se.  
10/12/2000 Entry of Appearance and Answer of Respondent to Petition for Post-conviction Relief filed by Deputy Prosecuting Attorney David H. McClamrock.  
10/17/2000 Written Appearance filed by State Public Defender  
11/06/2000 Defendant's Notice of Present Inability and Request for Indefinite Continuance Is Granted. All Proceedings on the Petition for Post-Conviction Relief Are Stayed until Such Time as Petitioner Files His Certificate of Readiness.  
12/10/2009 Pro-se Petition for Post-Conviction Relief filed  
01/06/2010 State Files Written Appearance and Answer to Post-Conviction Relief.  
01/15/2010 Notice of Non-Representation and Notice of Withdrawal of Appearance and Certification Filed by State Public Defender Attorney Stephen T. Owens.  
05/03/2013 Motion to Withdraw or Dismiss Petition for PCR Without Prejudice Granted

**HABEAS:** None.

## **WASHINGTON, JEFFREY DEAN**

DOB: 01/12/1968 Black Male DOC# 862899 Location: Wabash Valley Level 4 Facility

Posey County Superior Court Judge Donald E. Baier

**Trial Cause #:** 65D01-0112-CF-00567

**Defense:** William Goodin

**Prosecutor:** Trent VanHaften, Prosecuting Attorney, Jodi Uebelhack, Deputy Prosecutor

**Date of Murder:** December 5, 2001

**Victim:** Sandra Bass B / F / 34 (Ex-girlfriend)

**Method of Murder:** Stabbing with knife x13

**Summary:** The recent end of a romantic relationship with the victim Sandra Bass apparently upset Washington. At some point in the late evening hours of December 5, 2001, he walked to the apartment complex where Bass lived with her three children and saw Bass and another man leaving the apartment complex in Bass' car. Bass returned a short time later, parked her car in her assigned spot and was getting out of her car when Washington confronted her. Armed with a butcher knife and wearing a pair of socks over his hands, Washington shoved Bass back into the car and stabbed her at least thirteen times. Washington fled the complex and hid the knife and his clothes in separate locations. Bass bled to death from the stab wounds. The following day, Washington was apprehended and questioned at length by the police. After an initial attempt to provide the police with an alibi for the previous night, Washington admitted stabbing Bass.

**Request for LWOP Filed:** December 20, 2001

**Conviction:** Murder

Jury Trial May 20-23, 2002; Verdict: Guilty of Murder

LWOP Jury Trial May 23, 2002; Verdict: Find both Aggravators, Recommend LWOP

**Sentencing:** June 14, 2002 (LWOP)

Washington earned juvenile delinquency adjudications for theft, trespass, burglary, and sexual abuse; and adult convictions for robbery, voyeurism, escape, and stalking.

Washington was previously convicted in the Posey Superior Court of Robbery (Class B Felony), Burglary (Class A Felony), and on May 23, 1997 was sentenced to 10 years, 20 years imprisonment. (86-S-25)

Washington was previously convicted in the Posey Circuit Court of Stalking (Class C Felony), and on February 27, 1997 was sentenced to 4 years imprisonment. (65C01-9610-CF-00069)

**Aggravating Circumstances:** b (3) Lying in Wait  
b (9) On Felony Probation

**Mitigating Circumstances:**

**DIRECT APPEAL:** Washington v. State, 808 N.E.2d 617 (Ind. May 10, 2004) (65S00-0209-CR-477)  
Convictions Affirmed 5-0 LWOP Affirmed 5-0  
Opinion by Rucker; Shepard, Dickson, Sullivan, Boehm concur.  
(Confession not involuntary despite police deception; Anger alone is not sufficient to support an instruction on sudden heat; Proof of Lying in Wait aggravator was sufficient)  
For Defendant: W. Gooden, Mt. Vernon  
For State: Ellen H. Meilaender, Deputy Attorney General (S.Carter)

**PCR:** (65D01-1010-PC-377)  
Posey County Superior Court Judge S. Brent Almon  
05/11/2005 Defendant Pro Se files Petition for Post-Conviction Relief.  
10/14/2010 Evidentiary Hearing held; Petitioner by Counsel Steven Schutte, State of Indiana by Prosecuting Attorney Jodi Uebelhack  
12/31/2010 Findings of Fact, Conclusions of Law and Judgment Entered.  
Amended Petition for Post Conviction Relief Denied.

Washington v. State, Unpub., 953 N.E.2d 1280 (Ind. App. September 19, 2011) (65A05-1101-PC-65)  
Convictions Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Vadik; Friedlander, Darden concur.  
(Claimed ineffective assistance by inadequately investigating and offering during the penalty phase evidence of his psychiatric history and abusive childhood.- Psychiatric records were not helpful and abuse records may have opened door to criminal history)  
For Defendant: Stephen Schutte, Deputy Public Defender (Owens)  
For State: Henry A. Flores, Jr., Deputy Attorney General (Zoeller)  
Washington v. State, 962 N.E.2d 655, 2011 Ind. LEXIS 1146 (Ind., Dec. 19, 2011) (Transfer denied)

**HABEAS:** None.

**WEST, MICHAEL**

DOB: 12/08/1974    White Male    DOC# 995573    Location: Miami Correctional Level 3 Facility

Marion County Superior Court Judge Tanya Walton Pratt

**Trial Cause #:** 49G01-9809-CF-143703**Defense:****Prosecutor:****Date of Murder:** April 29, 1998**Victim:** Carla K. Hollen W / F / 36 (Co-worker)**Method of Murder:** Stabbing with knife x50

**Summary:** In the early morning hours of April 29, 1998, police were dispatched to a Clark service station in Indianapolis which customers had found unattended. In the back room, police discovered the body of Carla Hollen (36). She had been stabbed over fifty times. The cash register tape showed that the register had been opened at 2:14 a.m. and \$274.50 was missing.

West was Hollen's co-worker. On April 28, Hollen was scheduled to work from 10:00 or 10:30 p.m. until 6:00 a.m. West had worked a shift starting at 3:30 p.m. Pizza was delivered to the station between 11:30 and 11:45 p.m. and West's fingerprint was found on a pizza box in the station. Hollen's blood was found on the horn of West's Blazer, and shoeprints matching Caterpillar boots--the type West was known to wear--were found imprinted in Hollen's blood near her body. According to Jimmy Collins, whom West owed money, earlier that day West gave him \$10 and two cartons of cigarettes, saying that was all he had. Shortly after the robbery, West bought crack cocaine from Roy Rogers for \$275.

West was arrested in September 1998. While incarcerated in Marion County Jail, West bragged to inmate James Warren that he and his cousin had robbed the Clark station and that he had tried to "stab Hollen's breasts off." A deputy sheriff assigned to transport prisoners, Brett Larkins, reported that West said later, "I'm going to kill him, too," while referring to a picture of Warren among a pile of legal papers West was carrying.

**Request for LWOP Filed:****Conviction:** Felony Murder, Robbery (Class A Felony)

Jury Trial; Verdict: Guilty of Murder, Felony Murder, Robbery (Class A Felony)

**Sentencing:** October 1, 1999 (LWOP, 20 years, consecutive)

Merging Murder, and reducing Robbery from Class A to Class B Felony

**Aggravating Circumstances:** b (1) Robbery**Mitigating Circumstances:****DIRECT APPEAL:** West v. State, 755 N.E.2d 173 (Ind. September 4, 2001) (49S00-0001-CR-38)

Convictions Affirmed 5-0    LWOP Affirmed 5-0

Opinion by Boehm; Shepard, Dickson, Sullivan, Rucker concur.

(Expert shoepoint and footwear examiner and pry marks examiner; Threat to kill witness;  
By entering conviction for felony murder, a Double Jeopardy is created)

For Defendant: Katherine A. Cornelius, Marion County Public Defenders Office

For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

**PCR:** (49G01-9809-PC-143703)  
Marion Superior Court Judge Kurt Eisgruber, Magistrate Steven Rubick  
08/27/2002 Pro se Petition for Post-Conviction Relief filed  
04/24/2009 Amended Petition filed (alleging ineffective assistance of trial counsel and newly discovered evidence rendering West's convictions and sentence "unreliable.")  
04/06/2010, 08/31/2010 PCR Evidentiary Hearings held.  
03/11/2011 Deposition testimony of newly discovered evidence ruled inadmissible  
07/20/2011 PCR Petition denied

West v. State, Unpub., 968 N.E.2d 342 (Ind. App. May 10, 2012) (49A04-1108-PC-451)  
Convictions Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Mathias; Friedlander, Riley concur.  
For Defendant: Steven H. Schutte, Deputy Public Defender (Owens)  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
West v. State, 971 N.E.2d 668 (Ind. 2012) (Transfer denied)

**HABEAS:** West v. Butts (S.D. Ind., Jan. 23, 2014) (1:12-cv-1766-SEB-DKL)  
United States District Court, Southern District of Indiana, Indianapolis Division  
Judge Sarah Evans Barker  
01/23/2014 - It is clear that West's trial counsel investigated possible mitigating circumstances before making a reasonable strategic decision to argue that West was not the actual killer instead of presenting evidence of West's drug addiction as a mitigating circumstance. West's habeas petition does not raise a cognizable federal claim, and the Petition is therefore denied. His renewed request for the appointment of counsel is denied. A Certificate of Appealability is also denied.

## DANIEL RAY WILKES

OFF DEATH ROW SINCE 08-12-11 DOC#: 108002  
DOB: 07-30-1968 White Male Location: Indiana State Prison

Clark County Circuit Court  
Venued from Vanderburgh Circuit Court

Vanderburgh Circuit Court Judge Carl A. Heldt

**Trial Cause #:** 82C01-0605-MR-438 (Vanderburgh)  
10C01-0705-MR-158 (Clark)

**Prosecutors:** Stanley M. Levco, Donita F.M. Farr  
**Defense:** Barbara Williams, Kurt Schnepper

**Date of Murder:** April 23, 2006

**Victims:** Donna Lee Joy Claspell, W/F/38 (Friend and roommate);  
Avery Pike, W/F/13 (Donna's daughter); Sydne Claspell W/F/8 (Donna's daughter).



**Method of Murder:** Beaten with a hammer and level, knife to cut throat (Donna);  
Beaten with a hammer and level (Sydne); Strangulation with a sports bra (Avery).

**Summary:** Wilkes met and befriended Donna Claspell while they were enrolled in an in-patient drug rehabilitation facility in Evansville. After completing treatment, Wilkes moved in with Donna and her two daughters, Avery (13) and Sydne (8). Shortly thereafter, Wilkes began molesting Avery. While intoxicated, Wilkes murdered Donna in her bed, beating her with a hammer and wooden level which resulted in multiple skull fractures. He also cut her throat with a knife. Wilkes also attacked Sydne in Donna's bedroom, beating her with the hammer and level, causing massive

skull fractures. Wilkes then went to Avery's bedroom, strangling her with a sports bra and leaving her naked on her bed with her hands tied behind her back and one of her legs tied to the footboard of the bed. Wilkes confessed to the crimes, but claimed at trial with the aid of an expert, that it was a false confession.

**Trial:** PC Affidavit for Murder filed (04-27-06); Information for Murder filed (05-01-06); Initial Hearing (05-03-06); DP Request filed (06-19-06); Change of Venue Ordered (04-17-07); Voir Dire (12-04-07, 12-05-07); Jury Trial (12-06-07, 12-07-07, 12-10-07, 12-11-07, 12-12-07); Verdict (02-12-07) (2 Hour deliberation); DP Trial (12-13-07, 12-14-07); Hung Jury 11-1 (12-14-07); Court Sentencing (01-25-08).

Hung Jury on Death Sentence. (But jury found existence of Aggravating Circumstances in special verdict)

**Conviction:** Murder, Murder, Murder

**Sentencing:** January 25, 2008 (Death Sentence)

**Aggravating Circumstances:** b (12) 2 victims less than 12 years of age  
b (8) 3 murders

**Mitigating Circumstances:** No significant history of prior criminal conduct  
Alcohol/drug intoxication and dependence  
Mixed personality disorder and psychosocial stressors, depression  
Under influence of extreme mental or emotional disturbance  
Victim was a participant in or consented to conduct  
Defendant was merely an accomplice, under substantial domination of another  
Mental disease or defect  
Childhood was unstable, abusive and neglectful  
Defendant can be safely incarcerated at DOC

**Direct Appeal:** Wilkes v. State, 917 N.E.2d 675 (Ind. December 10, 2009) (10S00-0808-DP-453)  
Clark Circuit Court Cause #10C01-0705-MR-158 (Venued from Vanderburgh County)  
Conviction 5-0 DP Affirmed 5-0  
Boehm Opinion; Dickson, Shepard, Sullivan, Rucker concur.  
For Defendant: John Andrew Goodridge (Evansville), William Wayne Gooden (Mt. Vernon)  
For State: Stephen R. Creason, Deputy Attorney General (Zoeller)  
Wilkes v. State, 2010 Ind. LEXIS 199 (March 16, 2010) (Reh. denied)  
Wilkes v. Indiana, 131 S.Ct. 414 October 18, 2010 (Cert. denied)

**PCR:** 04/15/10 Notice Of Intent To File Petition For Post-Conviction Relief.  
10/13/10 States Answer to Petition for Post-Conviction Relief filed.  
04/08/11 Amendment To Petition For Post-Conviction Relief filed.  
05/05/11 States Answer to Amended Petition for Post-Conviction Relief filed.  
08/12/11 PCR granted as to death sentence.  
State of Indiana vs. Daniel Ray Wilkes (10C01-0705-MR-000158)  
Special Judge Carl D. Heldt  
(Post Conviction Relief granted, Death Sentence vacated and sentence reduced to Life Without Parole. Judge Heldt based his ruling upon consideration of the jury's indecision in failing to reach a verdict. The Court did not do so in the original sentencing. The State did not appeal this ruling.)

Wilkes v. State, 984 N.E.2d 1236 (Ind. April 4, 2013) (10S00-1004-PD-185)  
Appeal of denial of PCR as to conviction. Conviction Affirmed 5-0  
Dickson Opinion; Rucker, David, Massa, and Rush concur.  
(Affirming denial of all PCR claims relating to conviction, and affirming LWOP sentence)  
For State: Stephen R. Creason, Kelly A. Miklos, Deputy Attorneys General (Zoeller)  
For Defendant: Joanna Green, Steven H. Shutte, Kathleen Cleary, Deputy Public Defenders (Owens)

- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **WILLIAMS, DARNELL**

OFF DEATH ROW SINCE 07-02-04 DOC#: 872037  
DOB: 07-31-1966 Black Male Location: Pendleton Correctional Facility

Lake County Superior Court  
Judge James E. Letsinger  
**Trial Cause #:** 2CR-133-886-531

**Prosecutor:** Thomas W. Vanes, Kathleen Burns  
**Defense:** Nathaniel Ruff

**Date of Murder:** August 12, 1986



**Victim(s):** John Rease B / M / 74; Henrietta Rease B / F / 59 (Ex-Foster Parents of Rouster)

**Method of Murder:** shooting with .32 and .22 handgun

**Summary:** John and Henrietta Rease were elderly foster parents, regularly taking into their home children who were often incorrigible and unwanted. One such child was Gregory Rouster, who was placed in the Rease home by the Welfare Dept. in November 1985 and stayed through February 1986. The Reases operated a small candy store out of the first floor of their home in Gary. On August 12, 1986 both were shot to death in their home. John Rease was shot once in the shoulder area with a .32 handgun. Henrietta Rease was shot once in the back with the same .32 handgun and twice in the head at close range with a .22 handgun. .30 caliber ammunition was found on the floor. Numerous witnesses placed Rouster and his companion, Darnell Williams, going into the home with guns on the day of the murder. A foster child of the Rease's, 17 year old Derrick Bryant, testified that he was hiding in the house as Rouster and Williams entered; heard Rouster arguing with Henrietta over money they owed him, heard Henrietta say "Greg, why are you doing this?", then heard two more shots as he ran out the back door. Other witnesses testified that Rouster was outside when the last shots were fired. Rouster had bumped into his Welfare caseworker at the drugstore earlier the same day and asked if the Rease's received a clothing allowance for him while he was in foster care. When he was told that they did, Rouster declared that they owed him money and he was going to get it. Williams was later in possession of the same .30 caliber ammunition found at the scene, as well as cash and a wristwatch that Bryant identified as a gift to Henrietta. Accomplice Edwin Garland Taylor pled guilty to Robbery (C Felony) and testified for the prosecution.

**Trial:** Information/PC for Murder filed (08-14-86); Amended Information for DP filed (09-16-86); Voir Dire (02-09-87, 02-10-87); Jury Trial ( 02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-16-87); Verdict (02-17-87); DP Trial (02-17-87, 02-18-87); Verdict (02-19-87); Court Sentencing (03-23-87).

**Conviction:** Felony-Murder (John Rease), Felony-Murder (Henrietta Rease).  
(Williams was tried jointly with Gregory Rouster and Teresa Newsome, Rouster's girlfriend and Williams' sister, who was found not guilty.)

**Sentencing:** March 23, 1987 Death Sentence (Rouster); Death Sentence (Williams)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no prior criminal conduct  
aid and kindness to members of his family  
regular employment  
high school graduate

**Direct Appeal:** Rouster v. State, 600 N.E.2d 1342 (Ind. October 16, 1992) (45S00-8710-CR-914)

Conviction Affirmed 5-0 DP Affirmed 4-1

Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.

For Defendant: Scott L. King, Daniel L. Bella, Crown Point Public Defenders

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 08-26-93. Amended PCR filed 04-28-95, 06-05-95.

State's Answer to PCR Petition filed 02-17-94.

PCR Hearing 09-18-95, 09-25-95, 09-26-95, 09-27-95, 09-28-95, 09-29-95, 10-02-95, 10-04-95.

Special Judge Richard J. Conroy

For Defendant: Ann M. Pfarr, Juliet M. Yackel, Jeffreys Merryman, Deputy Public Defenders (Carpenter)

For State: Natalie Bokota, Taylor

02-28-96 PCR Petition denied.

Williams v. State, 706 N.E.2d 149 (Ind. 1999) (45S00-9303-PD-397)

(Appeal of PCR denial by Special Judge Richard J. Conroy)

Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Ann M. Pfarr, Juliet M. Yackel, Deputy Public Defenders (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Williams v. Indiana, 120 S.Ct. 1970 (2000) (Cert. denied)

Williams v. State, 718 N.E.2d 737 (Ind. September 28, 1999)

(Petition for Rehearing denied, execution date set for November 17, 1999)

Williams v. State, 791 N.E.2d 193 (Ind. June 27, 2003) (45S00-0306-SD-248)

(Successive PCR in the form of DNA testing of blood on his shorts and co-defendant's pants)

Authorization Declined 5-0; Opinion by Shepard; Dickson, Sullivan Boehm, Rucker concur.

(The testing would not be probative of the perpetrator or exculpatory, would not indicate an unlawful or inappropriate death sentence.)

Williams v. Indiana, 124 N.E.2d 300 (October 6, 2003) (Cert. denied)

Williams v. State, 792 N.E.2d 22 (Ind. July 22, 2003) (45S00-0306-SD-248)

Order directing State to respond to Defendant's "Petition For The Consideration Of New Evidence Pursuant To Indiana Code 35-50-2-9(k)."

Williams v. State, 793 N.E.2d 1019 (Ind. July 25, 2003) (45S00-0306-SD-248)

(Successive PCR for consideration of new evidence pursuant to IC 35-50-2-9(k).)

Authorization Declined 3-2; Opinion by Sullivan, Shepard, Dickson concur. Boehm and Rucker dissent, concluding that execution should be delayed while new DNA testing is performed.

Williams v. State, 808 N.E.2d 652 (Ind. May 21, 2004) (45S00-0306-SD-248)

(Rehearing denied. Opinion by Shepard; Dickson, Sullivan, Rucker, Boehm concur.)

**Habeas:** 10-04-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

05-12-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Darnell Williams v. Ron Anderson, Superintendent (3:99-CV-0570-AS)

Judge Allen Sharp

For Defendant: Juliet Marie Yackel, Chicago, IL, Stephen E. Eberhardt, Crestwood, IL

For State: Michael A. Hurst, Deputy Attorney General (S. Carter)

11-03-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

04-02-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

11-19-01 Writ of Habeas Corpus denied.

12-20-01 Certificate of Appealability granted.

Williams v. Anderson, 174 F.Supp. 843 (N.D. Ind. November 19, 2001) (3:99-CV-0570-AS)

(Habeas Corpus denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

Williams v. Davis, 301 F.3d 625 (7th Cir. August 29, (2002) (01-4225)

(Appeal of denial of Habeas Corpus)

Affirmed 3-0; Opinion by Judge Michael S. Kanne, Judge John L. Coffey Judge Harlington Wood, Jr.

For Defendant: Juliet M. Yackel, Chicago, IL, Stephen E. Eberhardt, Crestwood, IL  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Williams v. Indiana, 123 S.Ct. 1904 (April 28, 2003) (Cert. denied)

**Clemency:** In July 2003 Governor Frank O'Bannon granted a stay of execution for Darnell Williams in order that DNA testing could be performed on clothing he was wearing when arrested. However, the testing proved inconclusive at best, and the Indiana Supreme Court set a July 9, 2004 execution date. State v. Williams, 2004 Ind. LEXIS 474 (May 21, 2004).

On July 2, 2004 Governor Joe Kernan issued an Executive Order commuting the death sentence of Darnell Williams to Life Imprisonment Without Parole. Noting that Gregory Rouster was more culpable in the murders, but had been spared the death penalty after he was declared mentally retarded, Governor Kernan said "Because Rouster cannot be executed for the crime, it is unjust for Williams to be executed." The commutation followed a recommendation for commutation from the State Parole Board. This was the first time since the reinstatement of the Death Penalty in Indiana in 1977 that the Parole Board recommended commutation of a death sentence, or that the Governor commuted a death sentence.

<https://secure.in.gov/ipdc/files/Darnell-Williams-Kernan.pdf>

► CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

**WITT, DARREN JOE**

DOB: 01/03/1973      White Male      DOC# 923458      Location: Indiana State Prison

Lake County Superior Court, Criminal Division 2 Judge Clarence D. Murray

Trial Cause #: 45G02-9510-CF-00206

**Defense:** Nick Thiros, Darnail Lyles

**Prosecutor:** Jane Lake, Kathleen O'Halloran

**Date of Murder:** March 20, 1995

**Victim:** Jamie K. Haley W / F / 19 (Acquaintance)

**Method of Murder:** Stabbing x8 / Slashing with Knife

**Summary:** Jamie K. Haley (19) was a 1994 graduate of Griffith Senior High School and a student at Purdue University Calumet. On March 20, 1995, Haley was stabbed eight times inside her Griffith home. Her throat was slashed from the middle of her neck to under her right ear and she was sexually assaulted with a curling iron. During a jailhouse conversation Darren Joe Witt confessed to his cellmate that he killed Haley after she spurned his sexual advances. The cellmate told police that Witt bragged about demanding oral sex from Haley shortly before killing her.

Haley was last seen alive around 1 p.m. when she left work. Her fiancee told detectives that he received a page from Haley around 2 p.m. He called her back a few minutes later, and she told him that Darren Witt was at her house. Haley's half-clothed body was discovered sprawled face up outside her bedroom around 3:53 p.m. by her sister and nephew. She wore a T-shirt. Gathered at her ankles were a pair of black tights and black panties.

Witt, a convicted felon out on parole at the time of Haley's murder, was released from prison in October 1994 after serving two years following a guilty plea to Sexual Battery and Theft from a 1992 attack on a Hammond teen. While in jail, he was charged and convicted May 31 of Attempted Rape for attacking an 18-year-old girl from the Black Oak neighborhood of Gary. He was sentenced to 18 years on that conviction. His criminal record indicates he assaulted at least three women between Feb. 26 and March 20. Witt was arrested only eight hours after Haley's body was discovered. Police began looking at him as a suspect in Haley's murder after they heard his voice on an answering machine inside the home, saying that "he wanted to see" Haley.

**Request for DP Filed:** October 3, 1995

**Request for LWOP Filed:** November 7, 1996

**Conviction:** Murder, SBI Robbery (Class C Felony)  
Insanity / Retardation Mental Evaluations  
Guilty Plea by Plea Agreement filed November 7, 1996; Dismiss all other Counts 2, 3, 5  
DP Withdrawn, LWOP filed; Open Plea, Judge to decide sentence

**Sentencing:** December 6, 1996 (LWOP, 8 years)

Witt was previously convicted in the Lake County Superior Court of Attempted Rape (Class B Felony), and on July 10, 1995 was sentenced to 18 years imprisonment. (45G02-9503-CF-00076)

Witt was previously convicted in the Lake County Superior Court of Sexual Battery (Class D Felony) and Battery (Class A Misdemeanor), and on October 13, 1992 was sentenced to 1.5 years and 10 months imprisonment. (45G02-9503-CF-00076). Witt was previously convicted in the Lake County Superior Court of Theft (Class D Felony) (2 Counts), and on October 13, 1992 was sentenced to 1.5 years and 1.5 years imprisonment. (45G02-9204-CF-00088)

**Aggravating Circumstances:** b (1) Robbery  
b (9) On Parole

**Mitigating Circumstances:** Retardation / Mental Deficiency

**DIRECT APPEAL:** Witt v. State, 867 N.E.2d 1279 (Ind. June 12, 2007) (45S00-0608-CR-283)  
Opinion by Sullivan; Shepard, Dickson, Boehm, Rucker concur.  
(Almost 10 years passed since his conviction and sentencing before this appeal was requested. Witt's request to file a belated notice of appeal was improvidently granted by the trial court. We dismiss the appeal.)  
For Defendant: Pro se  
For State: Michael Gene Worden, Deputy Attorney General (S. Carter)

**PCR:** (45G02-0708-PC-00009)  
Judge Clarence D. Murray, Kathleen A. Sullivan, Magistrate  
(On August 24, 2007, Witt filed a pro se petition for post-conviction relief, which was subsequently amended with the assistance of counsel. On February 12 and May 22, 2009, an evidentiary hearing was conducted. On April 9, 2010, the post-conviction court issued its findings of fact, conclusions of law, and order denying Witt post-conviction relief.)

Witt v. State, 938 N.E.2d 1193 (Ind. App. 2010) (45A05-1005-PC-319)  
Appeal of denial of PCR as to sentence.  
Conviction Affirmed 3-0 LWOP Affirmed 3-0  
Opinion by Bailey; Robb, Brown concur.  
(After hearing evidence from co-workers, two court-appointed experts and one defense expert, the trial court in Witt's pretrial hearing found that Witt was not, in fact, mentally retarded. Witt now contends that the trial court should not have commissioned re-testing but should have relied upon his grade school testing and resulting diagnosis of mild mental retardation. We disagree.)  
For Defendant: Joanna Green, Deputy Public Defender (Carpenter)  
For State: George P. Sherman, Deputy Attorney General (Zoeller)  
Witt v. State, 950 N.E.2d 1196 (Ind. 2011) (Transfer denied)

**HABEAS:** None.

## **WRIGHT, ZACHARIAH BRIAN**

DOB: 07/15/1997    White Male    DOC# 263165    Location: Wabash Valley Level 3 Facility

Boone County Superior Court #1 Judge Matthew C. Kincaid

**Trial Cause #:** 06D01-1706-MR-001078



**Defense:** Mark Inman, Andrew J. Borland

**Prosecutor:** Kent Eastwood, Prosecuting Attorney, Thomas K. Morris, Deputy Prosecutor

**Date of Murder:** June 18, 2017

**Victim:** Robert Max Foster W / M / 73 (No relationship to Wright)

**Method of Murder:** Stabbing with knife x30

**Summary:** During the early morning hours of June 18, 2017, Zachariah Wright, a nineteen-year-old on probation for felony burglary, committed a string of offenses in Lebanon, Indiana. The crime spree began with Wright's theft of a bike from the home of Darrin Demaree. From there, Wright broke into the home of Lynetta Boice and Rick Barnard, where he stole another bike, along with sundry items he found in the garage and in a car parked in the home's driveway.

Meanwhile, an elderly couple, Sonja and Max Foster, lay asleep just a block away in the home they had shared for nearly fifty years. Sometime just after sunrise, Sonja awoke to find a tall, obscure figure—later identified as Wright—standing in the doorway to their bedroom. Before Sonja could react, Wright walked quickly across the room, leaned over the bed, and stabbed Max repeatedly. As Max struggled to deflect the blade, Sonja retaliated, striking Wright on the back with a baseball bat. Wright turned to Sonja in response, slashing her across the face. In shock, Sonja fled downstairs, bleeding profusely and unsure of where to turn. Wright followed Sonja downstairs to confront her. Sonja, having gathered her wits, escaped through the front door after distracting her attacker. But Wright caught up with her once again, pushing her to the ground and attempting to set her clothes on fire with a cigarette lighter. Unsuccessful, Wright fled the scene, disposing of his boots in a nearby pond. Sonja made her way to a neighbor's house to call for help. Max, however, succumbed to his wounds, having been stabbed over thirty times.

**Request for DP Filed:** September 20, 2017; Withdrawn July 23, 2019

**Request for LWOP Filed:** June 12, 2019

**Conviction:** Waiver of Jury Trial / Consent to Bench Trial for Both Guilt/Penalty Phases filed April 22, 2019.

The State of Indiana proved the guilt of the Defendant beyond reasonable doubt as charged in Count I Murder; Count II Attempt Murder, level 1 felony; Count III Burglary, level 1 felony; Count IV Burglary, level 1 felony; Count V Attempt Rape, level 1 felony; Count VI Aggravated Battery, level 3 felony; Count VII Criminal Confinement, level 3 felony; Count VIII Sexual Battery, level 4 felony; Count XV Theft, level 6 felony; Count XVII Theft, level 6 felony; Count XVIII Burglary, level 5 felony; Count XIX Theft, level 6 felony; Count XX Attempt Burglary, level 1 felony; Count XXI Theft, level 6 felony. - Counts II, III, IV, V, VI and VIII all contain elements of the State's request for life without parole and as such the convictions for these offenses merge into Count I. The State and Defense also stipulate and agree that Counts XIX and XXI merge into Count XVIII.

**JUDGMENT:** Murder, Confinement (Level 3 Felony), Theft (Level 6 Felony), Theft (Level 6 Felony), Burglary (Level 5 Felony), Attempted Burglary (Level 2 Felony)

**Sentencing:** January 3, 2020 (LWOP, 9 years, 1.5 years, 1.5 years, 2.5 years, 6 years, consecutive)

Wright was also convicted of Burglary (Level 5 Felony) in the Boone County Superior Court, and on September 24, 2020 was sentenced to 3 years imprisonment. (06D02-1604-F5-0334)

Wright was previously convicted of Burglary (Level 5 Felony) in the Boone County Superior Court, and on February 28, 2017 was sentenced to 1 year imprisonment. (06D02-1604-F5-0334)

**Aggravating Circumstances:**

- b (1) Burglary
- b (1) Attempted Rape
- b (9) On Felony Probation

**Mitigating Circumstances:** Young age of the Defendant (19) at the time of the murder  
Exposed to drugs and alcohol before he was born  
Parents and other care givers were alcoholics and addicts  
Observed instances of domestic violence  
Victim of physical and sexual abuse as child  
Parents often abandoned him when he was child  
Neglected by his parents  
Childhood was fraught with instability, repeated moves  
Multiple, often incompetent, caregivers  
Grew up in poverty  
Aged out of foster care without resources, and trauma was not treated  
Raised by mentally ill and personality disordered mother  
Parents were often incarcerated  
Institutions that might have served him, failed to serve him  
Scores high on an Adverse Child Experience Questionnaire  
Did not have fully developed brain at the time of the offense.

**DIRECT APPEAL:** Wright v. State, 168 N.E.3d 244 (Ind. May 4, 2021) (20S-LW-260)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.  
Opinion by Goff; Rush, David concur. Massa concurs in result with separate opinion.  
Justice Slaughter dissents with separate opinion.  
(No denial of right to proceed Pro Se, but LWOP not inappropriate)  
For Defendant: Michael D. Gross, Lebanon  
For State: Caroline G. Templeton, Deputy Attorney General (Rokita)

**PCR:** None.

**HABEAS:** None.

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Pope v. State, 963 N.E.2d 1119 (Ind. 2012) (Transfer denied)

**POWELL, JASON E.**

**POWERS, STEPHEN R.**

Powers v. State, 696 N.E.2d 865 (Ind. July 8, 1998) (Direct Appeal)

**PRICE, KERRIE D.**

State v. Price, 715 N.E.2d 331 (Ind. June 23, 1999) (Interlocutory)

Price v. State, 765 N.E.2d 1245 (Ind. April 10, 2002) (Direct Appeal)

**PRIEST, CASEY DONOVAN**

Priest v. State, Unpub., 807 N.E.2d 812 (Ind. App. 2004) (Direct Appeal)

Priest v. State, 812 N.E.2d 808 (Ind. June 24, 2004) (Transfer denied)

**RACKEMANN, KENNETH “CODY”**

Rackemann v. Galipeau (N.D. Ind. Feb. 23, 2021) (3:20-CV-214 DRL-MGG)(Civil)

**RAMIREZ, RYAN**

Ramirez v. State, 174 N.E.3d 181 (Ind. September 23, 2021) (Direct Appeal)

**RICE, RONNIE JAMAL**

Rice v. State, 6 N.E.3d 940 (Ind. April 16, 2014) (Direct Appeal)

Rice v. State, 89 N.E.3d 406 (Ind. August 24, 2017) (Transfer denied)

Rice v. State, Unpub., 86 N.E.3d 238 (Ind. App. May 30, 2017) (PCR)

Rice v. Warden, (N.D. Ind. Feb. 27, 2020) (3:17-CV-738-JD-MGG)(Habeas)

Rice v. Brown, (7th Cir. Oct. 22, 2020) (20-1401)(Habeas)

**RICHARDS, STEPHEN THOMAS****ROGERS, THOMAS LEE**

Rogers v. State, 698 N.E.2d 1172 (Ind. September 8, 1998) (Direct Appeal)

**ROUSE, DANNY RAY****RUSSELL, JERRY E., SR.**

Russell v. State, 743 N.E.2d 269 (Ind. March 9, 2001) (Direct Appeal)

**SALLEE, SAMUEL EARL**

Sallee v. State, 51 N.E.3d 130 (Ind. March 16, 2016) (Direct Appeal)

**SALYERS, FRANKIE ALLEN**

Salyers v. State, 862 N.E.2d 650 (Ind. March 13, 2007) (Direct Appeal)

**SATTERFIELD, ANDREW S.**

Satterfield v. State, 33 N.E.3d 344 (Ind. June 26, 2015) (Direct Appeal)

**SCHLABACH, GERALD WAYNE****SCOTT, AUSTIN BRYAN NELSON****SHANK, CRAIG NATHAN****SHANNON, MICHAEL P.****SHOLES, DAVID T.**

Sholes v. State, 878 N.E.2d 1232 (Ind. January 9, 2008) (Direct Appeal)

Sholes v. State, Unpub., 720 N.E.2d 1281 (Ind. App. December 10, 1999)(PCR)

Sholes v. State, 735 N.E.2d 229 (Ind. April 5, 2000) (Transfer denied)

Sholes v. State, Unpub., 779 N.E.2d 981 (Ind. App. November 25, 2002) (PCR)

Sholes v. State, 812 N.E.2d 800 (Ind. April 1, 2004) (Transfer denied)

Sholes v. Indiana, 543 U.S. 882, 125 S. Ct. 180 (October 1, 2004) (Cert. denied)

**SHOUN, MICHAEL TODD****SLATER, REGGION DION****SMALLWOOD, HOWARD J.**

Smallwood v. State, 773 N.E.2d 259 (Ind. August 16, 2002) (Direct Appeal)

Smallwood v. State, Unpub., (Ind. App. October 20, 2010) (PCR)

Smallwood v. State, 2011 Ind. LEXIS 481 (Ind., June 3, 2011) (Transfer denied)

Smallwood v. Williams,(S.D. Ind. Sep. 30, 2021) (1:20-cv-00404-JPH-DML)(Civil)

**SOTELO, JOSEPH STEPHEN****STEPHENSON, CHARLES ROBERT**

Stephenson v. State, 29 N.E.3d 111 (Ind. April 23, 2015) (Direct Appeal)

**STEVENS, CHRISTOPHER M.**

Stevens v. State, 691 N.E.2d 412 (Ind. 1997) (Direct Appeal)  
Stevens v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)  
Stevens v. State, 770 N.E.2d 739 (Ind. 2002) (PCR)  
Stevens v. Indiana, 124 S.Ct. 69 (2003) (Cert. denied)  
Stevens v. McBride, \_\_\_ F.Supp.2d \_\_\_ (N.D. Ind. 2005)(Habeas)  
Stevens v. McBride, 489 F.3d 883, (7th Cir. 2007) (Habeas)  
Stevens v. Buss, 128 S.Ct. 2423 (2008) (Cert. Denied)  
Buss v. Stevens, 128 S.Ct. 2429 (2008) (Cert. Denied)

**STOCKELMAN, ANTHONY RAY**

Stockelman v. State, 868 N.E.2d 416 (Ind. June 20, 2007) (Direct Appeal)

**STROMINGER, RAYMOND**

Strominger v. Lang, 119 N.E.3d 237 (Ind. Ct. App. 2018)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Nov. 1, 2013)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Nov. 14, 2013)(Civil)  
Strominger v. Brock, No. 2:10-cv-00158-LJM-DKL (S.D. Ind. Jan. 23, 2014)(Civil)  
Strominger v. Brock, 592 F. App'x 508 (7th Cir. 2014)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. June 2, 2014)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Oct. 22, 2014)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Feb. 6, 2015)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 2:13-cv-291-JMS-WGH (S.D. Ind. Mar. 26, 2015)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-DML (S.D. Ind. Dec. 28, 2015)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-DML (S.D. Ind. Jan. 27, 2016)(Civil)  
Strominger v. Wilson, No. 1:16-cv-00253-TWP-MJD (S.D. Ind. June 7, 2016)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-MPB (S.D. Ind. Oct. 11, 2016)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 1:15-cv-01654-TWP-MPB (S.D. Ind. Sep. 25, 2017)(Civil)  
Strominger v. Neal, No. 3:20-CV-266-RLM-MGG (N.D. Ind. Aug. 28, 2020)(Civil)  
Strominger v. Neal, No. 3:20-CV-266-RLM-MGG (N.D. Ind. Dec. 7, 2020)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 3:20-CV-1014-JD-MGG (N.D. Ind. Apr. 8, 2021)(Civil)  
Strominger v. Ind. Dep't of Corr., No. 3:20-CV-1014-JD-MGG (N.D. Ind. Apr. 8, 2021)(Civil)  
Strominger v. Neal, No. 3:20-CV-266-RLM-MGG (N.D. Ind. Apr. 8, 2021)(Civil)

**STROUD, PHILLIP A.**

Stroud v. State, 809 N.E.2d 274 (Ind. May 25, 2004) (Dirct Appeal)

**STURGEON, CHARLES DANIEL**

Sturgeon v. State, 683 N.E.2d 612 (Ind. App. 1997) (Interlocutory)  
Sturgeon v. State, 719 N.E.2d 1173 (Ind. November 18, 1999) (Direct Appeal)  
Sturgeon v. State, Unpub., 807 N.E.2d 806 (Ind. App. April 6, 2004) (PCR)  
Sturgeon v. State, 812 N.E.2d 808 (Ind. June 24, 2004) (Transfer denied)

**TATE, DYLAN THOMAS**

Tate v. State, 161 N.E.3d 1225 (Ind. January 28, 2021) (Direct Appeal)

**TREADWAY, JEFFREY A.**

Treadway v. State, 924 N.E.2d 621 (Ind. April 8, 2010) (Direct Appeal)

**TURNER, DESMOND DARREL**

Turner v. State, 953 N.E.2d 1039 (Ind. September 28, 2011) (Direct Appeal)

**TURNER, DUANE E.**

Turner v. State, 682 N.E.2d 491 (Ind. June 24, 1997) (Direct Appeal)

Turner v. State, 974 N.E.2d 575 (Ind. App. September 19, 2012) (PCR)  
Turner v. State, (Ct. App. Dec. 4, 2012) (18A05-1112-PC-697) (Rehearing denied)  
Turner v. State, 982 N.E.2d 1016 (Ind. 2013) (Transfer denied)  
Turner v. Brown, (S.D. Ind. Feb. 18, 2015) ( 2:14-cv-0020-WTL-DKL)(Habeas)  
Turner v. Brown, 845 F.3d 294 (7th Cir. 2017) (Habeas)  
Turner v. Brown, 137 S. Ct. 2219 (June 5, 2017) (16-1196) (Cert. denied)

**VANN, DARREN DEON**

**VEAL, PAUL GREGORY**

Veal v. State, 784 N.E.2d 490 (Ind. March 7, 2003) (Direct Appeal)

**VOSS, JEFFREY A.**

Voss v. State, 856 N.E.2d 1211 (Ind. November 22, 2006) (Interlocutory)

**WALLS, JAMES GORDON**

Walls v. State, Unpub., 804 N.E.2d 1286 (Ind. App. February 26, 2004)(Direct Appeal)  
Walls v. State, 812 N.E.2d 804 (Ind. May 7, 2004) (Transfer denied)

**WARLICK, RICKEY P., SR.**

Warlick v. State, 722 N.E.2d 809 (Ind. January 27, 2000) (Direct Appeal)

**WASHINGTON, JEFFREY DEAN**

Washington v. State, 808 N.E.2d 617 (Ind. May 10, 2004) (Direct Appeal)  
Washington v. State, Unpub., 953 N.E.2d 1280 (Ind. App. September 19, 2011) (PCR)  
Washington v. State, 962 N.E.2d 655, 2011 Ind. LEXIS 1146 (Ind., Dec. 19, 2011) (Transfer denied)

**WEST, MICHAEL**

West v. State, 755 N.E.2d 173 (Ind. September 4, 2001) (Direct Appeal)  
West v. State, Unpub., 968 N.E.2d 342 (Ind. App. May 10, 2012) (PCR)  
West v. State, 971 N.E.2d 668 (Ind. 2012) (Transfer denied)  
West v. Butts (S.D. Ind., Jan. 23, 2014) (1:12-cv-1766-SEB-DKL)(Habeas)

**DANIEL RAY WILKES**

Wilkes v. State, 917 N.E.2d 675 (Ind. 2009) (Direct Appeal)  
Wilkes v. State, LEXIS 199 (Ind. 2010) (Reh. denied)  
Wilkes v. Indiana, 131 S.Ct. 414 (2010) (Cert. denied)  
Wilkes v. State, 984 N.E.2d 1236 (Ind. 2013) (PCR)

**WILLIAMS, DARNELL**

Rouster v. State, 600 N.E.2d 1342 (Ind. 1992) (Direct Appeal)  
Williams v. State, 706 N.E.2d 149 (Ind. 1999) (PCR)  
Williams v. State, 718 N.E.2d 737 (Ind. 1999) (Reh. denied)  
Williams v. Indiana, 120 S.Ct. 1970 (2000) (Cert. denied)  
Williams v. Anderson, 174 F.Supp. 843 (N.D. Ind. 2001)  
Williams v. Davis, 301 F.3d 625 (7th Cir. 2002) (Habeas)  
Williams v. Indiana, 123 S.Ct. 1904 (2003) (Cert. denied)  
Williams v. State, 791 N.E.2d 193 (Ind. 2003) (Successive PCR)  
Williams v. Indiana, 124 N.E.2d 300 (2003) (Cert. denied)  
Williams v. State, 792 N.E.2d 22 (Ind. 2003) (PCR)  
Williams v. State, 793 N.E.2d 1019 (Ind. 2003) (Succ PCR)  
Williams v. State, 808 N.E.2d 652 (Ind. 2004) (Reh. denied)

**WITT, DARREN JOE**

Witt v. State, 867 N.E.2d 1279 (Ind. June 12, 2007) (Direct Appeal)

Witt v. State, 938 N.E.2d 1193 (Ind. App. 2010) (PCR)

Witt v. State, 950 N.E.2d 1196 (Ind. 2011) (Transfer denied)

**WRIGHT, ZACHARIAH BRIAN**

Wright v. State, 168 N.E.3d 244 (Ind. May 4, 2021) (Direct Appeal)

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Content Current Through January 1, 2022

**APPENDIX**  
**DP / LWOP CHARGING INFORMATIONS**  
**OR REQUESTS FILED IN RECENT INDIANA CASES**

Arthur Lee Jones IV	(Vanderburgh)	12/22/2021
Gary Cecil Ferrell II	(Clinton)	12/14/2021
Alan D. Morgan	(LaPorte)	10/13/2021
Michael Wayne Hubbard	(Jennings)	05/20/2021
Elias Lamar Dorsey	(Marion)	01/26/2021
Tommy P. Holland	(Madison)	09/14/2020
Eliel Avelar	(Bartholomew)	08/21/2020
Donald R. Owen Jr.	(Elkhart)	12/18/2019
Zachariah Wright	(Boone)	06/12/2019
Ryan Ramirez	(Madison)	06/05/2019
Anthony Baumgardt	(Boone)	04/24/2018
Jason Dane Brown	(Marion)	09/28/2017
Johnetta Ruth Hall	(Scott)	10/19/2016
Joseph Albert Oberhansley	(Clark)	04/20/2015
Richard Carly Hooten	(Clark)	03/25/2013
William Clyde Gibson III	(Floyd)	05/23/2012
Roy E. Bell	(Fulton)	03/14/2012
Jeffrey Alan Weisheit	(Vanderburgh)	04/26/2010
Kevin Charles Isom	(Lake)	08/06/2007

STATE OF INDIANA )  
                      ) SS:  
COUNTY OF VANDERBURGH )

STATE OF INDIANA

VS

**ARTHUR LEE JONES IV**

IN THE VANDERBURGH SUPERIOR/CIRCUIT COURT  
Vanderburgh County, Indiana

CAUSE NUMBER. 82

COUNT 1 & 2

AMENDED LIFE WITHOUT PAROLE

*The crime of Murder, as charged in Count 1 & 2 of the Information filed herein, was committed by the defendant, Arthur Lee Jones IV, and the following aggravating circumstances exist, which justify the imposition of Life Without Parole:*

1) *The Defendant, Arthur Lee Jones IV, committed the murder by intentionally killing the victim while committing or attempting to commit robbery as set forth in I.C. 35-50-2-9 (b)(1)(G);*

*and/or*

2) *The Defendant, Arthur Lee Jones IV, has committed another murder, at any time, regardless of whether the defendant has been convicted of that murder as set forth in I.C. 35-50-2-9 (b)(8);*

*and/or*

3) *The Defendant, Arthur Lee Jones IV, was on parole at the time the murder was committed as set forth in I.C. 35-50-2-9 (b)(r).*

WHEREFORE, the State of Indiana prays that the Penalty of Life Without Parole be imposed on the defendant, Arthur Lee Jones IV.



Nicholas G. Hermann  
Prosecuting Attorney

STATE OF INDIANA      )  
                        )  
                        ) SS:  
COUNTY OF CLINTON   )

IN THE CLINTON SUPERIOR COURT, Clinton County, Indiana

CAUSE NUMBER: 12D01-2108-MR-000908

STATE OF INDIANA

VS

GARY CECIL FERRELL II

AMENDED NOTICE OF INTENT TO SEEK ENHANCED  
DEATH PENALTY

Comes now Anthony J. Sommer, Prosecuting Attorney of Clinton County, Indiana, being first duly sworn upon his oath, says the following:

1. That on or about August 18, 2021, Gary Cecil Ferrell II did commit the crime of murder by knowingly or intentionally killing Promise Leah Kristine Mays.
2. Pursuant to Indiana Code 35-50-2-9, at least one (1) aggravating circumstance exists.
3. In the commission of the crime of murder as alleged, Gary Cecil Ferrell II did commit the murder by intentionally killing the victim while committing or attempting to commit the crime of Criminal Confinement.
4. Gary Cecil Ferrell II has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder; to-wit: the murder of Pamela K. Sledd.

WHEREFORE, the State of Indiana respectfully requests that the Defendant, Gary Cecil Ferrell II, be sentenced to death.

/s/ Anthony J. Sommer - #17140-79  
Anthony J. Sommer  
Prosecuting Attorney  
45th JUDICIAL CIRCUIT

CERTIFICATE OF SERVICE

I certify that on the 14th day of December, 2021 that a copy of the foregoing notice was served upon counsel for Defendant by electronic service.

/s/Anthony J. Sommer - #17140-79  
Prosecuting Attorney  
45<sup>th</sup> JUDICIAL CIRCUIT

STATE OF INDIANA      )                  IN LAPORTE CIRCUIT COURT  
                            ) SS:  
COUNTY OF LAPORTE    )                  CAUSE NO. 46C01-2110-MR-\_\_\_\_\_

STATE OF INDIANA      )  
                            )  
vs.                      )  
                            )  
ALAN D. MORGAN        )

REQUEST FOR: SENTENCE OF  
LIFE IMPRISONMENT WITHOUT PAROLE

Julianne K. Havens, Deputy Prosecuting Attorney for the State of Indiana, upon information and belief, affirms under penalty of perjury that:

**LIFE IMPRISONMENT WITHOUT PAROLE  
I.C. 35-50-2-9 / SENTENCE REQUEST**

In the above named Cause, upon the Defendant, ALAN D. MORGAN, being found guilty of Murder, a felony, the State of Indiana will seek a sentence of life imprisonment without parole, based on the existence of at least one aggravating circumstance listed under Indiana Code 35-50-2-9(b), to wit: under I.C. 35-50-2-9(b)(12), Victim 1 was less than 12 years of age.

All of which is contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Indiana.

APPROVED BY: JOHN F. LAKE, Prosecuting Attorney

  
\_\_\_\_\_  
JULIANNE K. HAVENS #16069-75  
DEPUTY PROSECUTING ATTORNEY

IN THE JENNINGS CIRCUIT COURT  
Jennings County, Indiana

CAUSE NO. 40C01-2103-MR-000001

STATE OF INDIANA  
COUNTY OF JENNINGSSTATE OF INDIANA  
VS  
MICHAEL WAYNE HUBBARDNOTICE OF INTENT TO SEEK LIFE IMPRISONMENT WITHOUT PAROLE

Comes now the State of Indiana, by and through Brian J. Belding, Prosecuting Attorney for the 86th Judicial Circuit, and hereby notifies the Court and the Defendant that should the Defendant be convicted of Count I in this cause, the State of Indiana shall seek a sentence of Life Without Parole, pursuant to I.C. 35-50-2-9, and in support of said notice, the State alleges the following aggravating circumstances:

1. That the defendant committed the murder while committing arson.

WHEREFORE, the State of Indiana respectfully notifies the Defendant and the Court of its intention to seek a sentence of Life Without Parole on the charge of Murder in this matter.

Respectfully Submitted:

/s/Brian J. Belding  
Brian J. Belding  
Prosecuting Attorney

I hereby certify a copy of the foregoing was served upon the Defendant's counsel, Andrew Baldwin, by electronic service as of the date filed with the Clerk of the Court.

/s/Brian J. Belding  
Brian J. Belding  
Prosecuting Attorney

STATE OF INDIANA ) IN THE MARION SUPERIOR COURT  
COUNTY OF MARION, ss: ) CRIMINAL DIVISION  
)  
)  
STATE OF INDIANA ) REQUEST FOR DEATH SENTENCE  
)  
)  
v. ) I.C. 35-50-2-9(b)(6)(A)  
)  
ELLIAHS LAMAR DORSEY  
B/M DOB: 06/05/1992  
CAUSE NO: 49D32-2004-MR-013622

On this date, the Prosecuting Attorney of the Nineteenth Judicial Circuit, being duly Sworn (or having affirmed), stated that the crime of Murder, as filed herein, has been committed by the defendant Elliahs Lamar Dorsey, and at the time of the commission of this offense, the following aggravating circumstance existed:

**AGGRAVATING CIRCUMSTANCE**

On or about April 9<sup>th</sup>, 2020, in Marion County, Indiana, Elliahs Lamar Dorsey did commit the murder of Breann Leath, a law enforcement officer employed by the Indianapolis Metropolitan Police Department, while Breann Leath was acting in the course of her duty as a law enforcement officer, in violation of I.C. 35-50-2-9(b)(6)(A);

All of which is contrary to the form of the statute in such cases made and provided, and against the peace and dignity of the State of Indiana;

WHEREFORE, the State of Indiana prays that the sentence of death be imposed upon Elliahs Lamar Dorsey.

I swear or affirm under the penalty of perjury as specified in I.C. 35-44.1-2-1 that the foregoing representations are true.

  
AFFIANT - Ross F. Anderson

1-26-2021  
DATE

  
RYAN MEARS  
Prosecuting Attorney  
19<sup>th</sup> Judicial Circuit

STATE OF INDIANA ) IN THE MADISON CIRCUIT COURT

## IN THE MADISON CIRCUIT COURSE

) SS:

2020 TERM

## COUNTY OF MADISON

1

2020 TERM

STATE OF INDIANA

**INFORMATION FOR:  
LIFE WITHOUT PAROLE  
I.C. 35-50-2-9(b)(7)  
I.C. 35-50-2-9(b)(9)(A)**

VS.

TOMMY P. HOLLAND

9

On or about August 9, 2018, in Madison County, State of Indiana, Tommy P. Holland murdered Clifford Baggett, and the following aggravating circumstances existed:

1. Tommy P. Holland had been convicted of another murder, under cause 49G02-0311-MR-191548; and/or
  2. Tommy P. Holland had been convicted of another murder, under cause number 49G02-0311-MR-194323; and/or
  3. Tommy P. Holland was under the custody of the department of correction at the time the murder was committed.

ALL OF WHICH IS CONTRARY to the form of the statutes in such cases made and provided by I.C. 35-50-2-9(b)(7) and 35-50-2-9(b)(9)(A) and against the peace and dignity of the State of Indiana.

Jay Chatter

RODNEY J. CUMMINGS, 15723-48  
PROSECUTING ATTORNEY  
50TH INDIANA JUDICIAL CIRCUIT

Holland/DM1466402/tgc/se/9-14-20

STATE OF INDIANA, COUNTY OF BARTHOLOMEW, SS:

IN THE BARTHOLOMEW SUPERIOR COURT 1

STATE OF INDIANA )  
                      )  
VS.                 )      CAUSE NO.:  
                      )  
ELIEL AVELAR      )

NOTICE OF INTENT TO SEEK LIFE IMPRISONMENT WITHOUT PAROLE

The undersigned affiant, Maren E. Crabtree, does hereby swear or affirm under the penalties of perjury that at least one of the following aggravating circumstances exists:

1. The Defendant, Eliel Avelar, committed the murder of Leobardo Rodriguez Flores by lying in wait;
2. The Defendant, Eliel Avelar, who committed the murder of Leobardo Rodriguez Flores, was hired to kill him



Maren E. Crabtree

Subscribed and sworn to before me this 21st day of August, 2020.



\_\_\_\_\_  
Prosecuting Attorney  
Ninth Judicial Circuit  
State of Indiana

PAGE 2 OF 2

STATE OF INDIANA      )  
                        )  
                        ) SS:  
COUNTY OF ELKHART    )  
  
STATE OF INDIANA      )  
                        )  
                        )  
-vs-                    )  
                        )  
DONALD R. OWEN, JR.    )  
DOB: 12/30/1998        )

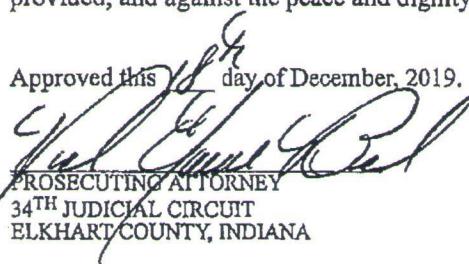
IN THE ELKHART CIRCUIT COURT  
CAUSE NO. 20C01-1912-MR- 10  
  
INFORMATION CHARGING  
LIFE WITHOUT PAROLE  
SENTENCE ENHANCEMENT, I.C. § 35-50-2-9(a)

The affiant of the Probable Cause Affidavit filed herewith swears that on or about October 21, 2019, at the County of Elkhart, State of Indiana, one DONALD R. OWEN, JR., did commit Murder as alleged on Page One (1) hereof and that the facts and circumstances of said crime establish the existence of aggravating circumstances as defined in I.C. § 35-50-2-9(b), to-wit:

- (1) The defendant committed the murder by aiding, inducing or causing the intentional killing of the victim while committing or attempting to commit criminal confinement (I.C. § 35-42-3-3);
- (2) The defendant committed the murder by aiding, inducing, or causing the intentional killing of the victim while committing or attempting to commit criminal organization activity (I.C. § 35-45-9-3);
- (3) The defendant burned, mutilated, or tortured the victim while the victim was still alive; and/or
- (4) The defendant was under the custody of a county sheriff at the time the murder was committed.

All of which is contrary to the I.C. § 35-50-2-9, contrary to the form of the statutes in such cases made and provided, and against the peace and dignity of the State of Indiana.

Approved this 18 day of December, 2019.

  
PROSECUTING ATTORNEY  
34TH JUDICIAL CIRCUIT  
ELKHART COUNTY, INDIANA

STATE OF INDIANA ) IN THE BOONE SUPERIOR COURT I  
COUNTY OF BOONE ) SS:  
 ) CAUSE NUMBER: 06D01-1706-MR-  
 001078

STATE OF INDIANA Life Imprisonment without the Possibility of  
VS Parole as to Count I  
ZACHARIAH B. WRIGHT pursuant to I.C. 35-50-2-9

**REQUEST FOR IMPOSITION OF SENTENCE TO  
LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE**

Pursuant to I.C. 35-50-2-9 the State of Indiana, by and through its Prosecuting Attorney for the 20<sup>th</sup> Judicial Circuit, hereby files, on a page separate from the rest of the charging instrument in this case, its request for imposition of a sentence to life imprisonment without the possibility of parole upon conviction of Count I. The crime of Murder as charged in count I of the Information filed herein, was committed by the Defendant and the following aggravating circumstances exist which justify imposition of Life Imprisonment Without the Possibility of Parole sentence;

1. The Defendant, Zachariah B. Wright, committed the murder of Robert Max Foster, as charged in Count I of the Information, and at the time the murder was committed the Defendant was on probation after receiving a sentence for the commission of a felony, to-wit: the Defendant was convicted under cause no. 06D02-1604-F5-000334 of Burglary as a Level 5 Felony and was sentenced for that conviction on September 29, 2016 and placed on probation for three years, which constitutes an aggravating circumstance justifying imposition of life imprisonment without the possibility of parole as set forth in I.C. 35-50-2-9(b)(9)(C); and/or
2. The Defendant, Zachariah B. Wright, committed the murder of Robert Max Foster, as charged in Count I of the Information, by intentionally killing the victim while committing or attempting to commit arson, to-wit: by means of fire knowingly damaged the property of Sonja Foster, to-wit: her nightgown in such circumstances so as to endanger human life, and did engage in conduct which constituted a substantial step towards the commission of arson, to-wit: activated a lighter to ignite Sonja Foster's nightgown on fire, which constitutes an aggravating circumstance justifying imposition of life imprisonment without the possibility of parole as set forth in I.C. 35-50-2-9(b)(1)(A); and/or

3. The Defendant, Zachariah B. Wright, committed the murder of Robert Max Foster, as charged in Count I of the Information, by intentionally killing the victim while committing or attempting to commit burglary, to-wit: did break and enter the dwelling of Robert Max Foster and Sonja Foster, to-wit: their residence; with the intent to commit theft and/or felony therein; said act resulting in serious bodily injury and/or death of Robert Max Foster, which constitutes an aggravating circumstance justifying imposition of life imprisonment without the possibility of parole as set forth in I.C. 35-50-2-9(b)(1)(B); and/or
4. The Defendant, Zachariah B. Wright, committed the murder of Robert Max Foster, as charged in Count I of the Information, by intentionally killing the victim while committing or attempting to commit burglary, to wit: did break and enter the dwelling of Robert Max Foster and Sonja Foster, to-wit: their residence, with the intent to commit theft and/or felony therein; said act resulting in serious bodily injury to Sonja Foster, to-wit: a significant laceration to the face causing a scar, which constitutes an aggravating circumstance justifying imposition of the life imprisonment without the possibility of parole as set forth in I.C. 35-50-2-9(b)(1)(B); and/or
5. The Defendant, Zachariah B. Wright, committed the murder of Robert Max Foster, as charged in Count I of the Information, by intentionally killing the victim while committing or attempting to commit rape, to wit: engaged in sexual conduct with Sonja Foster; when said Zachariah B. Wright was armed with a deadly weapon, to-wit: a knife and did engage in conduct which constituted a substantial step towards the commission of rape, to-wit: confined Sonja to a chair by physically standing in front of her, fondling her breasts, removing his pants and underwear below his knees while maintaining an erect penis, which constitutes an aggravating circumstance justifying imposition of life imprisonment without the possibility of parole as set forth in I.C. 35-50-2-9(b)(1)(F),

All of which is contrary to the form of the statutes in such cases made and is against the peace and dignity of the State of Indiana. Furthermore, the aggravating circumstance that exists far outweigh any mitigating circumstances that exist.

WHEREFORE, the State of Indiana respectfully requests that Zachariah B. Wright be sentenced to life imprisonment without the possibility of parole for the murder he committed.

I affirm under the penalties of perjury that the foregoing representations are true to the best of my knowledge and belief.

Approved by me this 12th day of June 2019.

/s/ Kent T. Eastwood  
PROSECUTING ATTORNEY  
20<sup>TH</sup> JUDICIAL CIRCUIT  
BOONE COUNTY, INDIANA

CERTIFICATE OF SERVICE

In accordance with Ind. Trial Rule 5, I hereby certify that a copy of the foregoing has been duly served upon Counsel for the Defendant (Mark Inman and Andrew Borland) by e-service pursuant to the applicable trial rules.

/s/ Kent Eastwood

STATE OF INDIANA

) IN THE MADISON CIRCUIT COURT

) SS:

2019 TERM

STATE OF INDIANA

## INFORMATION FOR: ADDITIONAL COUNT

III:

## LIFE WITHOUT PAROLE

I.C. 35-50-2-9(b)(11)(A) and I.C. 35-50-2-9(b)(12)

VS.

RYAN RAMIREZ

On or about July 28, 2018, in Madison County, State of Indiana, Ryan Ramirez committed murder by intentionally killing P.H. while:

1. P.H. was less than twelve (12) years of age; to wit: less than two (2) years of age; OR
  2. Torturing P.H. while P.H. was still alive.

ALL OF WHICH IS CONTRARY to the form of the statutes in such cases made and provided by I.C. 35-50-2-9(b)(11)(A) and I.C. 35-50-2-9(b)(12) and against the peace and dignity of the State of Indiana.

Mary S. Hutchison

RODNEY J. CUMMINGS, 15723-48  
PROSECUTING ATTORNEY  
50TH INDIANA JUDICIAL CIRCUIT

Ramirez/dm65491/arh/srh/08-02-2018

STATE OF INDIANA ) IN THE BOONE SUPERIOR COURT II  
                     ) ) SS:  
COUNTY OF BOONE   ) CAUSE NUMBER: 06D02-1803-MR-000501

STATE OF INDIANA

VS

ANTHONY BAUMGARDT

REQUEST FOR DEATH SENTENCE

Pursuant to I.C. 35-50-2-9 the State of Indiana, by and through its Prosecuting Attorney for the 20<sup>th</sup> Judicial Circuit, hereby files, on a page separate from the rest of the charging instrument in this case, its request for imposition of the death sentence. The crime of Murder, as charged in count I of the Information filed herein, was committed by the Defendant and the following aggravating circumstance exists, which justifies the imposition of the death sentence:

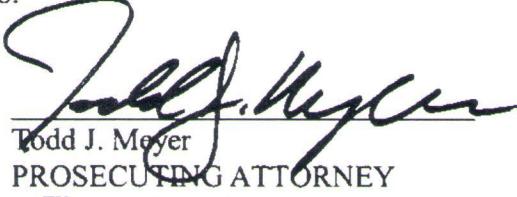
The Defendant, Anthony Baumgardt, committed the murder of Deputy Sheriff Jacob Pickett, as charged in Count I of the Information, by intentionally killing Deputy Sheriff Jacob Pickett while Deputy Sheriff Jacob Pickett was a law enforcement officer acting in the course of duty, which constitutes an aggravating circumstance justifying imposition of the Death Penalty as set forth in I.C. 35-50-2-6(A).

All of which is contrary to the form of the statutes in such cases made and is against the peace and dignity of the State of Indiana. Furthermore, the aggravating circumstance that exists far outweighs any mitigating circumstances that exist.

WHEREFORE, the State of Indiana respectfully requests that Anthony Baumgardt be sentenced to death for the murder of Deputy Sheriff Jacob Pickett.

I affirm under the penalties of perjury that the foregoing representations are true to the best of my knowledge and belief.

Approved by me this 24th day of April, 2018.

  
Todd J. Meyer  
PROSECUTING ATTORNEY  
20<sup>TH</sup> JUDICIAL CIRCUIT  
BOONE COUNTY, INDIANA

CERTIFICATE OF SERVICE

In accordance with Ind. Trial R. 5 and Ind.Crim.Rule 24(A), I hereby certify that a copy of the foregoing was duly served, by U.S. Mail, postage prepaid, or by electronic filing, upon counsel for Defendant and the Indiana Supreme Court's Court Administrator, as follows:

Mr. Allan W. Reid  
FOLEY PANSZI LAW, LLC  
95 S. 1st Street  
Zionsville, Indiana 46077

Court Administrator  
INDIANA SUPREME COURT  
315 State House  
Indianapolis, Indiana 46204

A courtesy copy was also served by U.S. Mail, postage prepaid, upon:

Office of the Indiana Attorney General  
Attention: Mr. Steve Creason, Chief Counsel  
Indiana Government Center South  
302 W. Washington St., 5th Floor  
Indianapolis, IN 46204

Indiana Prosecuting Attorneys Council  
Attention: Mr. David Powell, Executive Director  
Indiana Government Center South  
302 W. Washington St., 3<sup>rd</sup> Floor  
Indianapolis, IN 46204

All of which was done this 24th day of April, 2018.



Todd J. Meyer

OFFICE OF THE PROSECUTING ATTORNEY  
20<sup>TH</sup> JUDICIAL CIRCUIT  
BOONE COUNTY, INDIANA  
220 W. Washington St.  
Lebanon, Indiana 46052  
Telephone: (765) 482-6860  
Facsimile: (765) 483-4491

STATE OF INDIANA ) IN THE MARION SUPERIOR COURT  
COUNTY OF MARION, ss: ) CRIMINAL DIVISION

STATE OF INDIANA ) REQUEST FOR  
 ) DEATH SENTENCE  
v. )  
 )  
JASON DANE BROWN ) I.C. 35-50-2-9 (b) (6) (A)  
W/M DOB: 02/22/1989 )  
CAUSE NO: 49G03-1708-MR-028177 )

On this date, the Prosecuting Attorney of the Nineteenth Judicial Circuit, being duly Sworn (or having affirmed), stated that the crime of Murder, as filed herein, has been committed by the defendant Jason Dane Brown, and at the time of the commission of this offense, the following aggravating circumstance existed:

**AGGRAVATING CIRCUMSTANCE**

On or about July 27, 2017, in Marion County, Indiana, Jason Dane Brown did commit the murder of Aaron Allan, a law enforcement officer employed by the Southport Police Department, while Aaron Allan was acting in the course of his duty as a law enforcement officer, in violation of I.C. 35-50-2-9(b)(6)(A);

all of which is contrary to the form of the statute in such cases made and provided, and against peace and dignity of the State of Indiana;

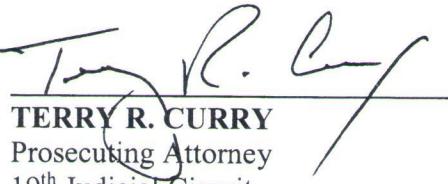
WHEREFORE, the State of Indiana prays that the sentence of death be imposed upon Jason Dane Brown.

I swear or affirm under penalty of perjury as specified in I.C. 35-44.1-2-1 that the foregoing representations are true.



AFFIANT

09-28-2017  
DATE



TERRY R. CURRY  
Prosecuting Attorney  
19<sup>th</sup> Judicial Circuit

STATE OF INDIANA  
COUNTY OF SCOTT

) SS: IN THE SCOTT CIRCUIT COURT  
2015 TERM

STATE OF INDIANA

VS.

JOHNETTA RUTH HALL

**FILED**

CAUSE NO. 72C01-1510-MR-2

OCT 05 2015

*Micay Applegate*  
**NOTICE OF STATE'S INTENTION TO SEEK SENTENCE OF  
LIFE WITHOUT PAROLE**

Comes now the State of Indiana, by and through Jason M. Mount, Prosecuting Attorney for the 6<sup>th</sup> Judicial Circuit, and hereby notifies the Court and the Defendant that should the Defendant be convicted of Count I and/or Count II in this Cause, the State shall seek a sentence of Life Without Parole, pursuant to I.C. 35-50-2-9, and in support of said notice, the State alleges the following aggravating circumstances:

1. That the defendant committed the Murder by hiring Kerry Ray Heald and/or Jacob Wayne Mathis to kill;

**WHEREFORE**, The State of Indiana respectfully notifies the Defendant and the Court of its intention to seek a sentence of Life Without Parole on the charge of Murder in this matter.

**RESPECTFULLY SUBMITTED,**

*Jason M. Mount*  
\_\_\_\_\_  
Jason M. Mount, #21754-72  
Prosecuting Attorney  
Sixth Judicial Circuit  
State of Indiana

11/30/15 @ 9:00

3/7/16 @ 9:00

IN THE CIRCUIT COURT #4 FOR CLARK COUNTY  
STATE OF INDIANA

STATE OF INDIANA

VS.

CASE #:10C04-1409-MR-001

JOSEPH ALBERT OBERHANSLEY  
DOB: 3/29/81

## AMENDED INFORMATION

### **COUNT III: REQUEST FOR DEATH SENTENCE (IC 35-50-2-9)**

Joseph Albert Oberhansley did commit the crime of Murder, as charged in Count I of the Information, and the following aggravating circumstances exist, which outweigh any mitigating circumstances that exist:

**IC 35-50-2-9 (b) (1) (B)** - Joseph Albert Oberhansley committed the murder, as charged in Count I of the Information, by intentionally killing Tammy Blanton, and did so while committing or attempting to commit Burglary, to-wit: On September 11, 2014 in Clark County, State of Indiana, Joseph Albert Oberhansley did break and enter the building or structure of Tammy Blanton, located at 329 Locust Street in Jeffersonville, and the building or structure was a dwelling, and did so with the intent to commit the felony offense of Murder within it.

**IC 35-50-2-9 (b) (1) (F)** - Joseph Albert Oberhansley committed the murder, as charged in Count I of the Information, by intentionally killing Tammy Blanton, and did so while committing or attempting to commit Rape, to-wit: On September 11, 2014 in Clark County, State of Indiana, Joseph Albert Oberhansley did knowingly or intentionally have sexual intercourse with Tammy Blanton at her residence located at 329 Locust Street in Jeffersonville, and did so when Tammy Blanton was compelled by force or the imminent threat of force.

**IC 35-50-2-9 (b) (10)** - Joseph Albert Oberhansley committed the murder, as charged in Count I of the Information, and dismembered the victim, Tammy Blanton.

*All of which is contrary to the statute(s) in such cases made and provided, and against the peace and dignity of the State of Indiana.*

*I AFFIRM, UNDER PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATIONS ARE TRUE.*

Dated: \_\_\_\_\_

Detective Todd Hollis  
Jeffersonville Police Department

Reviewed and Approved:

---

Jeremy Mull  
Clark County Prosecuting Attorney  
4th Judicial Circuit  
State of Indiana  
Attorney #: 21027-53

RECEIVED  
MAR 25 2013

STATE OF INDIANA  
IN THE CLARK CIRCUIT COURT #4

RILED

311

STATE OF INDIANA

VS.

RICHARD CARLEY HOOTEN, JR.

*Steven D. Stewart*  
CLERK, CLARK CIRCUIT COURT

CAUSE #: 10C04-1303-MR-000002

**STATE'S COMPLIANCE WITH CRIMINAL RULE 24 (A) (CAPITAL CASES)**

Comes now the State of Indiana, by Steven D. Stewart, Clark County Prosecuting Attorney, 4th Judicial Circuit, and in compliance with Rule 24 (A) of the Indiana Rules of Criminal Procedure hereby notifies the Indiana Supreme Court Administrator that he has filed the attached Amended Information in this cause seeking a Death Sentence pursuant to Indiana Code 35-50-2-9.

Date: March 21, 2013

*Steven D. Stewart*  
Steven D. Stewart  
Prosecuting Attorney  
State of Indiana  
4th Judicial Circuit  
Attorney #: 2049-10

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused to be served a copy of the foregoing pleading upon counsel for the Defendant, Clark County Public Defenders Jeffrey D. Stonebraker and J. Christopher Sturgeon, and upon the Indiana Supreme Court Administrator, 315 State House, Indianapolis, IN 46204, and upon the Indiana Prosecuting Attorneys Council, 302 West Washington Street E-205, Indianapolis, IN 46204, on or before the date of filing, by mailing pursuant to the Indiana Rules of Trial Procedure.

*Steven D. Stewart*  
Steven D. Stewart  
Prosecuting Attorney  
State of Indiana  
4th Judicial Circuit  
Attorney #: 2049-10

F I L E ]

STATE OF INDIANA

IN THE CLARK CIRCUIT COURT #4

STATE OF INDIANA

VS.

RICHARD CARLEY HOOTEN, JR.

DOB: 12-22-63

CAUSE #: 10C04-1303-MR-000002

*Jacob J. Pase*  
CLERK-CLARK CIRCUIT COURT

## AMENDED INFORMATION

### COUNT IV - REQUEST FOR DEATH SENTENCE (IC 35-50-2-9)

Richard Carley Hooten, Jr. did commit the crime of Murder, as charged in Count I of the Information, and the following aggravating circumstances exist, which outweigh any mitigating circumstances that exist:

**IC 35-50-2-9 (b) (1) (D)** - Richard Carley Hooten, Jr. committed the murder, as charged in Count I of the Information, by intentionally killing Tara Rose Willenborg, while committing or attempting to commit Criminal Deviate Conduct, to-wit: On March 2, 2013 in Clark County, Indiana, Richard Carley Hooten Jr. did knowingly or intentionally cause Tara Rose Willenborg to submit to deviate sexual conduct when she was compelled by force or imminent threat of force.

**IC 35-50-2-9 (b) (1) (F)** - Richard Carley Hooten, Jr. committed the murder, as charged in Count I of the Information, by intentionally killing Tara Rose Willenborg, while committing or attempting to commit Rape, to-wit: On March 2, 2013 in Clark County, Indiana, Richard Carley Hooten Jr. did knowingly or intentionally have sexual intercourse with Tara Rose Willenborg, a member of the opposite sex, when she was compelled by force or imminent threat of force.

STATE OF INDIANA

IN THE CLARK CIRCUIT COURT #4

STATE OF INDIANA

VS.

CAUSE #: 10C04-1303-MR-000002

RICHARD CARLEY HOOTEN, JR.

DOB: 12-22-63

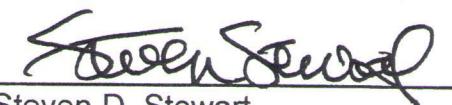
**AMENDED  
INFORMATION**

**COUNT IV - REQUEST FOR DEATH SENTENCE (IC 35-50-2-9)**

**IC 35-50-2-9 (b) (9) (C)** - Richard Carley Hooten, Jr. committed the murder, as charged in Count I of the Information, and at the time the murder was committed, Richard Carley Hooten, Jr. was on probation after receiving a sentence for the commission of a felony, to-wit: On June 6, 2012 in the Clark Circuit Court #2 (formerly the Clark Superior Court #2) in Jeffersonville, Clark County, Indiana, Richard Carley Hooten Jr. was convicted of a felony in Case #10C02-1107-FB-000114, to-wit: Possession of a Narcotic Drug (Class D Felony), which crime was committed on July 19, 2011; and based upon said conviction, on June 6, 2012 Richard Carley Hooten Jr. was sentenced to a three (3) year fixed term of imprisonment at the Indiana Department of Corrections, with 1 1/2 years suspended and probated.

All of which is contrary to the statutes in such cases made and provided, and against the peace and dignity of the State of Indiana.

*I AFFIRM, UNDER PENALTIES FOR PERJURY, THAT THE FOREGOING REPRESENTATIONS ARE TRUE.*

  
\_\_\_\_\_  
Steven D. Stewart  
Prosecuting Attorney  
State of Indiana  
4th Judicial Circuit  
Attorney #: 2049-10

STATE OF INDIANA        )  
                            )  
COUNTY OF FLOYD        ) SS:

IN THE FLOYD SUPERIOR COURT 1

CAUSE NO: 22D01-1205-MR-001145

STATE OF INDIANA

VS.

WILLIAM C. GIBSON III

**Count 3 – Death Penalty I.C. 35-50-2-9**

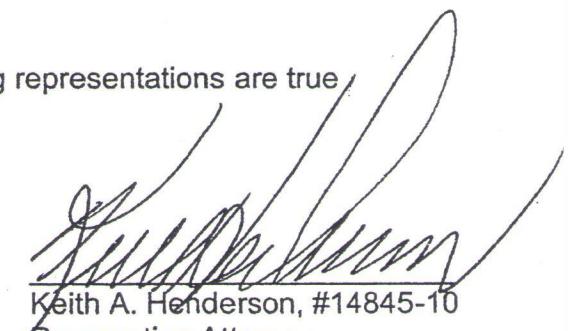
Comes Now the State of Indiana, by its Prosecuting Attorney for the 52<sup>nd</sup> Judicial Circuit, Keith A. Henderson, and does now seek a death sentence against the defendant, William C. Gibson III, for the murder of Stephanie Kirk, as alleged in Count 1 of this charging information. Pursuant to I.C. 35-50-2-9, and in support thereof, the State alleges the following aggravating circumstances:

1. The defendant committed the murder by intentionally killing the victim, Stephanie Kirk, while committing or attempting to commit the crime of Criminal Deviate Conduct (I.C. 35-50-2-9(b)(1)(D)), to-wit: the defendant knowingly or intentionally performed an act involving his mouth and the sex organ of the victim, and the victim was compelled to do so by force or the threat of force.
2. The defendant committed the murder by intentionally killing the victim, Stephanie Kirk, while committing or attempting to commit the crime of Criminal Deviate Conduct (I.C. 35-50-2-9(b)(1)(D)), to-wit: the defendant knowingly or intentionally performed an act involving the penetration of the sex organ of the victim by an object, his fingers and or fist, and the victim was compelled to do so by force or the threat of force.
3. The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder (I.C. 35-50-2-9(b)(8)), to-wit: the defendant murdered Christine Whitis on or about April 19, 2012.

4. The defendant has committed another murder, at any time, regardless of whether the defendant has been convicted of that other murder (I.C. 35-50-2-9(b)(8)), to-wit: the defendant murdered Karen Hodella on or about October 10, 2002.
5. The defendant was on probation after receiving a sentence for the commission of a felony at the time the murder was committed (I.C. 35-50-2-9(b)(9)(B)), to-wit: the defendant was on probation in Floyd County, Indiana in cause number 22D01-0603-FD-00162 for the crime of Theft, a Class D felony, when he murdered Stephanie Kirk.

WHEREFORE, based upon the aggravating factors present in this case, the State of Indiana requests that William C. Gibson III be sentenced to death.

I affirm, under penalties of perjury, that the foregoing representations are true,



Keith A. Henderson, #14845-10  
Prosecuting Attorney  
52<sup>nd</sup> Judicial Circuit  
Room # 249 City-County Bldg  
New Albany, IN 47150  
812-948-5422

STATE OF INDIANA  
COUNTY OF FULTON

)  
)  
SS:  
)

IN THE FULTON SUPERIOR COURT  
CAUSE NO. 25D01-1111-MR-755

STATE OF INDIANA  
VS.  
ROY E. BELL

F I L E D  
IN OPEN COURT  
MAR 14 2012

*Patty McFee*  
CLERK, FULTON SUPERIOR COURT

**REQUEST FOR SENTENCE OF DEATH**

Comes now Richard A. Brown, Prosecuting Attorney of Fulton County, Indiana, being fully sworn, upon his oath says the following:

1. That on or about November 22, 2011, Roy E. Bell did commit the crime of murder by knowingly or intentionally killing Wilma Upsall.
2. In the commission of the crime of murder as alleged, the following three aggravating circumstances exist:
  - A. That Roy E. Bell committed the murder by intentionally killing Wilma Upsall while committing or attempting to commit the crime of Burglary, pursuant to the aggravating circumstance as set out in I.C. 35-50-2-9(b)(1)(B).
  - B. That Roy E. Bell committed the murder by intentionally killing Wilma Upsall while committing or attempting to commit the crime of Robbery, pursuant to the aggravating circumstance as set out in I.C. 35-50-2-9(b)(1)(G).
  - C. The victim, Wilma Upsall, was the victim of the offense of Criminal Confinement committed by the Defendant, this circumstance being conditioned upon the Defendant being convicted of that offense in the underlying case.

Wherefore, the State of Indiana requests that the Defendant, Roy E. Bell, be sentenced to death.



Richard A. Brown, Prosecuting Attorney  
Fulton County, Indiana

Subscribed and sworn to before me this 14<sup>th</sup> day of March, 2012.

  
Patricia Calvert, Notary Public  
Fulton County, Indiana

My Commission Expires: May 9, 2017

Approved by me this 14<sup>th</sup> day of March, 2012.



Richard A. Brown, Prosecuting Attorney  
Fulton County, Indiana

My Commission Expires: December 31, 2014

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was personally delivered to Edward R. Ruiz, counsel for the Defendant, at 401 North Center Street, Plymouth, IN 46563, this 14<sup>th</sup> day of March, 2012.



Richard A. Brown

STATE OF INDIANA )  
COUNTY OF VANDERBURGH ) SS: IN THE VANDERBURGH CIRCUIT COURT  
STATE OF INDIANA ) 2010 TERM  
VS. ) CAUSE NO: 82C01-1004-MR-449 APR  
) COUNT IV  
) DEATH PENALTY  
JEFFREY ALAN WEISHEIT ) I.C. 35-50-2-9  
VANDERBURGH

**FIL**  
**VANDERBURGH**

APR 2

*Ascan*  
VANDERBURGH

The undersigned, being duly sworn upon his/her oath, says that the crimes of Murder, as charged in Counts I and II of the Information filed herein, were committed by the Defendant, Jeffrey Alan Weisheit, and the following aggravating circumstances exist, which outweigh any mitigating circumstances that may exist, and justify the imposition of the death sentence:

1) The Defendant, Jeffrey Alan Weisheit, committed another Murder, to wit:

- A) The Defendant, Jeffrey Alan Weisheit, committed another Murder at any time other than the Murder alleged in Count I of said information, regardless of whether he has been convicted of that other Murder, to-wit: the Murder of Caleb Lynch, which constitute an aggravating circumstance justifying imposition of the Death Penalty as set forth in I. C. 35-50-2-9(b)(8).
  - B) The Defendant, Jeffrey Alan Weisheit, committed another Murder at any time other than the Murder alleged in Count II of said information, regardless of whether he has been convicted of that Murder, to-wit: the Murder of Alyssa Lynch, which constitutes an aggravating circumstance justifying imposition of the Death Penalt as set forth in I. C. 35-50-2-9(b)(8).

2) The Victim of the Murder was less than twelve (12) years of age, to-wit:

The Defendant, Jeffrey Alan Weisheit, committed the crime of Murder as alleged in Count I of said information and the victim of that Murder, Alyssa Lynch, was less than twelve (12) years of age, which constitutes an aggravating circumstance justifying imposition of the Death Penalty as set forth in I. C. 35-50-2-9(b)(12).

3) The Victim of the Murder was less than twelve (12) years of age, to-wit:

The Defendant, Jeffrey Alan Weisheit, committed the crime of Murder as alleged in Count II of said information and the victim of

that Murder, Caleb Lynch, was less than twelve (12) years of age, which constitutes an aggravating circumstance justifying imposition of the Death Penalty as set forth in I.C. 35-50-2-9(b)(12).

WHEREFORE, the State of Indiana prays that the penalty of Death be imposed on the Defendant, Jeffrey Alan Weisheit.

I further affirm, under penalties of perjury, that the foregoing representations are true.

  
\_\_\_\_\_  
AFFIANT

Subscribed and sworn to before me this 26<sup>th</sup> day of April, 2010.

My commission expires:  
May 10, 2015

  
\_\_\_\_\_  
Robyn L. Mastison  
Notary Public  
A Resident of Vanderburgh County

APPROVED BY ME

  
\_\_\_\_\_  
Stanley M. Levco,  
Prosecuting Attorney

## **AMENDED INFORMATION**

## **COUNT VIII**

**[DEATH SENTENCE REQUEST FOR THE DEATH OF CASSANDRA ISOM]**

The State of Indiana, BERNARD A. CARTER, Prosecuting Attorney for the 31st Judicial Circuit, pursuant to I.C. 35-50-2-9(b)(8), now seeks a Death Sentence for KEVIN CHARLES ISOM for the death of Cassandra Isom, based upon the existence of the following aggravating circumstance and in support thereof, the State would show the Court that:

On August 6, 2007, KEVIN CHARLES ISOM committed the murder of Cassandra Isom, and KEVIN CHARLES ISOM has committed the murders of Michael Moore and Ci'Andria Cole.

I swear, under the penalty for perjury as specified by I.C. 35-44-2-1 that the foregoing is true to the best of my information and belief.

RESPECTFULLY SUBMITTED,  
STATE OF INDIANA

---

**BERNARD A. CARTER  
PROSECUTING ATTORNEY**