

Missouri Casetracker – as of July 1, 2015

**ANDERSON, TERRANCE L.**

GENERAL INFORMATION

DOB: November 19, 1975  
Race: Black  
Gender: Male

CRIME AND TRIAL

County of conviction: Butler, on transfer from Cape Girardeau  
Number of counts: 2  
Race of victim: White (both)  
Gender of victim: 1 male, 1 female (death sentence as to female victim, life as to male)  
Date of crime: July 25, 1995  
Date of sentencing: May 16, 2001 (first trial)  
December 29, 2008 (on retrial)

TRIAL COUNSEL

Charlie Moreland, Scott McBride, Stephanie Jirard (first trial)  
Beth Davis-Kerry and Sharon Turlington (second trial)

LEGAL STATUS

Rule 29.15 proceedings pending in Circuit Court of Cape Girardeau County, following remand from Missouri Supreme Court

LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of Rule 29.15 relief reversed and remanded for further proceedings by *Anderson v. State*, 402 S.W.3d 86 (Mo. 2013) (holding that trial judge should have been disqualified for considering *ex parte* information)

CURRENT PROCEEDINGS

Post-conviction proceedings in circuit court following remand from Missouri Supreme Court

## CURRENT COUNSEL

Valerie Leftwich  
Missouri Public Defender System  
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Columbia, MO 65203  
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## REPORTED OPINIONS

—Denial of Rule 29.15 relief reversed and remanded for further proceedings by *Anderson v. State*, 402 S.W.3d 86 (Mo. 2013)

—Death sentence affirmed on direct appeal (following retrial) by *State v. Anderson*, 306 S.W.3d 529 (Mo.), *cert. denied*, 131 S. Ct. 327 (2010)

—Denial of Rule 29.15 reversed as to penalty phase, affirmed as to guilt phase, by *Anderson v. State*, 196 S.W.3d 28 (Mo. 2006), *cert. denied*, 549 U.S. 1223 (2007)

—Convictions and sentences affirmed on direct appeal by *State v. Anderson*, 79 S.W.3d 420 (Mo.), *cert. denied*, 537 U.S. 898 (2002)

## SIGNIFICANT LEGAL ISSUES

—Trial counsels' failure to call a qualified mental health expert to testify about the effects of abuse from Mr. Anderson's stepfather, and for calling witnesses who could have described the abuse

—Trial counsels' failure to present evidence that Mr. Anderson suffered from psychotic depression characterized by paranoid delusions at the time of the crime

—Possible mental incompetence at the time of trial

—Inflammatory closing arguments by prosecutor during penalty phase

## **BARNETT, DAVID**

### GENERAL INFORMATION

DOB: May 18, 1976

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County

Number of counts: 2

Race of victim: White (both)

Gender of victim: 1 male, 1 female

Date of crime: February 4, 1996

Date of sentencing: May 2, 1997

### TRIAL COUNSEL

Ellen Blau, Curtis Cox

### LEGAL STATUS

Post-judgment motions pending in U.S. District Court, with evidentiary hearing on claims of trial counsels' penalty-phase ineffectiveness as made cognizable by *Martinez v. Ryan*, 132 S. Ct. 1309 (2012)

State's motion to set execution date pending in Missouri Supreme Court (Case No. SC79985; show cause order issued Dec. 16, 2013; response filed Jan. 10, 2014)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Rule 60(b) motion granted, and evidentiary hearing granted, by *Barnett v. Roper*, 941 F. Supp. 2d 1099 (E.D. Mo. 2013)

### CURRENT PROCEEDINGS

—Post-judgment motions pending in U.S. District Court, with evidentiary hearing on claims of trial counsels' penalty-phase ineffectiveness as made cognizable by *Martinez v. Ryan*, 132 S. Ct. 1309 (2012)

## CURRENT COUNSEL

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## REPORTED OPINIONS

—Rule 60(b) motion granted, and evidentiary hearing granted, by *Barnett v. Roper*, 941 F. Supp. 2d 1099 (E.D. Mo. 2013), on penalty phase IAC claims

—Habeas corpus denied by *Barnett v. Roper*, No. 4:03-CV-614-ERW, 2006 WL 2475036 (E.D. Mo. Aug. 24, 2006), *aff'd*, 541 F.3d 804 (8th Cir. 2008), *cert. denied*, 558 U.S. 830 (2009)

—Denial of post-conviction relief affirmed by *Barnett v. State*, 103 S.W.3d 765 (Mo.), *cert. denied*, 540 U.S. 862 (2003)

—Convictions and sentences affirmed on direct appeal by *State v. Barnett*, 980 S.W.2d 297 (Mo. 1998), *cert. denied*, 525 U.S. 1161 (1999).

## SIGNIFICANT LEGAL ISSUES

- Trial counsel’s failure to investigate, develop, and present relevant mitigating evidence, including evidence about Mr. Barnett’s biological father, mother, and other witnesses
- Ineffective post-conviction counsel’s failure to properly assert the penalty-phase IAC claims, as “cause” to excuse the resulting procedural default under *Martinez v. Ryan*, 132 S. Ct. 1309 (2012)
- Relevance of victims’ children’s wishes that Mr. Barnett not receive the death penalty, in light of the children’s religious beliefs
- Sufficiency of prosecution’s purported gender-neutral reasons for striking female venirepersons

## **BARTON, WALTER**

### GENERAL INFORMATION

DOB: January 24, 1956

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Christian (first trial), Benton (retrial), Cass (subsequent retrial)

Number of counts: 1

Race of victim: White

Gender of victim: Female

Date of crime: October 9, 1991

Date of sentencing: June 28, 1994 (first trial)

June 10, 1998 (retrial)

July 7, 2006 (subsequent retrial)

### TRIAL COUNSEL

Dan Gralike and Mary Young (first trial)

Dean Price and Louis Nolan (retrial)

David Bruns, Brad Kessler, Kim Freter (subsequent retrial)

### LEGAL STATUS

Habeas petition pending in W.D. Mo., Case No. 4:14-cv-08001-GAF

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of post-conviction relief affirmed by *Barton v. State*, 432 S.W.3d 741 (Mo. 2014)

### CURRENT PROCEEDINGS

Federal habeas petition pending - *Barton v. Steele*, No. 4:14-cv-08001-GAF (W.D. Mo.)

Rule 29.15 pending in Circuit Court of Cass County, alleging abandonment by post-conviction counsel, Case No. 08CA-CV01371-0

## CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *Barton v. State*, 432 S.W.3d 741 (Mo. 2014)

—Conviction and sentence affirmed on direct appeal by *State v. Barton*, 240 S.W.3d 693 (Mo.), *cert. denied*, 555 U.S. 842 (2008)

—Denial of post-conviction relief reversed and remanded for further proceedings by *Barton v. State*, 76 S.W.3d 280 (Mo. 2002)

—Conviction and sentence affirmed after retrial by *State v. Barton*, 998 S.W.2d 19 (Mo. 1999), *cert. denied*, 528 U.S. 1121 (2000)

—Conviction reversed and remanded by *State v. Barton*, 936 S.W.2d 781 (Mo. 1996)

## SIGNIFICANT LEGAL ISSUES

—Counsel's ineffectiveness in failing to discover and present evidence that a snitch witness was allowed sexual favors in prison in exchange for his testimony

—Counsels' failure to develop and present evidence of trauma-induced and congenital brain damage, and to call family witnesses to corroborate these findings based on Mr. Barton's history

—Strong claim of actual innocence, as well as double jeopardy claim stemming from repeated acts of prosecutorial misconduct that have necessitated a total of five trials

—Additional IAC claims pending on theory of abandonment-of-PCR counsel in Cass County Circuit Court

## **BLURTON, ROBERT**

### GENERAL INFORMATION

DOB: May 3, 1964

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Clay (on change of venue from Benton County)

Number of counts: 3

Race of victim: White (all)

Gender of victim: 2 females, 1 male

Date of crime: June 7, 2009

Date of sentencing: August 9, 2013

### TRIAL COUNSEL

Janice Zembles and Charles Moreland

### LEGAL STATUS

Direct appeal pending in Missouri Supreme Court

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Imposition of death penalty by Circuit Court of Clay County

### CURRENT PROCEEDINGS

Direct appeal pending in Missouri Supreme Court, Case No. SC93648

### CURRENT COUNSEL

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### REPORTED OPINIONS

None



## SIGNIFICANT LEGAL ISSUES

- Trial court's failure to instruct jury on felony murder as a lesser-included offense
- Trial court's exclusion of evidence implicating an alternative perpetrator
- Improper and excessively theatric penalty phase closing argument by Missouri Attorney General (who served as trial prosecutor)

## **BOLIEK, WILLIAM**

### GENERAL INFORMATION

DOB: March 15, 1956

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Camden

Number of counts: 1

Race of victim: White

Gender of victim: Female

Date of crime: August 30, 1983

Date of sentencing: December 12, 1984

### TRIAL COUNSEL

Julian Ossman, Kate Markie

### LEGAL STATUS

Executive clemency pending with indefinite stay of execution entered by Governor Carnahan (who then died in office)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

State's motion to set execution date overruled by Missouri Supreme Court Sept. 25, 2001

### CURRENT PROCEEDINGS

None known

### CURRENT COUNSEL

None known

## REPORTED OPINIONS

—Grant of habeas corpus reversed by *Boliek v. Bowersox*, 96 F.3d 1070 (8th Cir. 1996), *cert. denied*, 520 U.S. 1267 (1997)

—Habeas corpus granted by *Boliek v. Delo*, 912 F. Supp. 1199 (W.D. Mo. 1995)

—Denial of post-conviction relief affirmed by *Boliek v. State*, 755 S.W.2d 417 (Mo. App. S.D. 1988), *transfer denied* Jan. 21, 1988, *cert. denied*, 489 U.S. 1040 (1989)

—Conviction and sentence affirmed on direct appeal by *State v. Boliek*, 706 S.W.2d 847 (Mo. 1986)

## SIGNIFICANT LEGAL ISSUES

—Trial counsel's failure to investigate and present mitigating evidence; trial court's denial of appointment of psychiatric expert

## **BOWMAN, GREGORY**

### GENERAL INFORMATION

DOB: August 16, 1951

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County

Number of counts: 1

Race of victim: White

Gender of victim: Female

Date of crime: June 6-7, 1977

Date of sentencing: December 11, 2009

### TRIAL COUNSEL

Stephen Bruce Evans (at first trial)

### LEGAL STATUS

Penalty phase retrial pending in St. Louis County (trial currently scheduled for October 28, 2015)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Conviction affirmed, sentence reversed on direct appeal by *State v. Bowman*, 337 S.W.3d 679 (Mo. 2011)

### CURRENT PROCEEDINGS

Retrial of penalty phase pending in St. Louis County

### CURRENT COUNSEL

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Stephen Evans  
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#### REPORTED OPINIONS

—Conviction affirmed, sentence reversed on direct appeal by *State v. Bowman*, 337 S.W.3d 679 (Mo. 2011)

#### SIGNIFICANT LEGAL ISSUES

—Death penalty reversed on direct appeal because jurors considered, as aggravating circumstances, two Illinois murder convictions that had been vacated before the time of the Missouri trial

—Problematic DNA evidence and otherwise questionable strength of evidence that Mr. Bowman is guilty, coupled with trial court's exclusion of evidence about an alternative suspect

## **BUCKLEW, RUSSELL**

### GENERAL INFORMATION

DOB: May 16, 1968

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Boone (on transfer from Cape Girardeau)

Number of counts: 1

Race of victim: White

Gender of victim: Male

Date of crime: March 21, 1996

Date of sentencing: May 15, 1997

### TRIAL COUNSEL

Frederick A. Duchardt, Robert Craig Wolfrum, Beth Ann Davis

### LEGAL STATUS

Lethal injection litigation pending in *Bucklew v. Lombardi et al*, No. 4:14-cv-08000-BP, on remand from Eighth Circuit following stay entered by U.S. Supreme Court

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari following federal habeas corpus proceedings (see below)

### CURRENT PROCEEDINGS

Lethal injection litigation pending in *Bucklew v. Lombardi et al*, No. 4:14-cv-08000-BP, on remand from Eighth Circuit following stay entered by U.S. Supreme Court

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Dismissal of lethal injection claims reversed and remanded by *Bucklew v. Lombardi*, 783 F.3d 1120 (8th Cir. 2015)

—Stay of execution granted by Supreme Court, pending lethal injection appeal in Eighth Circuit, by *Bucklew v. Lombardi*, 134 S. Ct. 2333 (U.S. May 21, 2014)

—Denial of habeas corpus affirmed by *Bucklew v. Luebbbers*, 436 F.3d 1010 (8th Cir.), *cert. denied*, 549 U.S. 1079 (2006)

—Denial of post-conviction relief affirmed by *Bucklew v. State*, 38 S.W.3d 395 (Mo.), *cert. denied*, 534 U.S. 964 (2001)

—Conviction and sentence affirmed on direct appeal by *State v. Bucklew*, 973 S.W.2d 83 (Mo. 1998), *cert. denied*, 525 U.S. 1082 (1999)

## SIGNIFICANT LEGAL ISSUES

—Eighth Amendment claim regarding Mr. Bucklew’s medical condition (cavernous hemangiomas) and Missouri’s method of lethal injection

—Trial counsel’s failure to investigate, develop, and present relevant mitigating evidence, including Mr. Bucklew’s favorable adjustment to prison life, his organic brain dysfunction, and neurological deficits

## CHRISTESON, MARK

### GENERAL INFORMATION

DOB: February 20, 1979

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Vernon County (on transfer from Maries County)

Number of counts: 3

Race of victim: White (all three)

Gender of victim: 2 females, 1 male

Date of crime: February 1, 1998

Date of sentencing: October 14, 1999

### TRIAL COUNSEL

Scott McBride, Valerie Leftwich

### LEGAL STATUS

Post-judgment habeas corpus proceedings pending in U.S. District Court, on remand from U.S. Supreme Court and Eighth Circuit, in *Christeson v. Roper*, 4:04-cv-08004-DW

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Grant of stay of execution pending petition for writ of certiorari in U.S. Supreme Court, entered Oct. 28, 2014 (U.S. Case Nos. 14-6873, 14A445)

### CURRENT PROCEEDINGS

—Post-judgment habeas corpus proceedings pending in U.S. District Court, on remand from U.S. Supreme Court and Eighth Circuit, in *Christeson v. Roper*, 4:04-cv-08004-DW



## CURRENT COUNSEL

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## REPORTED OPINIONS

—Affirmance of denial of motion to substitute federally-appointed habeas counsel reversed and remanded by *Christeson v. Roper*, 135 S. Ct. 891 (2015)

—Appeal of denial of habeas corpus dismissed, and certificate of appealability denied, by *Christeson v. Roper*, 8th Circuit Case No. 07-1905 (unpublished order May 29, 2007)

—Habeas corpus dismissed as untimely by *Christeson v. Roper*, W.D. Mo. Case No. 4:04-cv-8004-DW (unpublished order Jan. 31, 2007)

—Denial of post-conviction relief affirmed by *Christeson v. State*, 131 S.W.3d 796 (Mo. 2004)

—Convictions and sentences affirmed by *State v. Christeson*, 50 S.W.3d 251 (Mo.), *cert. denied*, 534 U.S. 978 (2001)

## SIGNIFICANT LEGAL ISSUES

—Availability of federal habeas relief on new claims after original habeas counsel filed a time-barred petition

—Mr. Christeson's entitlement to new counsel in light of conflict of interest caused by previous counsel's error in filing untimely habeas corpus petition

## **CLEMONS, REGINALD**

### GENERAL INFORMATION

DOB: August 30, 19971  
Race: African-American  
Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis City  
Number of counts: 2  
Race of victim: White (both)  
Gender of victim: Female (both)  
Date of crime: April 4, 1991  
Date of sentencing: April 9, 1993

### TRIAL COUNSEL

Robert Costantinou

### LEGAL STATUS

Petition for writ of habeas corpus pending in Missouri Supreme Court (Case SC90197)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari on federal habeas review (see below)

### CURRENT PROCEEDINGS

Petition for writ of habeas corpus pending in Missouri Supreme Court

### CURRENT COUNSEL

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#### REPORTED OPINIONS

—Grant of penalty phase habeas relief reversed, denial of guilt phase relief affirmed by *Clemons v. Luebbbers*, 381 F.3d 744 (8th Cir. 2004), *cert. denied*, 546 U.S. 828 (2005)

—Habeas corpus granted by *Clemons v. Luebbbers*, 201 F. Supp. 2d 1105 (E.D. Mo. Aug. 1, 2002).

—Convictions, sentences, and denial of post-conviction relief affirmed by *State v. Clemons*, 946 S.W.2d 206 (Mo.), *cert. denied*, 522 U.S. 968 (1997).

#### SIGNIFICANT LEGAL ISSUES

—*Brady* claim regarding prosecution's suppression of evidence that Mr. Clemons' confession was coerced (grant of habeas relief recommended by special master)

—Ongoing proportionality review requested of Missouri Supreme Court in light of the fact that Clemons' co-defendant was re-sentenced to life, among other circumstances

## **COLLINGS, CHRISTOPHER**

### GENERAL INFORMATION

DOB: February 4, 1975

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Phelps County

Number of counts: 1

Race of victim: White

Gender of victim: Female

Date of crime: November 2, 2007 (on or about)

Date of sentencing: May 11, 2012

### TRIAL COUNSEL

Janice Zembles and Charles Moreland

### LEGAL STATUS

Post-conviction motion in Circuit Court of Phelps County

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari following affirmance of conviction and sentence on direct appeal. *See State v. Collings*, 450 S.W.3d 741 (Mo. 2014), *cert. denied*, 135 S. Ct. 1401 (2015)

### CURRENT PROCEEDINGS

Rule 29.15 motion pending in Phelps County Circuit Court

### CURRENT COUNSEL

Valerie Leftwich  
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1000 West Nifong, Bldg 7 Suite 100  
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573-777-9977

## REPORTED OPINIONS

—Conviction and sentence affirmed on direct appeal by *State v. Collings*, 450 S.W.3d 741 (Mo. 2014), *cert. denied*, 135 S. Ct. 1401 (2015)

## SIGNIFICANT LEGAL ISSUES

—Trial counsels' failure to present the co-defendant's complete confession, which materially contradicted that of Mr. Collings, and otherwise to call witnesses who would have cast doubt on Mr. Collings' confession

—Trial counsels' failure to develop mitigating evidence concerning Mr. Collings' long-standing alcohol addiction and childhood trauma

—Numerous suppression claims

—Prosecutor's improper closing during both phases of trial

## **DAVIS, RICHARD**

### GENERAL INFORMATION

DOB: July 9, 1964

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Jackson

Number of counts: One

Race of victim: White

Gender of victim: Female

Date of crime: May 15, 2006

Date of sentencing: August 31, 2007

### TRIAL COUNSEL

Tim Burdick, Curtis Winegarner, Thomas Jacquinot, Susan Elliott

### LEGAL STATUS

Appeal to Missouri Supreme Court pending following denial of post-conviction relief by Circuit Court of Jackson County

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Rule 29.15 denied by Circuit Court of Jackson County (Oct. 1, 2014)

### CURRENT PROCEEDINGS

Appeal of denial of post-conviction relief

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Conviction and sentence affirmed on direct appeal by *State v. Davis*, 318 S.W.3d 618 (Mo. 2010), *cert. denied*, 131 S. Ct. 1605 (2011)

## SIGNIFICANT LEGAL ISSUES

—Trial counsels' ineffectiveness in failing to discover mitigating evidence from Mr. Davis's social background, including (a) sexual, physical, and emotional trauma, and (b) intergenerational history of incest, sexual abuse, physical abuse, and drug use

—Trial counsels' ineffectiveness in failing to present expert evidence concerning the effects of sexual abuse and other traumas

—Adequacy of expert assistance provided by trial court under *Ake v. Oklahoma*

—Ongoing conflicts between Mr. Davis and his trial attorneys

## DECK, CARMAN

### GENERAL INFORMATION

DOB: August 9, 1965  
Race: White  
Gender: Male

### CRIME AND TRIAL

County of conviction: Jefferson  
Number of counts: Two  
Race of victim: White (both)  
Gender of victim: 1 female, 1 male  
Date of crime: July 8, 1996  
Date of sentencing: April 27, 1998 (first sentencing)  
June 30, 2003 (on first resentencing)  
November 7, 2008 (on second resentencing)

### TRIAL COUNSEL

Elizabeth M. Davis and Curtis Cox (first trial)  
David Bruns and Valerie Leftwich (second trial)  
John Tucci and Stephen Reynolds (third trial)

### LEGAL STATUS

Petition for writ of habeas corpus pending in U.S. District Court, E.D. Mo. Case No. 4:12-cv-01527-CDP

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of post-conviction relief affirmed by Missouri Supreme Court. *See Deck v. State*, 381 S.W.3d 389 (Mo. 2012)

### CURRENT PROCEEDINGS

Federal habeas review pending

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *Deck v. State*, 381 S.W.3d 389 (Mo. 2012)

—Affirmance of death penalty imposed after third trial; *see State v. Deck*, 303 S.W.2d 527 (Mo.), *cert. denied*, 130 S. Ct. 3505 (2010)

—Affirmance of death penalty reversed and remanded by the U.S. Supreme Court on issue of shackling during trial by *Deck v. Missouri*, 544 U.S. 622 (2005)

—Death penalty affirmed on direct appeal following re-imposition of sentence after earlier grant of penalty phase relief. *State v. Deck*, 136 S.W.3d 481 (Mo. 2004), *cert. granted*, 543 U.S. 942 (2004), *rev'd*, 544 U.S. 622 (2005)

—Penalty phase relief granted on post-conviction appeal by *Deck v. State*, 68 S.W.3d 418 (Mo. 2002)

—Convictions and sentences affirmed on direct appeal by *State v. Deck*, 994 S.W.2d 527 (Mo.), *cert. denied*, 528 U.S. 1009 (1999)

## SIGNIFICANT LEGAL ISSUES

—Penalty phase counsels' failure to investigate, develop, and present mitigating evidence, including testimony describing Mr. Deck's horrific childhood, his multiple foster placements, as well as poverty, abuse, domestic violence, and neglect from his mother who worked as a prostitute.

—Penalty phase counsels' failure to obtain and present a neuropsychological evaluation of Mr. Deck, in light of his history of head injuries and brain trauma from birth.

—Fifth Amendment claim relating to admission of Mr. Deck's confession at trial

## **DORSEY, BRIAN**

### GENERAL INFORMATION

DOB: October 30, 1984

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Cole

Number of counts: Two

Race of victim: White (both)

Gender of victim: 1 female, 1 male

Date of crime: December 23, 2006

Date of sentencing: November 18, 2008

### TRIAL COUNSEL

Scott McBride and Chris Slusher

### LEGAL STATUS

Federal habeas petition in process

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of post-conviction relief affirmed by Missouri Supreme Court. *See Dorsey v. State*, 448 S.W.3d 276 (Mo. 2014)

### CURRENT PROCEEDINGS

Federal habeas in process in W.D. Mo., Case No. 4:15-cv-08000-DW

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *Dorsey v. State*, 448 S.W.3d 276 (Mo. 2014)

—Convictions and sentences affirmed on direct appeal by *State v. Dorsey*, 318 S.W.3d 648 (Mo.), *cert. denied*, 131 S. Ct. 651 (2010).

## SIGNIFICANT LEGAL ISSUES

—*Brady* and ineffective-assistance claims relating from incomplete DNA evidence disclosed by the prosecution and additional evidence showing that Mr. Dorsey's DNA was not consistent with the rape swab from the victim

—Counsels' failure to investigate and present evidence of mental illness and polysubstance abuse

—Conflict of interest from trial counsels' flat-fee agreement

—Improper penalty phase closing arguments by prosecutor

## **DRISKILL, JESSE**

### GENERAL INFORMATION

DOB: March 3, 1980

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Laclede

Number of counts: Two

Race of victim: White (both)

Gender of victim: 1 female, 1 male

Date of crime: July 26, 2010

Date of sentencing: November 5, 2013

### TRIAL COUNSEL

Sharon Turlington and Cynthia Dryden

### LEGAL STATUS

Petition for writ of certiorari and post-conviction proceedings in process, following affirmance of conviction and sentence on direct appeal

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Conviction and sentence affirmed on direct appeal by *State v. Driskill*, 459 S.W.3d 412 (Mo. 2015) (reh'g denied May 26, 2015)

### CURRENT PROCEEDINGS

Petition for writ of certiorari and post-conviction proceedings in process, following affirmance of conviction and sentence on direct appeal

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Conviction and sentence affirmed on direct appeal by *State v. Driskill*, 459 S.W.3d 412 (Mo. 2015)

## SIGNIFICANT LEGAL ISSUES

—Competency to stand trial, and court’s refusal to continue the trial in order to allow Mr. Driskill to receive appropriate treatment and medication, as well as trial court’s failure to order a psychiatric evaluation under Mo. Rev. Stat. § 552.020

—Constructive exclusion of Mr. Driskill from trial, who appeared by “polycom” because of the risk that he would suffer anxiety attacks, and in light of trial court’s refusal to continue the trial in order to evaluate Mr. Driskill’s competency

## **EDWARDS, KIMBER**

### GENERAL INFORMATION

DOB: March 29, 1964  
Race: African-American  
Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County  
Number of counts: One  
Race of victim: African-American  
Gender of victim: Female  
Date of crime: August 22, 2000  
Date of sentencing: June 27, 2002

### TRIAL COUNSEL

Charles Moreland, Michelle Monahan

### LEGAL STATUS

Petition for writ of habeas corpus pending in Missouri Supreme Court on claim of actual innocence; state's motion to schedule execution date also pending

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

—Petition for writ of habeas corpus concerning *Batson* claim denied by Missouri Supreme Court March 25, 2015 (Case No. SC94669)

### CURRENT PROCEEDINGS

Show-cause order and subsequent filings in Missouri Supreme Court; execution date of May 12, 2015, vacated by Missouri Supreme Court on April 8, 2015, in light of pending petition for writ of habeas corpus

### CURRENT COUNSEL

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#### REPORTED OPINIONS

—Habeas Corpus denied by *Edwards v. Roper*, No. 4:06-CV-1419 (CEJ), 2009 WL 3164112 (E.D. Mo. Sept. 28, 2009), *aff'd*, 688 F.3d 449 (8th Cir. 2012), *cert. denied*, 134 S. CT. 58 (2013)

—Denial of post-conviction relief affirmed by *Edwards v. State*, 200 S.W.3d 509 (Mo. 2006), *cert. denied*, 549 U.S. 1255 (2007)

—Conviction and sentence affirmed on direct appeal by *State v. Edwards*, 116 S.W.3d 511 (Mo. 2003), *cert. denied*, 540 U.S. 1186 (2004).

#### SIGNIFICANT LEGAL ISSUES

—Substantial claim of actual innocence based on recantation of prosecution’s key witness; reliability of Mr. Edwards’ confession to police in light of Asperger’s syndrome

—*Batson* claim involving the fact that the prosecution struck all three eligible black veniremembers, left Mr. Edwards with an all-white jury, used the since-discredited “postal worker” explanation to justify strikes, and otherwise justified strikes with explanations that applied equally well to white jurors who were not stricken

—Prosecutor’s comment on Mr. Edwards’ failure to testify at trial

## FORREST, EARL

### GENERAL INFORMATION

DOB: July 12, 1949

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Platte County, on transfer from Dent County

Number of counts: Three

Race of victim: White (all three)

Gender of victim: Female (all three)

Date of crime: December 9, 2002

Date of sentencing: December 17, 2004

### TRIAL COUNSEL

David Kenyon and Sharon Turlington

### LEGAL STATUS

Petition for writ of certiorari pending (Case No. 14-9289), following Eighth Circuit's affirmance of the denial of federal habeas relief

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of habeas corpus affirmed by *Forrest v. Steele*, 764 F.3d 848 (8th Cir. 2014) (rehearing denied Nov. 6, 2014)

### CURRENT PROCEEDINGS

Petition for writ of certiorari pending in U.S. Supreme Court, Case No. 14-9289 (filed April 13, 2015)

### CURRENT COUNSEL

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#### REPORTED OPINIONS

—Habeas corpus denied by *Forrest v. Steele*, No. 09-8002-CV-W-ODS, 2012 WL 1668358 (W.D. Mo. May 11, 2012), *aff'd*, 764 F.3d 848 (8th Cir. 2014)

—Denial of post-conviction relief affirmed by *Forrest v. State*, 290 S.W.3d 704 (Mo. 2009)

—Convictions and sentences affirmed on direct appeal by *State v. Forrest*, 183 S.W.3d 218 (Mo.), *cert. denied*, 549 U.S. 840 (2006)

#### SIGNIFICANT LEGAL ISSUES

—Ineffectiveness of trial counsel in failing to obtain a PET scan and present the results at sentencing, in light of counsel's own theory that Mr. Forrest suffered from frontal lobe damage

—Trial counsels' failure to develop and present evidence that Mr. Forrest would not pose a danger if sentenced to life imprisonment

—Cumulative prejudice from trial counsels' several errors

## **GILL, MARK ANTHONY**

### GENERAL INFORMATION

DOB: November 15, 1970  
Race: Black  
Gender: Male

### CRIME AND TRIAL

County of conviction: New Madrid  
Number of counts: One  
Race of victim: White  
Gender of victim: Male  
Date of crime: July 7, 2002  
Date of sentencing: April 4, 2004

### TRIAL COUNSEL

Sharon Turlington and David Kenyon (first trial)

### LEGAL STATUS

Retrial pending in Circuit Court of Boone County, on transfer of venue from New Madrid County (trial set to begin November 17, 2015)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari following Missouri Supreme Court's grant of penalty phase relief, and denial of guilt phase relief, on post-conviction appeal

### CURRENT PROCEEDINGS

Penalty phase retrial pending (trial set to begin November 17, 2015)

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief reversed in part, and new penalty phase trial granted, by Missouri Supreme Court in *Gill v. State*, 300 S.W.3d 225 (Mo. 2009), *cert. denied*, 131 S. CT. 141 (2010)

—Conviction and sentence affirmed on direct appeal by *State v. Gill*, 167 S.W.3d 184 (Mo. 2005), *cert. denied*, 546 U.S. 1140 (2006)

## SIGNIFICANT LEGAL ISSUES

—Relative culpability of Mr. Gill and his co-defendant, and resulting language of verdict-directing instructions on first-degree murder, second-degree murder, and accomplice liability

—New penalty phase trial granted based on initial trial counsels' ineffectiveness in failing to discover and present child pornography, bestiality content, and sexually explicit instant message conversations on the victim's computer

## **HOSIER, DAVID**

### GENERAL INFORMATION

DOB: February 10, 1955

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Cole

Number of counts: Two

Race of victim: White (both)

Gender of victim: 1 female, 1 male

Date of crime: September 28, 2009

Date of sentencing: December 24, 2013

### TRIAL COUNSEL

Janice Zembles and Donald Catlett

### LEGAL STATUS

Petition for certiorari pending in U.S. Supreme Court, Case No. 14-9380 (filed April 17, 2015); post-conviction proceedings pending in Circuit Court of Cole County

### CURRENT PROCEEDINGS

—Petition for certiorari pending in U.S. Supreme Court following Missouri Supreme Court's affirmance of conviction and sentence on direct appeal

—Rule 29.15 motion pending in Circuit Court of Cole County, Case No. 15AC-CC00303 (pro se motion filed June 29, 2015)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Conviction and sentence affirmed on direct appeal by *State v. Hosier*, 454 S.W.3d 883 (Mo. 2015)

## CURRENT COUNSEL

Craig Johnston (on direct appeal)  
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Scott Thompson (on post-conviction)  
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## REPORTED OPINIONS

—Conviction and sentence affirmed on direct appeal by *State v. Hosier*, 454 S.W.3d 883 (Mo. 2015)

## SIGNIFICANT LEGAL ISSUES

—Numerous suppression claims

—Claim of insufficient evidence of burglary, which was one of the two aggravating circumstances

—Excessive evidence of Mr. Hosier’s weapons, ammunition, and alleged prior bad acts

## **JOHNSON, ERNEST**

### GENERAL INFORMATION

DOB: August 20, 1960  
Race: African-American  
Gender: Male

### CRIME AND TRIAL

County of conviction: Boone  
Number of counts: Three  
Race of victim: White  
Gender of victim: Two females, one male  
Date of crime: February 12, 1994  
Date of sentencing: July 20, 1995 (first sentencing)  
April 18, 1999 (on resentencing)  
June 12, 2006 (on second resentencing)

### TRIAL COUNSEL

Nancy McKerrow and Janice Zembles (at first trial)  
Teoffice Cooper and Delores Berman (at second trial)  
Elizabeth Carlyle and Timothy Cisar (at third trial)

### LEGAL STATUS

State's motion to set execution date pending in Missouri Supreme Court

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari following federal habeas corpus review (Oct. 6, 2014)

### CURRENT PROCEEDINGS

State's motion to set execution date pending in Missouri Supreme Court

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Certificate of appealability denied, and appeal dismissed, by *Johnson v. Steele*, Case No. 13-3162 (8th Cir. Dec. 11, 2013) (unpublished), *cert. denied*, 135 S. Ct. 65 (2014)

—Habeas corpus denied by *Johnson v. Steele*, No. 11-8001-CV-W-DGK, 2013 WL 625318 (W.D. Mo. Feb. 20, 2013); certificate of appealability denied 2013 WL 5417640 (W.D. Mo. Sept. 26, 2013)

—Denial of post-conviction relief affirmed by *Johnson v. State*, 333 S.W.3d 459 (Mo. 2011)

—Death sentence affirmed on direct appeal following third sentencing trial. *See State v. Johnson*, 244 S.W.3d 144 (Mo.), *cert. denied*, 555 U.S. 872 (2008)

—Denial of post-conviction relief reversed, and new penalty phase trial ordered, by *Johnson v. State*, 102 S.W.3d 535 (Mo. 2003).

—Death sentence affirmed (after retrial) on direct appeal by *State v. Johnson*, 22 S.W.3d 183 (Mo.), *cert. denied*, 531 U.S. 935 (2000).

—Convictions affirmed, sentences reversed, on direct appeal by *State v. Johnson*, 968 S.W.2d 686 (Mo. 1998)

## SIGNIFICANT LEGAL ISSUES

—Claim of intellectual disability under *Atkins v. Virginia*, 536 U.S. 304 (2002)

—Competency to be executed in light of brain tumor and other mental health issues; lethal injection issues relating to brain tumor

—Counsels' effectiveness in developing and presenting evidence of Mr. Johnson's intellectual disability

—Admission of reports from non-testifying state's expert

—Whether the Constitution forbids the state from assigning to Mr. Johnson the burden of proving that he is intellectually disabled by a preponderance of the evidence

## **JOHNSON, JOHNNY**

### GENERAL INFORMATION

DOB: March 16, 1970

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County

Number of counts: One

Race of victim: White

Gender of victim: Female

Date of crime: July 26, 2002

Date of sentencing: March 27, 2005

### TRIAL COUNSEL

Beth Kerry and Beverly Beimdiek

### LEGAL STATUS

Federal habeas corpus petition pending in E.D. Mo.

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of post-conviction relief affirmed by Missouri Supreme Court

### CURRENT PROCEEDINGS

Petition for writ of habeas corpus pending in *Johnson v. Steele*, No. 4:13-cv-00278-HEA (E.D. Mo.)



## CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *Johnson v. State*, 388 S.W.3d 159 (Mo. 2012)

—Conviction and sentenced affirmed on direct appeal by *State v. Johnson*, 207 S.W.3d 24 (Mo. 2006), *cert. denied*, 550 U.S. 971 (2007)

## SIGNIFICANT LEGAL ISSUES

—Trial counsel’s failure to investigate, develop, and present evidence that Mr. Johnson has organic brain damage, limited intellectual functioning, and a history of neglect and physical abuse in childhood

—*Batson* claim based on St. Louis County Prosecutor’s exclusion of two black veniremembers

—Claim of intellectual disability

## **JOHNSON, KEVIN**

### GENERAL INFORMATION

DOB: September 23, 1985  
Race: African-American  
Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County  
Number of counts: One  
Race of victim: African-American  
Gender of victim: Male  
Date of crime: July 5, 2005  
Date of sentencing: February 1, 2008

### TRIAL COUNSEL

Karen Kraft and Robert Steele

### LEGAL STATUS

Federal habeas petition pending in E.D. Mo., Case No. 4:13-cv-2046-CEJ

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari from post-conviction review

### CURRENT PROCEEDINGS

Federal habeas pending in U.S. District Court

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *Johnson v. State*, 406 S.W.3d 892 (Mo. 2013), *cert. denied*, 134 S. CT. 1495 (2014)

—Conviction and sentence affirmed on direct appeal by *State v. Johnson*, 284 S.W.3d 561 (Mo.), *cert. denied*, 558 U.S. 1054 (2009)

## SIGNIFICANT LEGAL ISSUES

—*Batson* claim concerning prosecution's striking of black veniremembers and history of such exclusion in St. Louis County

—Counsels' ineffectiveness in failing to investigate, discover, and develop evidence that Mr. Johnson was under a diminished capacity at the time of the crime

—Counsels' ineffectiveness in failing to investigate, discover, and present mitigating evidence concerning Mr. Johnson's history of physical abuse, sexual abuse, and neglect

## **MATHENIA, CHARLES**

### GENERAL INFORMATION

DOB: September 14, 1958

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Jefferson

Number of counts: Two

Race of victim: White (both)

Gender of victim: Female (both)

Date of crime: April 24, 1984

Date of sentencing: January 9, 1985

### TRIAL COUNSEL

Donald Hager, Lew Kollias, Kate Markey

### LEGAL STATUS

Found incompetent to be executed by the Associate Circuit Court of Washington County

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Motion to recall mandate and petition for writ of habeas corpus (asserting claim of intellectual disability) denied without prejudice, following court finding of incompetence to be executed

### CURRENT PROCEEDINGS

None known

### CURRENT COUNSEL

None known

## REPORTED OPINIONS

—Denial of Rule 60 motion, construed as pre-AEDPA successive petition, affirmed by *Mathenia v. Delo*, 99 F.3d 1476 (8th Cir. 1996), *cert. denied*, 521 U.S. 1123 (1997)

—Denial of habeas affirmed by *Mathenia v. Delo*, 975 F.2d 444 (8th Cir. 1992), *cert. denied*, 507 U.S. 995 (1993)

—Denial of post-conviction relief affirmed by *Mathenia v. State*, 752 S.W.2d 873 (Mo. App. E.D. 1988), *cert. denied*, 488 U.S. 1019 (1989)

—Convictions and sentences affirmed on direct appeal by *State v. Mathenia*, 702 S.W.2d 840 (Mo. banc), *cert. denied*, 477 U.S. 909 (1986)

## SIGNIFICANT LEGAL ISSUES

—Mr. Mathenia’s competence to be executed and possible intellectual disability

—Diminished capacity and validity of Mr. Mathenia’s *Miranda* waiver in light of mental retardation and involuntary intoxication, and trial counsel’s failure to litigate these issues

—Trial counsel’s limited presentation of mitigating witnesses

## **McFADDEN, VINCENT**

### GENERAL INFORMATION

DOB: March 25, 1980

Race: Black

Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County

Number of counts: Two (murders tried separately)

Race of victim: Black (both victims)

Gender of victim: 1 Female, 1 Male

Date of crime: July 3, 2002 (as to victim Todd Franklin)

May 15, 2003 (as to victim Leslie Addison)

Date of sentencing: March 15, 2005 (as to victim Todd Franklin - first trial)

May 24, 2006 (as to victim Leslie Addison - first trial)

September 14, 2007 (as to victim Todd Franklin - second trial)

June 12, 2008 (as to victim Leslie Addison - second trial)

### TRIAL COUNSEL

Sharon Turlington and Karen Kraft (all four trials)

### LEGAL STATUS

Post-conviction proceedings pending in Circuit Court of St. Louis County as to both murder cases

### CURRENT PROCEEDINGS

Rule 29.15 proceedings pending in St. Louis County (as to victim Leslie Addison, Case No. 13SL-CC-02170; as to victim Todd Franklin, Case No. 12SL-CC04870)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Convictions and sentences affirmed on separate direct appeals by Missouri Supreme Court (see below)

### CURRENT COUNSEL

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## REPORTED OPINIONS

### **As to victim Leslie Addison**

—Conviction and sentence affirmed on direct appeal following retrial. *See State v. McFadden*, 391 S.W.3d 408 (Mo.), *cert. denied*, 134 S. CT. 65 (2013)

—Conviction and sentence reversed on direct appeal by *State v. McFadden*, 216 S.W.3d 673 (Mo.), *cert. denied*, 552 U.S. 942 (2007)

### **As to victim Todd Franklin**

—Conviction and sentence affirmed on direct appeal following retrial. *See State v. McFadden*, 369 S.W.3d 727 (Mo.), *cert. denied*, 133 S. CT. 573 (2012)

—Conviction and sentence reversed on direct appeal by *State v. McFadden*, 191 S.W.3d 648 (Mo.), *cert. denied*, 549 U.S. 1071 (2006)

## SIGNIFICANT LEGAL ISSUES

—Both convictions and sentences initially reversed because of *Batson* errors

—Exclusion of jurors who said they could not sign the verdict as foreperson, as well as exclusion of equivocating *Witherspoon* jurors

—Prosecutorial misconduct during closing arguments in guilt and penalty phase

—*Batson* claims on retrial

—Trial counsels' failure to investigate juror voir dire responses

—Failure of trial counsel to investigate and develop evidence of Mr. McFadden's violent background, and to retain an expert to testify to the effects of his background

## MCLAUGHLIN, SCOTT

### GENERAL INFORMATION

DOB: January 13, 1973

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County

Number of counts: One

Race of victim: White

Gender of victim: Female

Date of crime: November 30, 2003

Date of sentencing: November 3, 2006

### TRIAL COUNSEL

Robert Steele and David Kenyon

### LEGAL STATUS

Federal habeas pending in E.D. Mo.

### CURRENT PROCEEDINGS

Petition for writ of habeas corpus pending in *McLaughlin v. Steele*, Case No. 4:12-cv-1464-CDP (E.D. Mo.)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Missouri Supreme Court's affirmance of the circuit court's denial of post-conviction relief. *See McLaughlin v. State*, 378 S.W.3d 328 (Mo. 2012)



## CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *McLaughlin v. State*, 378 S.W.3d 328 (Mo. 2012)

—Conviction and sentence affirmed on direct appeal by *State v. McLaughlin*, 265 S.W.3d 257 (Mo. 2008), *cert. denied*, 556 U.S. 116 (2009)

## SIGNIFICANT LEGAL ISSUES

—Imposition of death sentence by trial judge, following deadlock of jury, in claimed violation of *Ring v. Arizona*, 536 U.S. 584 (2002), and *State v. Whitfield*, 107 S.W.3d 253 (Mo. 2003)

—Trial counsel's failure to discover that his mental health expert had been disciplined in medical school for dishonesty

—Trial counsel's failure to retain a neuropsychologist in order to present evidence of Mr. McLaughlin's brain damage, as well as documentary evidence to corroborate it

—Trial counsel's failure to investigate, develop, and present evidence that the victim was raped by Mr. McLaughlin's brother instead of Mr. McLaughlin himself

## **NUNLEY, RODERICK**

### GENERAL INFORMATION

DOB: March 10, 1965  
Race: Black  
Gender: Male

### CRIME AND TRIAL

County of conviction: Jackson  
Number of counts: One  
Race of victim: White  
Gender of victim: Female  
Date of crime: March 22, 1989  
Date of sentencing: May 14, 1991

### TRIAL COUNSEL

Martin Warhurst and JoAnn Arnold

### LEGAL STATUS

Motion to set execution date pending in Missouri Supreme Court (Case No. SC76981)

### CURRENT PROCEEDINGS

Petition for writ of certiorari in process following Eighth Circuit's affirmance of denial of supplemental habeas corpus petition. *See Nunley v. Bowersox*, 784 F.3d 468 (8th Cir. 2015)

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

—Denial of supplemental habeas corpus petition affirmed by *Nunley v. Bowersox*, 784 F.3d 468 (8th Cir. 2015)

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Supplemental petition for writ of habeas corpus denied by *Nunley v. Bowersox*, 99-8001-CV-W-FJG, 2013 WL 1686526 (W.D. Mo. Apr. 18, 2013), *aff'd*, 784 F.3d 468 (8th Cir. 2015)

—Motion to recall mandate overruled by *State v. Nunley*, 341 S.W.3d 611 (Mo. 2011), *cert. denied*, 132 S. CT. 1096 (2012)

—Denial of habeas corpus affirmed by *Nunley v. Bowersox*, 394 F.3d 1079 (8th Cir.), *cert. denied*, 546 U.S. 909 (2005)

—Denial of post-conviction relief following remand affirmed by *State v. Nunley*, 980 S.W.2d 290 (Mo. 1998), *cert. denied*, 526 U.S. 1100 (1999)

—Conviction and sentence affirmed as to direct appeal; denial of post-conviction relief reversed and remanded. *State v. Nunley*, 923 S.W.2d 911 (Mo. 1996), *cert. denied*, 519 U.S. 1094 (1997)

## SIGNIFICANT LEGAL ISSUES

—Due process entitlement to retroactive application of *Ring v. Arizona* under Missouri Supreme Court's opinion in *State v. Whitfield*, 107 S.W.3d 253 (Mo. 2003), concerning Mr. Nunley's right to have a jury decide his eligibility for the death penalty despite his guilty plea

—Trial counsel's alleged failure to fully inform defendant of options before advising him to plead guilty, and failure to investigate factual avenues toward mounting meaningful defense at guilt phase

—Trial court's refusal to permit defendant to withdraw guilty plea after original death sentence was vacated

## **POLLARD, ROOSEVELT**

### GENERAL INFORMATION

DOB: March 13, 1964

Race: Black

Gender: Male

### CRIME AND TRIAL

County of conviction: Cole

Number of counts: One

Race of victim: White

Gender of victim: Male

Date of crime: December 12, 1985

Date of sentencing: January 27, 1986

### TRIAL COUNSEL

Donald Catlett, Peter Sterling, James Elliot

### LEGAL STATUS

No known proceedings pending; found incompetent to be executed by Associate Circuit Court of Washington County

### CURRENT PROCEEDINGS

None known

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Found incompetent to be executed by the Associate Circuit Court of Washington County

### CURRENT COUNSEL

None known

## REPORTED OPINIONS

—Supplemental petition for writ of habeas corpus denied by *Nunley v. Bowersox*, 99-8001-CV-W-FJG, 2013 WL 1686526 (W.D. Mo. Apr. 18, 2013)

—Motion to recall mandate overruled by *State v. Nunley*, 341 S.W.3d 611 (Mo. 2011), *cert. denied*, 132 S. CT. 1096 (2012)

—Denial of habeas corpus affirmed by *Nunley v. Bowersox*, 394 F.3d 1079 (8th Cir.), *cert. denied*, 546 U.S. 909 (2005)

—Denial of post-conviction relief following remand affirmed by *State v. Nunley*, 980 S.W.2d 290 (Mo. 1998), *cert. denied*, 526 U.S. 1100 (1999)

—Conviction and sentence affirmed as to direct appeal; denial of post-conviction relief reversed and remanded. *State v. Nunley*, 923 S.W.2d 911 (Mo. 1996), *cert. denied*, 519 U.S. 1094 (1997)

## SIGNIFICANT LEGAL ISSUES

—Competence to be executed

—Ineffectiveness of post-conviction counsel as “cause” as to claims cognizable for first time in state PCR proceedings

—Existence of procedural default when state Supreme Court reviews claim “as a matter of grace” while noting default

## **SHOCKLEY, LANCE**

### GENERAL INFORMATION

DOB: January 19, 1977

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Carter

Number of counts: 1

Race of victim: White

Gender of victim: Male

Date of crime: March 20, 2005

Date of sentencing: May 22, 2009

### TRIAL COUNSEL

Brad Kessler, David Bruns, Mollyanne Henshaw

### LEGAL STATUS

Rule 29.15 motion pending in Carter County

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari following direct appeal

### CURRENT PROCEEDINGS

Post-conviction proceedings pending in Carter County (Case No. 14AK-CC-0001)

## CURRENT COUNSEL

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## REPORTED OPINIONS

—Conviction and sentence affirmed on direct appeal by *State v. Shockley*, 410 S.W.3d 179 (Mo. 2013), *cert. denied*, 134 S. Ct. 1282 (2014)

## SIGNIFICANT LEGAL ISSUES

—Possible influence by jury foreman, who was stricken from trial after it was discovered that he had previously written a quasi-autobiographical novel involving a revenge-murder

—Trial counsel's failure to investigate and present alibi evidence and related evidence concerning the car attributed to the murderer by witnesses

—Trial counsel's failure to challenge and investigate the ballistics evidence

## **TAYLOR, LEONARD**

### GENERAL INFORMATION

DOB: June 15, 1964

Race: Black

Gender: Male

### CRIME AND TRIAL

County of conviction: St. Louis County

Number of counts: Four

Race of victim: Black (all four)

Gender of victim: 1 male, 3 female

Date of crime: November 24, 2004 (on or about)

Date of sentencing: April 17, 2008

### TRIAL COUNSEL

Robert Wolfrum, Beverly Beimdek, Karen Kraft

### LEGAL STATUS

Habeas pending in E.D. Mo.

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of certiorari following state post-conviction review

### CURRENT PROCEEDINGS

Petition for writ of habeas corpus pending in *Taylor v. Steele*, No. 4:12-cv-02278-RWS (E.D. Mo.)



## CURRENT COUNSEL

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## REPORTED OPINIONS

—Denial of post-conviction relief affirmed by *Taylor v. State*, 382 S.W.3d 78 (Mo. 2012), *cert. denied*, 133 S. Ct. 2798 (2013)

—Convictions and sentences affirmed on direct appeal by *State v. Taylor*, 298 S.W.3d 482 (Mo. 2009), *cert. denied*, 560 U.S. 928 (2010)

## SIGNIFICANT LEGAL ISSUES

—Speedy trial violation

—Trial court's exclusion of evidence that the victims were still alive after Mr. Taylor had flown to California and could not have committed the crimes

—Strike of an equivocating juror in violation of *Witherspoon*

## **TISIUS, MICHAEL**

### GENERAL INFORMATION

DOB: February 16, 1981

Race: White

Gender: Male

### CRIME AND TRIAL

County of conviction: Boone (on transfer from Randolph)

Number of counts: Two

Race of victim: White (both)

Gender of victim: Male (both)

Date of crime: June 22, 2000

Date of sentencing: October 1, 2001 (first trial)

September 27, 2010 (second trial)

### TRIAL COUNSEL

David J. Kenyon (first trial)

Christopher Slusher and Scott McBride (second trial)

### LEGAL STATUS

Post-conviction motion pending in Circuit Court of Boone County

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Death sentence affirmed on direct appeal after retrial. *State v. Tisius*, 362 S.W.3d 398 (Mo.), *cert. denied*, 133 S. CT. 235 (2012)

### CURRENT PROCEEDINGS

Rule 29.15 proceedings pending in Circuit Court of Boone County

### CURRENT COUNSEL

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## REPORTED OPINIONS

—Death sentence affirmed on direct appeal after retrial. *State v. Tisius*, 362 S.W.3d 398 (Mo.), *cert. denied*, 133 S. CT. 235 (2012)

—Grant of post-conviction relief on penalty phase, and denial of post-conviction relief on guilt phase, affirmed by *Tisius v. State*, 183 S.W.3d 207 (Mo.), *cert. denied*, 549 U.S. 843 (2006)

—Convictions and sentences affirmed on direct appeal by *State v. Tisius*, 92 S.W.3d 751 (Mo. 2002), *cert. denied*, 539 U.S. 920 (2003)

## SIGNIFICANT LEGAL ISSUES

—Effectiveness of trial counsel in presenting adequate and complete evidence showing that Mr. Tisius suffered from post-traumatic stress disorder and other mental illnesses at the time of the crime

—Trial counsels' failure to develop and present evidence from Mr. Tisius's relatives and childhood friends in order to describe the abuse, neglect, and mental illness that he experienced in childhood

—Propriety of State's presentation of evidence regarding a rap song with the refrain "mo' murda," where prosecution contended that Mr. Tisius listened to the song in order to "psyche" himself up to commit the murders charged

—Striking of an equivocating juror under *Witherspoon*

## **WILLIAMS, MARCELLUS**

### **GENERAL INFORMATION**

DOB: December 30, 1968

Race: Black

Gender: Male

### **CRIME AND TRIAL**

County of conviction: St. Louis County

Number of counts: One

Race of victim: White

Gender of victim: Female

Date of crime: August 11, 1998

Date of sentencing: August 8, 2001

### **TRIAL COUNSEL**

Joe Green

### **LEGAL STATUS**

Habeas corpus petition pending in Missouri Supreme Court; execution date of Jan. 28, 2015, vacated by Missouri Supreme Court on Jan. 22, 2015; special master appointed by Missouri Supreme Court order of May 26, 2015

### **LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE**

Execution date of January 28, 2015, vacated pending petition for writ of habeas corpus, which asserts innocence and seeks DNA testing

### **CURRENT PROCEEDINGS**

—Petition for writ of habeas corpus pending in Missouri Supreme Court (Case No. SC94720); special master appointed May 26, 2015 (Judge Gary Oxenhandler, Circuit Court of Boone County)

## CURRENT COUNSEL

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## REPORTED OPINIONS

—Grant of habeas corpus reversed by *Williams v. Roper*, 695 F.3d 825 (8th Cir. 2012), *cert. denied*, 134 S. Ct. 85 (2013)

—Denial of post-conviction relief affirmed by *Williams v. State*, 168 S.W.3d 433 (Mo. 2005)

—Sentence and conviction affirmed on direct appeal by *State v. Williams*, 97 S.W.3d 462 (Mo.), *cert. denied*, 539 U.S. 944 (2003)

## SIGNIFICANT LEGAL ISSUES

—Claim of actual innocence based on weak evidence of guilt at trial as well as biological evidence at scene that does not match Williams, the victim, or the victims' husband

—Availability of DNA testing for biological evidence from crime scene (specifically, hairs that do not match Williams, the victim, or her husband, as well as fingernail clippings from the victim, which contained blood and skin that do not match Mr. Williams)

—Adequacy of mitigating evidence developed by trial counsel under *Wiggins v. Smith*, 539 U.S. 510 (2003), and scope of habeas review when determining a state court's ruling was "unreasonable" under 28 U.S.C. § 2254(d)

## ZINK, DAVID

### GENERAL INFORMATION

DOB: August 7, 1959

Race: White

Gender: White

### CRIME AND TRIAL

County of conviction: St. Clair

Number of counts: One

Race of victim: White

Gender of victim: Female

Date of crime: July 22, 2001

Date of sentencing: Sept. 8, 2004

### TRIAL COUNSEL

Pro se at trial, with Thomas Jacquinet and Curtis Winegarner as standby counsel

### LEGAL STATUS

Execution scheduled July 14, 2015

### LAST JUDICIAL DECISION RELATING TO CONVICTION OR SENTENCE

Denial of motion to recall mandate by Missouri Supreme Court (Dec. 23, 2014), *cert. denied sub. nom. Zink v. Missouri*, 135 S. Ct. 2381 (2015)

### CURRENT PROCEEDINGS

Appeal of denial of supplemental habeas corpus petition (advancing lethal injection claims) pending in Eighth Circuit (Case No. 15-2417)

## CURRENT COUNSEL

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## REPORTED OPINIONS

—Appeal of denial of habeas corpus dismissed, and certificate of appealability denied by *Zink v. Steele*, 8th Circuit Case No. 11-1641 (unpublished order dated July 21, 2011), *cert. denied*, 132 S. Ct. 1802 (2012)

—Denial of post-conviction relief affirmed by *Zink v. State*, 278 S.W.3d 170 (Mo. 2009)

—Conviction and sentence affirmed on direct appeal by *State v. Zink*, 181 S.W.3d 66 (Mo.), *cert. denied*, 547 U.S. 1135 (2006)

## SIGNIFICANT LEGAL ISSUES

—Conflict of interest as between Mr. Zink and the Missouri Public Defender System, inducing him to proceed *pro se* at his trial

—Self-representation at trial despite defendant's mental illness

—Confrontation Clause claim regarding autopsy evidence