"THE END OF THE DEATH PENALTY" INITIATIVE

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1. The New Initiative

Opponents of the California death penalty have launched yet another assault on the popularly approved process. Again, as in the past, their arguments are both disingenuous and deceptive. And this time, their chicanery begins with the title of their Initiative.

The authors of the Initiative to banish the death penalty call it "The Savings, Accountability, and Full Enforcement for California Act" (SAFE California Act, Proposition 34.)

But, one might wonder, "Why not call it what it really is?" On page 12 of the proposed Initiative, the following is stated outright:

> "(a) In order to best achieve the purpose of this Act as stated in Section 3 and to achieve fairness, equality and uniformity in sentencing, this Act shall be applied retroactively.
>
> (b) **In any case where a defendant or inmate was sentenced to death prior to the effective date of this Act, the sentence shall automatically be converted to imprisonment in the State Prison without the possibility of parole under the terms and conditions of this Act. The State of California shall not carry out any execution following the effective date of this Act**." [emphasis added.]

Make no mistake, Prop 34, if passed, would eliminate the death penalty from 700-plus inmates currently on death row. Among those 700-plus inmates to be spared are the perpetrators of some of most heinous, depraved acts of murder ever assembled in one place in the history of the world.

In the mindset of the death penalty opponents, and, indeed, in their Initiative as well, there is no distinction between the number of human beings killed, the levels of depravity, or the horrifying impact of their actions on the victims' friends and loved ones . **Every murderer gets a free pass, no questions asked.**

This very same proposal was carried in a bill in the California State legislature by Sen. Loni Hancock during the last session. **That bill never got enough votes to get it out of committee**.

Likewise in 1999, an initiative was requested and put forward for signatures exactly like the one now proposed with elimination of the death penalty. **It never qualified.**

2. ESTIMATE OF COSTS

The central tactic of those leading the opposition to California's death penalty is to focus on costs to the public of pursuing the death penalty in the criminal justice system, as if that alone should be the determinant factor in meting out justice.

An article in the Alarcon Law Review presents the central thrust of the death penalty arguments. It deals with issues such as cost, deterrent effect of the law, impact upon victims" families and many other common areas of discussion when it comes to an evaluation of the death penalty.

Yet, while decrying death penalty costs, the Alarcon Law Review article concedes that neither they nor the Commission before them have been able to get any information from any state agency or

federal agency about death penalty expenses:

> "The Commission was unable to locate any reliable sources within the state or federal governments willing or able to discuss on the record what the death penalty costs taxpayers. The Commission retained the RAND Corporation to determine the feasibility of a major study of the overall costs incurred for the administration of the death penalty in California. The RAND representatives assigned to interview state officials as part of the study reported that many (if not most) of the participants in the death penalty process have strongly held views about the death penalty, and . . . those views have implications for [their] ability to gather the necessary data for the proposed study. . . .
>
> "[M]any of the stakeholders in the current death penalty process are wary of the kind of independent study [RAND] proposed, for fear that it could end up swaying opinion in a direction contrary to their own convictions. This wariness was expressed . . . [directly and indirectly] (i.e., difficulties we encountered getting connected in a timely fashion to the right people). In our experience, such ambivalence about a study can make data collection extremely difficult – if not effectively impossible."

The Commission eventually abandoned its effort to determine with precision what the cumulative costs are to administer the state"s death penalty.

Judicial Watch (JW) investigators encountered similar resistance in their attempts to gather data for this article, and they agree entirely with the Commission"s conclusion that "[p]roviding the public with reliable information about how the death penalty is being administered in California should not depend upon the discretion of those who are charged with its administration." (Pages 63-64, Alarcon Law Review.)

The growing concern over the cost of implementing the death penalty in California and the lack of publicly available information about these taxpayer-funded expenditures are matters of particular concern in view of California"s developing budget crisis. And that is one of the foremost factors prompting JW to undertake a study of its own.

Over a two-year period, JW repeatedly requested death penalty cost data and related information from various state and federal agencies. JW has reviewed the data it was able to obtain, and other data gathered from published studies that offer some degree of reliability in an effort to determine what California is spending in taxpayer dollars on the administration of the death penalty.

The responses to JW's inquiries were typically laden with caveats, disclaimers, or other explanations as to why the data may or may not be reliable.

When data was unavailable, the excuse most commonly offered for the lack of cost information was that government entities do not collect or maintain such data, or that they have not begun to do so until very recently. The California Department of Corrections and Rehabilitation (CDCR), for example, does not track or report what funds are expended on *any* costs associated with administration of the death penalty, including the costs associated with housing inmates on death row in California.

Concerning executions, according to the CDCR, "[t]he cost of carrying out an execution in California is difficult to assess. . . . Staff assigned to the execution team receive their regular, budgeted salaries. **The cost of the execution procedure, including the chemicals utilized, is minimal.**"

The real cost involved in the capital punishment procedure is related to the court reviews, both those mandated by the legislature as well as the appeal procedures initiated by the convicted inmates‟ legal staff. These costs vary depending upon the resources of the convicted inmate and the length of the court procedures involved. (Pages 65-66 Alarcon Law Review.)

The categories of costs associated with California‟s punishment system can be broken down as follows: (1) pre-trial and trial costs, (2) costs related to direct appeals and state habeas corpus petitions, (3) costs related to federal habeas corpus petitions, and (4) costs of incarceration." (Page 69 Alarcon Law Review.)

It should be noted that in the case of each of the above categories, it is Alarcon's admittedly uninformed estimate of the costs – not the expenses and cost furnished by any government agency – that is being used to attack the death penalty.

What Alarcon wants the voters to do is accept their guess at the costs. And this guess at costs is their theme for the entire effort to banish California's death penalty.

3. ATTACK UPON THE INITIATIVE PROCESS

What is most significant about the Alarcon article is its attack upon the initiative process in California. **It is the initiative process (the people's vote) versus law by the legislature and the courts to which Alarcon strenuously objects, as indicated below**:

"1. Distinguishing Features of California‟s Initiative Process

"[N]owhere is the practice of government by voter initiative as extreme as it is in California.

"Several features of California‟s initiative process work together to create a systematic destabilization of the state‟s constitutional law and a disruption of the state‟s legislative process. The features include (a) the unusual ease with which voters are able to amend the state‟s constitution as compared to the amendment process employed in other states; (b) the voters‟ ability to use the initiative process to appropriate state funds for any cause without apparent regard for the budgetary impact; © the voters‟ ability to prevent the legislature from amending or repealing a voter-initiated law, even when a law is not performing as anticipated or has become unworkable; and (d) the sheer number of voter initiatives that California voters are asked to consider." (Pages 115-116 Alarcon Law Review.)

"a. Frequent amendment of the California Constitution through the initiative process creates 'perpetual instability.'

"When the Framers drafted the U.S. Constitution, they devised a brief document that was primarily limited to setting forth the framework of the system of government. Amending the Constitution was only possible through a showing of overwhelming popular support as demonstrated by three-fourths of the states ratifying the amendment. „Amendments were deliberately made difficult in order to discourage changes that were not themselves fundamental. In over 200 years there have been only 27 amendments, and only 17 since the adoption of the

Bill of Rights in 1791." (Page 116, Alarcon Law Review.)

"Justice Mosk described California's relatively unrestricted initiative process as follows:

'[I]nitiative promoters may obtain the signatures for any proposal, however radical in concept and effect, and if they can persuade 51 percent of those who vote at any ensuing election to say "aye," the measure becomes law regardless of how patently it may offend constitutional limitations. . . . [T]he fleeting whims of public opinion and prejudice are controlling over specific constitutional provisions. This seriously denigrates the Constitution as the foundation upon which our governmental structure is based.' (Alarcon Law Review, pages 120-121.)

"In *People v. Anderson*, 493 P.2d 880 (Cal. 1972), the California Supreme Court held that the death penalty in California constituted cruel or unusual punishment under the state constitution. A short time later, the California electorate nullified the court's ruling in *Anderson* when it passed an initiative that amended the California constitution to provide that the death penalty does *not* constitute cruel or unusual punishment in California." (Alarcon Law Review, page 120.)

"James Madison, in the Federalist Papers (No. LXXVIII), wrote, inter alia, "The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It, therefore, belongs to them to ascertain its meaning, **as well as the meaning of any particular act proceeding from the legislative body** [or the people acting in a legislative capacity]." (Alarcon Law Review, p. 121.)

Make no mistake about it: what is being said here is that the power of the judiciary should rule over the will of the people.

The *Anderson* case, cited above, is an exact example of what the Alarcon initiative hatred is all about. The Supreme Court of California (i.e., the judiciary), held that the death penalty constituted cruel and unusual punishment. Later that same year, the California electorate nullified the court's ruling in *Anderson* affirming that **the death penalty does not constitute cruel or unusual punishment**.

Thus, the thrust of the death penalty's opponents' campaign is also to do away with the initiative process of the people.

As the quote from James Madison states, "The interpretation of the **laws is the proper and peculiar province of the courts**." Note that Justice Mosk conveniently skirted the word "interpretation" in his rendering – notwithstanding the body of Madison's writings decidedly emphasizing the will of the people above the courts, Congress, or the executive branch.

So, the battle at hand is not only the issue of a death penalty law -- it is the battle of the judiciary versus the people's right to the initiative process.

In short, drive to ban the death penalty has ramifications reaching much further than one law. It reaches the core issue of who has the power to govern: the people or the judiciary.

4. HABEAS CORPUS

"Justice delayed," 19th century British Prime Minister Benjamin Disraeli famously wrote, "is justice denied." And one of the greatest causes of the delay and denial of justice in the California death penalty system is the overt abuse of the writ of habeas corpus. Not only does the defendant get to have a writ of habeas corpus in the state court, but he also is entitled to seek a writ of habeas corpus in the federal court.

In other words, not only does he get two whacks at the same apple – but the most absurd feature is that he does not proceed or even get counsel on a habeas petition in state court until the direct appeal is finished. This could result in delays of five to ten years or more until the direct appeal is finished.

Because of that time lapse, the defendant can claim an infinite number of time problems: witnesses have died, records have been destroyed, memories have faded, and all types of similar allegations. To add absurdity to absurdity, the counsel for the federal habeas petition cannot even be appointed until the state habeas petition has been fully adjudicated.

Would anybody believe that such a system would not engender an endless parade of dilatory motions consuming years and years of time? This extremely time-wasting system allows attorneys and judges who are opposed to capital punishment to delay the adjudication of death penalty cases for years, if not decades.

In the time it as taken for California to execute 13 convicts, Texas has executed over 400. One of the major reasons this was so is the habeas writs in state and federal courts. While Texas dealt with the habeas problem, the California courts and legislature have done nothing.

The difference is seen in Texas"s Code of Criminal Procedure, Article 11.071:

Art. 11.071. Procedure in Death Penalty Case

Sec. 1. Application to Death Penalty Case.

Notwithstanding any other provision of this chapter, this article establishes the procedures for an application for a writ of habeas corpus in which the applicant seeks relief from a judgment imposing a penalty of death.

Sec. 2. Representation by Counsel.

(a) An applicant shall be represented by competent counsel unless the applicant has elected to proceed pro se and the convicting trial court finds, after a hearing on the record, that the applicant"s election is intelligent and voluntary.

(b) If a defendant is sentenced to death the convicting court, immediately after judgment is entered under Article 42.01, shall determine if the defendant is indigent and, if so, whether the defendant desires appointment of counsel for the purpose of a writ of habeas corpus. If the defendant desires appointment of counsel for the purpose of a writ of habeas corput, the court shall appoint the office of capital writs to represent the defendant as provided by Subsection © .

(c) At the earliest practical time, but in no event later than 30 days, after the convicting court makes the findings required under Subsections (a) and (b), the convicting court shall appoint the office of capital writs, or, if the office of capital writs does not accept or is prohibited from accepting an appointment under *Section 78.054, Goverment Code*, other competent counsel under Subsection (f), unless the applicant elects to proceed pro se or is represented by retained counsel. On appointing counsel under this section, the convicting court shall immediately notify the court of criminal appeals of the appointment, including in the notice a copy of the judgment and the name, address, and telephone number of the appointed counsel.

(d) [Repealed by Acts 2009, 81st Leg., ch. 781 (S.B. 1091), § 11, effective January 1, 2010.]

(e) If the court of criminal appeals denies an applicant relief under this article, an attorney appointed under this section to represent the applicant shall, not later than the 15th day after the date the court of criminal appeals denies relief or, if the case is filed and set for submission, the 15th day after the date the court of criminal appeals issues a mandate on the initial application for a writ of habeas corpus under this article, move for the appointment of counsel in federal habeas review under *18 U.S.C. Section 3599.* The attorney shall immediately file a copy of the motion with the court of criminal appeals, and if the attorney fails to do so, the court may take any action to endure that the applicant‟s right to federal habeas review is protected, including initiating contempt proceedings against the attorney.

Sec. 4. Filing of application.

(a) An application for a writ of habeas corpus, returnable to the court of criminal appeals, must be filed in the convicting court not later than the 180th day after the convicting court appoints counsel under Section 2 or not later than the 45th day after the date the state‟s original brief is filed on direct appeal with the court of criminal appeals, whichever date is later.

(b) The convicting court, before the filing date that is applicable to the applicant under Subsection (a), may for good cause shown and after notice and an opportunity to be heard by the attorney representing the state grant one 90-day extension that begins on the filing date applicable to the defendant under Subsection (a). Either party may request that the court hold a hearing on the request. If the convicting court finds that the applicant cannot establish good cause justifying the requested extension, the court shall make a finding stating that fact and deny the request for the extension.

(c)An application filed after the filing date that is applicable to the applicant under Subsection (a) or (b) is untimely.

(d) If the convicting court receives an untimely application or determines that after the filing date that is applicable to the applicant under Subsection (a) or (b) no application has been filed, the convicting court immediately, in an any event within 10 days, shall send to the court of criminal appeals and to the attorney representing the state:

(1) a copy of the untimely application, with a statement of the convicting court that the application is untimely, or a statement of the convicting court that no application has been filed within the time periods required by Subsections (a) and (b); and

(2) any order the judge of the convicting court determines should be attached to an untimely application or statement under Subdivision (1).

(e) A failure to file an application before the filing date applicable to the applicant under subsection (a) or (b) constitutes a waiver of all grounds for relief that were available to the applicant before the last date on which an application could be timely filed, except as provided by Section 4A."

What is readily apparent from the above is that Texas has done what any reasonable state government would do: Establish time limits and have the habeas proceedings transpire simultaneously with the direct appeal.

Thus, within 30 days of the conviction in trial court, the convicting court must appoint habeas counsel.

That counsel must then file the habeas application in the convicting court within 180 days after counsel is appointed, or not later that the 45th day after the date the state's opening brief is filed on direct appeal, whichever date is later.

The Texas statute also provides for one 90-day extension, but defense counsel must establish good cause to get the extension. It then provides a procedure to find if the application is untimely. It then further provides for a 10-day notification to the court of criminal appeals where the matter is decided.

Thus, there are strict time periods and the threat of filing contempt charges against counsel who does not comply.

Texas law also places the power of contempt and strict enforcement of the time period in the hands of the convicting trial judge.

This is entirely appropriate, since that convicting trial judge has the interest, knowledge, and involvement in the case to be the best decision maker in assuring that the time limits are complied with and that the habeas proceeds in the manner contemplated by the statute.

The Texas statute then provides that if the court of criminal appeals denies the state habeas, that the attorney must move within 15 days for the appointment of counsel in the federal habeas under *18 U.S.C. Section 3599.*

By contrast, opponents of the death penalty in California have constructed a labyrinthine legal process designed to delay indefinitely the application of the death penalty. Now, dishonestly, the costs of these unneeded and obstructive delays are being used as an excuse to "end the death penalty" through this latest initiative.

5. DETERRENT EFFECT OF THE DEATH PENALTY

There are two salient aspects of the deterrent effect of the death penalty that must be considered whenever the penalty is discussed. One aspect is the public suppression of murder in the community out of fear of the death penalty.

The highest murder rate in Houston (Harris County), Texas, occurred in 1981 with 701 murders. Texas resumed executions in 1982. Since that time, Houston has executed more murderers than any other city or state (except Texas) and has seen the greatest reductions in murder from 780 in 1981 down to 261 in 1996 – a 63% reduction (FBI, VCR, 1982 & Houston Chronicle, Feb. 1, 1997, pg 31A.

Any law enforcement officer or prosecutor who has worked with the criminal element knows that career criminals have a very different moral value system than the general community. It is a jaded value system that does not mind doing time for the crime, but puts the death penalty in a category of punishment that is to be avoided. It is critical that this fear of the death penalty by career criminals not be ignored, or ameliorated.

In the case of *People v. Love*, 56 C2d 720, statements of 14 hardened criminals were cited that fear of the death penalty kept them from killing their victims.

A few recent examples of the accuracy of this view are to be found in the following cases involving persons arrested by officers of the Los Angeles Police Department: fn. *

(i) Margaret Elizabeth Daly, of San Pedro, was arrested August 28, 1961, for assaulting Pete Gibbons with a knife. She stated to investigating officers: "Yeah, I cut him and I should have done a better job. I would have killed him, but I didn't want to go to the gas chamber."

(ii) Robert D. Thomas, alias Robert Hall, an ex-convict from Kentucky; Melvin Eugene Young, alias Gene Wilson, a petty criminal from Iowa and Illinois; and Shirley R. Coffee, alias Elizabeth Salquist, of California, were arrested April 25, 1961, for robbery. They had used toy pistols to force their victims into rear rooms, where the victims were bound. When questioned by the investigating officers as to the reason for using toy guns instead of genuine guns, all three agreed that real guns were too dangerous, and if someone were killed in the commission of the robberies, they could all receive the death penalty.

(iii) Louis Joseph Turck (alias Luigi Furchiano, alias Joseph Farino, alias Glenn Hooper, alias Joe Moreno), an ex-convict with a felony record dating from 1941, was arrested May 20, 1961, for robbery. He had used guns in prior robberies in other states but simulated a gun in the robbery here. He told investigating officers that he was aware of the California death penalty although he had been in this state for only one month, and said, when asked why he had only simulated a gun, "I knew that if I used a real gun and that if I shot someone in a robbery, I might get the death penalty and go to the gas chamber."

(iv) Ramon Jesse Velarde was arrested September 26, 1960, while attempting to rob a supermarket. At that time, armed with a loaded .38 caliber revolver, he was holding several employees of the market as hostages. He subsequently escaped from jail and was apprehended

at the Mexican border. While being returned to Los Angeles for prosecution, he made the following statement to the transporting officers: "I think I might have escaped at the market if I had shot one or more of them. I probably would have done it if it wasn't for the gas chamber. I'll only do 7 or 10 years for this. I don't want to die no matter what happens, you want to live another day."

(v) Orelius Mathew Stewart, an ex-convict with a long felony record, was arrested March 3, 1960, for attempted bank robbery. He was subsequently convicted and sentenced to the state prison. While discussing the matter with his probation officer, he stated: "The officer who arrested me was by himself, and if I had wanted, I could have blasted him. I thought about it at the time, but I changed my mind when I thought of the gas chamber."

(vi) Paul Anthony Brusseau, with a criminal record in six other states, was arrested February 6, 1960, for robbery. He readily admitted five holdups of candy stores in Los Angeles. In this series of robberies he had only simulated a gun. When questioned by investigators as to the reason for his simulating a gun rather than using a real one, he replied that he did not want to get the gas chamber.

(vii) Salvador A. Estrada, a 19-year-old youth with a four-year criminal record, was arrested February 2, 1960, just after he had stolen an automobile from a parking lot by wiring around the ignition switch. As he was being booked at the station, he stated to the arresting officers: "I want to ask you one question, do you think they will repeal the capital punishment law. If they do, we can kill all you cops and judges without worrying about it."

(viii) Jack Colevris, a habitual criminal with a record dating back to 1945, committed an armed robbery at a supermarket on April 25, 1960, about a week after escaping from San Quentin Prison. Shortly thereafter he was stopped by a motorcycle officer. Colevris, who had twice been sentenced to the state prison for armed robbery, knew that if brought to trial, he would again he sent to prison for a long term. The loaded revolver was on the seat of the automobile beside him, and he could easily have shot and killed the arresting officer. By his own statements to interrogating officers, however, he was deterred from this action because he preferred a possible life sentence to death in the gas chamber.

(ix) Edward Joseph Lapienski, who had a criminal record dating back to 1948, was arrested in December 1959 for a holdup committed with a toy automatic type pistol. When questioned by investigators as to why he had threatened his victim with death and had not provided himself with the means of carrying out the threat, he stated, "I know that if I had a real gun and killed someone, I would get the gas chamber."

(x) George Hewlitt Dixon, an ex-convict with a long felony record in the East, was arrested for robbery and kidnapping committed on November 27, 1959. Using a screwdriver in his jacket pocket to simulate a gun, he had held up and kidnapped the attendant of a service station, later releasing him unharmed. When questioned about his using a screwdriver to simulate a gun, this man, a hardened criminal with many felony arrests and at least two known escapes from

custody, indicated his fear and respect for the California death penalty and stated, "I did not want to get the gas."

(xi) Eugene Freeland Fitzgerald, alias Edward Finley, an ex-convict with a felony record dating back to 1951, was arrested February 2, 1960, for the robbery of a chain of candy stores. He used a toy gun in committing the robberies, and when questioned by the investigating officers as to his reasons for doing so, he stated: "I know I'm going to the joint and probably for life. If I had a real gun and killed someone, I would get the gas. I would rather have it this way."

(xii) Quentin Lawson, an ex-convict on parole, was arrested January 24, 1959, for committing two robberies in which he had simulated a gun in his coat pocket. When questioned on his reason for simulating a gun and not using a real one, he replied that he did not want to kill someone and get the death penalty.

(xiii) Theodore Roosevelt Cornell, with many aliases, an ex-convict from Michigan with a criminal record of 26 years, was arrested December 31, 1958, while attempting to hold up the box office of a theater. He had simulated a gun in his coat pocket, and when asked by investigating officers why an ex- convict with everything to lose would not use a real gun, he replied, "If I used a real gun and shot someone, I could lose my life."

(xiv) Robert Ellis Blood, Daniel B. Gridley, and Richard R. Hurst were arrested December 3, 1958, for attempted robbery. They were equipped with a roll of cord and a toy pistol. When questioned, all of them stated that they used the toy pistol because they did not want to kill anyone, as they were aware that the penalty for killing a person in a robbery was death in the gas chamber.

Another important aspect of the death penalty is the personal deterrent value to an individual citizen who may be an potential victim. Imagine that you or your loved ones were the victim of an armed robbery, a home invasion, kidnapping, or rape. That criminal has the deciding vote as to whether to kill you. As you are at his mercy, do you think the death penalty might prevent him from killing you? What is the value of the death penalty at that moment in time?

The poet Hyam Barshay puts it this way: “The death penalty is a warning just like a lighthouse throwing beams out to sea. We hear about shipwrecks, but we do not hear about the ships the lighthouse guides safely on their way. We do not have proof of the number of ships it saves, but we do not tear the lighthouse down.”

6. HISTORY OF THE CRIMES OF THE DEATH ROW INMATES

In addition of the above consideration in relation to the death penalty, the actual history of the crimes and conduct of the defendant during those crimes is an important factor in any evaluation of the significance of the death penalty.

In a revealing recent example, twelve inmates were finished with their appeals, writs of habeas corpus, and attempted appeals to the U. S. Supreme Court. Once the federal judge made his decision on the lethal injection formula, they were all set for execution.

The following chilling summaries of those twelve inmates were prepared by the Criminal Justice Legal Foundation president, Kent Scheidegger.

The last summary of the "Night Stalker," Richard Ramirez, was taken directly from the California Supreme Court's opinion, affirming his conviction and death sentence. Mr. Ramirez has not completed all his appellate procedures as have the other twelve have.

Please be forewarned: the narratives below are as graphic as the crimes were heinous.

Criminal Justice Legal Foundation

Case summaries of California capital murderers with exhausted appeals

January 10, 2012

Inmate: Stevie Fields

35 Cal.3d 329 (1983)

Date Sentenced: 8/21/79

Crime and Trial: Los Angeles

Stevie Fields was paroled from prison on September 13, 1978, after serving a sentence for manslaughter for bludgeoning a man to death with a barbell. Fourteen days later, he went on a three-week, "one-man crime wave."

In 1983, Fields was convicted and sentenced to death on overwhelming evidence of the robbery and murder of Rosemary Cobbs, a student librarian at the University of Southern California; the robbery of Clarence Gessendaner at gunpoint; the kidnapping for robbery, rape, forced oral copulation, and assault with a deadly weapon on Gwendolyn Barnett; the kidnapping for robbery and forced oral copulation of Cynthia Smith; and the kidnapping, robbery, rape, and forced oral copulation of Colleen Coates, also a young student at USC.

Fields" conviction and sentence were affirmed by the California Supreme Court in 1983. Fields filed a petition for habeas corpus in the California Supreme Court in 1984, claiming ineffective assistance of his trial counsel, which was denied in 1990, following an evidentiary hearing. The U.S. Supreme Court denied his petition for certiorari in 1991.

In 1993, Fields filed his first federal habeas corpus petition. The district court stayed proceedings to allow an opportunity to pursue unexhausted claims in state court. Fields filed a second petition for writ of habeas corpus in the California Supreme Court, which was denied in 1994. He filed a second amended habeas petition in district court in 1995, raising a number of claims which the district court held were procedurally barred.

In 2000, the District Court denied relief as to guilt but granted relief as to Fields" penalty. Fields and the state both appealed. A U.S. Ninth Circuit Court of Appeals panel affirmed on all guilt phase claims except for a claim of juror bias (and the related claim of ineffective assistance of counsel), on which it remanded for an evidentiary hearing to the District Court in 2002. The district court denied relief in 2003.

In 2005, the Ninth Circuit affirmed the denial of relief on guilt and reversed the grant of relief on penalty. The Ninth Circuit granted a rehearing en banc in 2006. The Ninth Circuit denied habeas relief, leaving Field"s convictions and sentence in place. In 2008 the Supreme Court of the United States denied Fields" petition for writ of certiorari.

Inmate: Albert Brown, Jr.

6 Cal.4th 322 (1993)

Date Sentenced: 2/22/82

Crime and Trial: Riverside

In February 1982 Albert Brown, Jr. was convicted and sentenced to death for the October 28, 1980 rape and murder of 15-year-old Susan Jordan. At the time of the murder, Brown had been out of prison for three months for the rape of a 14-year-old girl.

Brown kidnapped Susan Jordan as she walked to school. He dragged her to a secluded area of an orange grove, raped her, then strangled her to death with one of her shoelaces. When the school reported to Susan‟s parents that their daughter had failed to arrive, they desperately tried to locate her, after calling the police to report her missing.

Sometime between 7:00 and 7:30 that night, the phone at Susan‟s house rang and her mother answered it. The male-voiced caller said, "Hello, Mrs. Jordan, Susie isn't home from school yet, is she?" Mrs. Jordan replied that she was not. The voice then said, "You will never see your daughter again. You can find her body on the corner of Victoria and Gibson." Later, police searched the orange grove at that corner and found Susan‟s partially nude body lying face down. Her clothing and some of her school notebooks were also found.

After witnesses identified someone answering Brown‟s description as a suspect police arrested him. During a search of his residence police found a telephone directory turned back to the page containing the Jordan‟s listing, news articles about Susan‟s death, and two of her missing schoolbooks.

Brown‟s conviction and sentence were affirmed by the California Supreme Court on direct appeal in 1993. A year later the U.S. Supreme Court denied his petition for review in 1994. In 1996, he filed a petition for habeas corpus in the federal District Court and a petition for writ of habeas corpus in the California Supreme Court. The California Supreme Court denied his petition in 1999. In 1999 he filed an amended petition for habeas corpus in the federal District Court. The District Court denied his petition in six years later. The U.S. Supreme Court denied Brown‟s petition for writ of certiorari in 2008.

Inmate: Fernando Belmontes

45 Cal.3d 744 (1988)

Date Sentenced: 10/5/82

Crime and Trial: San Joaquin

Fernando Belmontes was convicted on strong evidence and sentenced to death in 1988 for the first-degree murder of 19-year-old Stacey McConnell. McConnell‟s parents found her beaten unconscious on the floor of her house in Victor, several feet from the unlocked front door on March 15, 1981. She died of cerebral hemorrhaging due to 15 to 20 gaping wounds to her head which cracked her skull.

The pathologist testified that there would have been sounds "like a cracked pot" associated with the blows that fractured her skull. McConnell had numerous defensive bruises and contusions on her arms, hands, legs and feet which evidenced a struggle. All her wounds were consistent with having been made by the metal dumbbell bar in evidence at trial.

On the day of the murder Belmontes and two accomplices had gone to McConnell‟s home to burglarize it, while they believed she would be away. Belmontes entered the house carrying a steel dumb bell bar while the accomplices waited outside. When he found McConnell in the house he beat her with the bar, later telling one of the accomplices that he had to "take out a witness" because she was home.

His conviction and sentence were affirmed by the California Supreme Court on direct appeal in 1988. His petition for certiorari was denied by the U.S. Supreme Court in 1989. Later that year, after his petition for state habeas corpus was denied by the San Joaquin County Superior Court, he filed a petition for review of federal habeas corpus with the federal District Court. His appeal of the denial of state habeas corpus was denied by the California Supreme Court in 1992.

Nine years later the federal District Court rejected his 1989 petition for review. In 2003 the Ninth Circuit Court of Appeals denied relief on guilt but granted relief on penalty. The Ninth Circuit remanded to the district court for the issuance of a writ of habeas corpus vacating the death sentence. The State appealed that holding to the U.S. Supreme Court which in 2005 overturned it and remanded the case to the Ninth Circuit. On remand the Ninth Circuit again denied relief on guilty but granted relief on penalty. In 2006 the U.S. Supreme Court reversed that decision and reinstated Belmontes‟ death sentence.

Inmate: Kevin Cooper

53 Cal.3d 771 (1991)

Date Sentenced: 5/15/85

Crime: San Bernardino

Trial: San Diego

In 1985, Kevin Cooper was convicted and sentenced to death for the brutal 1983 murders of Doug and Peggy Ryen, their 10-year-old daughter Jessica, and 11-year-old playmate Chris Hughes. The Ryen‟s 8-year-old son Josh suffered extensive injuries but survived.

Two days earlier, on June 2, 1983, Cooper had escaped from a minimum security prison in Chino, where he had been serving a four-year sentence for two residential burglaries. A year earlier he had left Pennsylvania, where he was suspected of the assault and rape of a teen-aged girl who had interrupted him as he was burglarizing her home. Undisputed evidence including Cooper‟s fingerprints and his own statements indicate that, after his escape, he took refuge in an empty house next door to the Ryan home. Cooper made phone calls to two women from the house.

Between 9:00 and 9:30 PM on June 4, the Ryen Family and their children‟s friend Chris left a barbeque to return to the Ryan home, where Chris was spending the night. The next morning, Chris‟ father went to the Ryan home and found everyone except eight year old Josh dead. The victims had died from numerous chopping wounds later determined to have been inflicted by a hatchet or ax and stabbing wounds inflicted by both a knife and an ice pick.

Later that day, blood stained items were found in the vacant house where Cooper had stayed, including a button from a prison jacket he was wearing when he escaped. A hatchet, several knives and an ice pick were missing from the vacant house and a hatchet sheath and a strap fitting one of the missing knives were found in the bedroom where Cooper had slept. The Ryen station wagon was later found in the parking lot of a Long Beach church. Hairs from the car matched those of Cooper. Tobacco issued exclusively to prison inmates, which Cooper smoked, was found in the vacant house and in the Ryen‟s station wagon.

Two days after the murders, Cooper befriended a couple in Mexico and joined them on a boat trip up the California Coast. Cooper was arrested on a boat off of Santa Barbara after the woman reported that he had raped her at knife point, threatening to kill her if she woke her husband. Following his arrest several items taken from the vacant house in Chino were discovered on the boat.

Cooper‟s conviction and death sentence were affirmed in 1991 by the California Supreme Court. Seven years later his petition for state habeas corpus was denied by the California Supreme Court. In 2001 the Ninth Circuit Court of Appeals denied Cooper petition for habeas corpus and a year later the U.S. Supreme Court refused his appeal. Between 1997 and 2004, the California Supreme Court denied Cooper‟s multiple petitions for writ of habeas corpus.

In 2004, on the eve of his scheduled execution, an en banc panel of the Ninth Circuit granted a stay and ordered the District Court to hear Cooper‟s third habeas corpus petition, this time claiming that DNA testing of the blood evidence would prove his innocence. In 2005, after the testing was performed, the district court rejected the claim, finding, “Post-conviction DNA testing confirmed that [Cooper] committed the murders...” The Ninth Circuit later affirmed. In 2009, the Ninth Circuit denied Cooper‟s petition for rehearing. In 2010, the U.S. Supreme Court denied Cooper‟s petition for writ of certiorari.

Inmate: Tiequon Cox

53 Cal.3d 618 (1991)

Date Sentenced: 5/7/86

Crime and Trial: Los Angeles

In 1986, Tiequon Cox was convicted and sentenced to death for the first-degree murders of Ebora Alexander, her daughter Dietria, and two grandsons, Damon Bonner and Damani Garner. The murders were committed on the morning of August 31, 1984 at the Alexander home.

Police responding to a report of gunfire, found the bullet-riddled bodies of 57-year-old Ebora, 23-year-old Dietria, and the grandsons, 8-year-old Damon and 10-year-old Damani. Ebora had been sitting at her kitchen table drinking coffee when she was killed. The bodies of Dietria, Damon, and Damani were found in a bedroom, still in their beds.

Evidence supporting the conviction included the testimony of witnesses who overheard Cox plan the murders and later say "I just blew the bitch's head off;" testimony identifying Cox by one of two surviving grandchildren; testimony identifying the murder weapon as belonging to Cox; and ballistics evidence identifying that weapon as one used to kill the victims.

Cox's conviction and sentence were affirmed by the California Supreme Court on direct appeal in 1991. The U.S. Supreme Court denied his appeal in 1993. In 1993 Cox filed a petition for writ of habeas corpus in federal District Court. In 1994 he filed a petition for state habeas corpus relief in the California Supreme Court, which was denied in 1997. Cox amended his federal habeas corpus petition in 1997 and filed another petition for state habeas corpus in the California Supreme Court in 1999.

In 2002 the California Supreme Court denied his second state habeas petition. Later that year Cox again amended his federal habeas petition before the District Court, which was denied in part in 2006. The petition was stayed pending exhaustion of some claims at the state level and was ultimately denied on all grounds. The district court issued a Certificate of Appealibility for two claims. Cox appealed to the U.S Ninth Circuit which affirmed his conviction and sentence and denied his petition for rehearing en banc. The U.S. Supreme Court denied Cox's petition for writ of certiorari in 2011.

Inmate: Royal Hayes

21 Cal.4th 1211 (1999)

Date Sentenced: 8/8/86

Crime: Santa Cruz

Trial: Stanislaus (penalty) retrial

In 1986, Royal Hayes was convicted and sentenced to death for the 1981 murders of Lauren de Laet and Donald MacVicar. In December of that year , Hayes, a drug dealer, arranged to sell cocaine to the two victims at a remote wooded location in Santa Cruz. Hayes, the two victims, and a female accomplice, Diana Weller drove to Santa Cruz on December 29. Prior to their arrival, Hayes arranged to have another female accomplice, Debbie Garcia, dig two holes in the woods, allegedly to hide packages of drugs.

The victims, Weller and Hayes met Garcia at a Santa Cruz donut shop and left in Garcia‟s car for the woods. Once there, Hayes shot both de Laet and MacVicar in the back of the head. He then cut off the victims‟ heads and hands and placed the bodies in the holes, spreading what he believed to be quicklime on them to hasten decomposition. After covering the holes Hayes left the severed body parts nearby in plastic bags.

Two months later parts of de Laet‟s scull were discovered. During the investigation, Garcia told police about the murderers. Due the substantial media coverage of the gruesome crimes, Hayes won a change of venue to Stanislaus County, where he was convicted on overwhelming evidence.

The California Supreme Court affirmed the judgment against Hayes on Direct Appeal in 1999. While this direct appeal was pending, Hayes filed a petition for habeas corpus in the California Supreme Court, which was denied in 1999. The U.S. Supreme Court denied Hayes‟ petition for certiorari in 2000. Hayes then filed an amended habeas corpus petition in federal District Court in 2002. In 2003 the California Supreme Court denied Hayes‟ state habeas corpus petition. The district court denied his federal petition in 2005. Hayes appealed that decision to the U.S. Ninth Circuit Court of Appeals, which affirmed the district court‟s denial of all his claims. Hayes did not seek Supreme Court review of this decision.

Inmate: Harvey Heishman

45 Cal.3d 147 (1988)

Date Sentenced: 3/30/81

Crime and Trial: Alameda

Harvey Heishman was convicted and sentenced to death in 1988 for the first-degree murder of Nancy Lugassy in 1979. He was found guilty of murdering Lugassy to prevent her from testifying in a criminal proceeding that had been brought against him for raping her.

Lugassy and Heishman met in July 1979, after which Lugassy ran crying to her neighbor , saying she had just been raped. On August 10, a complaint was filed against Heishman on the rape charge. Heishman was arrested and appeared for arraignment on October 24, 1979, pleading not guilty. The municipal court scheduled a preliminary examination for November 20, 1979, and Heishman remained at large on bail.

Lugassy was shot dead on her front yard November 1, 1979. When police arrived that night, they found Lugassy‟s body with three bullet holes in it, in front of her home with the door ajar. In her purse was a subpoena for the preliminary hearing. Because of Lugassy's death and thus, her unavailability as a witness, the rape charge against Heishman was dismissed at the preliminary hearing on November 20.

Cheryl Miller and Nancy Gentry both testified that they had been involved in Heishman‟s plan to kill Lugassy. Gentry and Miller provided the eyewitness testimony regarding the plot to kill and the actual killing of Lugassy by Heishman. On several occasions Gentry and Miller had driven by Lugassy‟s home with Heishman. The three also drove to two local college campuses to look for Lugassy and see if she was enrolled there. Overall, the prosecution‟s evidence showed that from December 1969 until July 1978, Heishman was either on probation, on parole, or in prison for various sexual assaults.

The conviction and sentence were upheld on direct appeal by California Supreme Court in 1988. Later that year the U.S. Supreme Court denied Heishman‟s petition for certiorari. In 1989 the California Supreme Court denied Heishman‟s state habeas corpus petition and his execution was stayed by the U.S. Supreme Court stay pending consideration of his petition for certiorari. Three weeks later, the high court denied his petition, vacating the stay.

A new stay was granted by the federal District Court pending its review of Heishman‟s federal habeas corpus petition, which was amended three times between 1990 and 1993. He also filed a forth state habeas corpus petition in 1993 with the California Supreme Court which was denied later that year. In 1996 the federal District Court denied relief on five of Heishman‟s claims. In 2001, the Court denied all but one of his remaining claims. The district court held multiple evidentiary hearings before denying the last of Heishman‟s claims in 2007. Heishman appeal to the Ninth Circuit was later denied. In 2011 the U.S. Supreme Court denied his petition for cert.

Inmate: Michael Morales

48 Cal.3d 527 (1989)

Date Sentenced: 6/14/83

Crime: San Joaquin

Trial: Ventura

Michael Morales was convicted and sentenced to death in 1989 for the brutal 1981 murder and rape of 17-year-old Terry Winchell. Morales‟s cousin, Ricky Ortega was angry with Winchell because of her relationship with his gay lover. On January 8, 1981, Ortega called Morales to report that he was taking Winchell on a shopping trip and would be coming by to pick him up. After learning this, Morales told his girlfriend his was going to do his cousin a favor and "hurt" a girl by strangling her with a belt.

When Ortega and Winchell arrived, Morales, armed with a belt and a hammer, climbed in the backseat of the car, directly behind where Winchell was sitting. After Ortega had driven to an isolated location, Morales reached over the seat and tried to strangle Winchell with the belt. The belt broke, so Morales then began to beat her on the head repeatedly with the hammer until she was unconscious or dead.

Morales dragged Winchell's body into a field and completed an act of sexual intercourse. He then stabbed her four times in the chest to assure that she was dead. Winchell was found naked except for a shirt and bra, which were pulled up over her breasts. She had taken six blows to the side of her head and seventeen blows to the back of her head. Her skull, cheek bones, and jaw were fractured, and the base of her skull had been shattered. She had been stabbed four times in the chest. She had severe bruising on her face and body and much of the skin on her front side was torn up. She had multiple wounds on her hands and forearms typical of a person defending herself.

Morales‟ conviction and sentence were affirmed by the California Supreme Court on direct appeal in 1989. The U.S. Supreme Court denied his petition for certiorari at the end of 1989. Morales filed a petition for federal habeas corpus in the federal District Court in 1992. He also filed petitions for state habeas corpus with the California Supreme Court which were denied in 1993. His federal habeas corpus petition was denied in 1999. The Ninth Circuit affirmed the lower court judgment in 2003. Morales‟ petition for cert in the U.S. Supreme Court was denied in 2005.

Inmate: Scott Pinholster

1 Cal.4th 865 (1992)

Date Sentenced: 6/14/84

Crime and Trial: Los Angeles

In 1992 Scott Pinholster was convicted and sentenced to death for murdering Thomas Johnson and Robert Becket during a residential burglary in the Los Angeles suburb of Tarzana in 1982.

In January of that year Pinholster and accomplices broke into the house to steal drugs. When Johnson and Becket, who were house-sitting for the owner at the time, arrived and opened the front door and discovered the house had been ransacked, they shouted that they would call the police. The three burglars attempted to leave through the rear sliding-glass door, but Johnson and Beckett ran around to the back of the house.

When Johnson tried to enter the house, Pinholster stabbed Johnson in the chest three to four times with a knife. Johnson dropped his wallet to the ground and obeyed Pinholster‟s order to sit. Pinholster then attacked Becket, stabbing him repeatedly while demanding money and drugs. Pinholster kicked Becket in the head several times. One of Pinholster‟s accomplices also stabbed Johnson several times.

When the trio returned to Pinholster‟s apartment, he and one of his accomplices remarked that they had "gotten them good." At trial one of the accomplices and his wife testified that, after the murders, Pinholster went to their apartment, cleaned the knives and divided the proceeds: $23 and a bag of marijuana. Other witnesses testified that they had heard Pinholster plan the burglary and brag about stabbing another victim during a previous robbery. Physical evidence included Pinholster‟s palm print at the murder scene and his bloody boot-print near the victims‟ bodies.

Pinholster‟s conviction and sentence were upheld by a unanimous California Supreme Court on direct appeal in 1992. The opinion was written by Justice Stanley Mosk, the Court‟s most liberal member. After the U.S. Supreme Court denied his petition for cert, Pinholster filed two state habeas corpus petitions between 1993 and 1997, claiming that he was mentally unstable, both were denied by the state Supreme Court.

On federal habeas corpus, new attorneys representing Pinholster introduced a new psychiatric evaluation related to his claim of mental incompetence. In 2003 the District Court upheld his conviction but, based on the new psychiatric opinion, overturned his sentence. Five years later a Ninth Circuit panel reinstated the sentence. In 2009, a divided en banc Ninth Circuit panel reversed the earlier holding and voided his sentence. In 2011 the U.S. Supreme Court reversed the Ninth Circuit and reinstated Pinholster‟s sentence.

Inmate: Douglas Mickey

54 Cal.3d 612 (1991)

Date Sentenced: 9/23/83

Crime: Placer

Trial: San Mateo

Douglas Mickey was convicted and sentenced to death in 1983 for the first-degree murders of Eric Lee Hanson and Catherine Blount.

In September 1980, Mickey lived with his wife and her two children on an Air Force base in Japan, where his wife worked as a nurse. Mickey did not have a job and his family was experiencing financial difficulties. On September 17, 1980, Mickey flew to California, where he stayed with longtime friend Edward Rogers. Mickey disclosed to Rogers that he traveled to California in order to rob and murder Eric Lee Hanson. After that, Mickey planned to travel to Alaska to kill his wife‟s ex-husband in order to obtain life insurance proceeds for his wife and children, who were beneficiaries under the policy.

Although Hanson, a drug dealer, was a longtime friend of his, Mickey believed that years earlier Hanson had stolen some of Mickey‟s personal property. In retaliation, Mickey had stolen some of Hanson‟s marijuana crop in 1979, which he had buried and began to consume upon his return. Around midnight on September 28, Rogers dropped Mickey off at Hanson‟s home. Hanson had his own knife on him and a gun borrowed from Rogers.

Rogers and Mickey set up a rendezvous point at a public telephone booth a few miles from Hanson‟s home. During the early hours of September 29, evidently after Hanson and Blount went to sleep, Mickey killed the couple. He first bludgeoned Hanson with a baseball bat and slit his throat from ear to ear down to the spinal cord. He then stabbed Blount seven times in the chest. Three of the blows pierced her heart. He took a substantial amount of property from their house and drove off in the Hanson‟s station wagon.

Mickey met up with Rogers and they put the stolen property in Rogers‟ truck. They abandoned the station wagon after wiping it down for fingerprints and returned to Rogers‟ home and stashed the stolen items.

On September 30, Mickey fled to Japan. Within a few days, the State secured a statement from Rogers implicating himself and Mickey in the crimes. The State soon thereafter filed a complaint against Mickey for the double homicide, alleging five special circumstances making the crimes capital offenses. Mickey was returned to the United States in January 1981. Overwhelming evidence introduced at trial led to his conviction.

Mickey‟s conviction and death sentenced were affirmed in 1991 by the California Supreme Court on direct appeal, and the U.S. Supreme Court denied cert the next year. He filed a

petition for federal habeas corpus in 1995, review of which was stayed pending review of his state habeas corpus petition. The California Supreme Court rejected his claims in 1996, and a second petition in 1997. He then amended his federal petition raising numerous claims attacking his conviction and sentence.

After an evidentiary hearing, the District dismissed most of the claims but granted relief on an ineffective assistance of counsel claim at the penalty phase. The Ninth Circuit later reversed the District Court, reinstating Pinholster‟s death sentence. The U.S. Supreme Court denied cert in 2011.

Inmate: Mitchell Sims

5 Cal.4th 405 (1993)

Date Sentenced: 9/11/87

Crime and Trial: Los Angeles

Mitchell Sims was convicted and sentenced to death in 1987 for the first-degree murder of 21-year-old John Harrigan.

On the evening of December 9, 1985, Sims, a former Domino‟s Pizza employee, ordered a pizza from a Glendale, CA, Domino‟s for delivery to a nearby motel where he and his girlfriend were staying. Harrigan, one of three employees at the Domino‟s that evening left to make the three minute drive to deliver the pizza. About twenty minutes later Sims and his girlfriend arrived at the pizza parlor where Sims pulled a gun and ordered the two employees into a back office. When the manager warned Sims that Harrigan would be back from a delivery soon, Sims removed his sweater to reveal he was wearing a Domino‟s shirt with Harrigan‟s name tag, and said "I don‟t think so."

While Sims held the pair at gunpoint, his girlfriend emptied the cash drawers into a bag. At that point an off-duty Domino‟s employee who had arrived to order a pizza saw Sims wearing Harrigan‟s shirt and, suspecting that a robbery was in progress, called the police. Before leaving, Sims tied both employees to a rack in the cooler, which was kept at 32-40 degrees, and closed the door. A few minutes later the police arrived and freed the employees. A short time later, officers found Harrigan‟s body in the bathtub of the motel room registered to Sims. He had been hogtied, with a washcloth stuffed in his mouth and a pillow case tied over his head, and drowned in the bathtub full of water.

Later that December, Sims and the girlfriend were arrested in Las Vegas. Following his conviction and sentence, Sims was tried and convicted in South Carolina for murdering two Domino‟s Pizza employees during a robbery less than a week prior to the Glendale murder.

Sims‟ conviction and death sentence was affirmed on direct appeal by the California Supreme Court in 1993. The U.S. Supreme Court denied his petition for writ of certiorari in 1994. After the California Supreme Court denied Sims‟ petition for a writ of habeas corpus, he filed a petition for habeas relief in federal District Court in 1996. The district court found some claims unexhausted and granted Sims leave to amend his petition to delete those claims. Sims filed a second petition in state court in 1997, which the California Supreme Court denied in 1998.

After he amended his federal petition, Sims received an evidentiary hearing on his claim of ineffective assistance of counsel regarding mental health evidence. Following the hearing, the district court denied all of Sims‟ claims in 2003. The Ninth Circuit affirmed the lower court 2005. The Ninth Circuit denied rehearing en banc the same year. The U.S. Supreme Court denied Sims‟ petition for writ of certiorari in 2006.

Inmate: David Raley

2 Cal.4th 870 (1992)

Date Sentenced: 5/17/88

Crime: San Mateo

Trial: Santa Clara

David Raley was convicted and sentenced to death in 1988 for the kidnap and first-degree murder of 16-year-old Jeanine Grinsell and the kidnap, oral copulation by force, and attempted murder of 17-year-old Laurie McKenna.

On Saturday February 5, 1985, Raley was a security guard at the Carolands Mansion in Hillsborough, California. The mansion was not open to the public, but Raley sometimes gave unauthorized tours, usually to high school age girls. On the night of February 5, the victims asked Raley for a tour and he agreed. At the end of the tour, Raley locked the girls in a walk-in safe in the basement. Raley had the girls undress to only their underwear and handcuffed their hands behind their backs. He was holding a large knife, and told them they had to "fool around" with him for five minutes and then he would let them go. He then took them to a workroom.

Raley tied a rope connected to the leg of a bench to Laurie‟s handcuffs and led Jeanine away. Laurie heard her scream, and they came back 15 minutes later. Raley tied Jeanine to the bench and led Laurie to a kitchen where he ordered her to perform sexual acts on him. Raley said he would let the girls go, but would kill them if they told anyone what had happened. Jeanine said she wanted to go first because she had the keys to the car.

Raley handcuffed Laurie to a door near the safe and left with Jeanine. Laurie heard bumping and running noises. Raley returned with Jeanine, who told Laurie that Raley had hit her with a club. Raley returned and led Jeanine away. The sound of Jeanine's screams lasted for 15 minutes. Then there was a dragging sound.

Raley returned for Laurie and pulled her toward a dark hallway. When she resisted he stabbed her in the abdomen. She fell, and they struggled. Raley stabbed her 35 times, and hit her with his club. He left and returned with a carpet, rolled her up in it, and dragged her out of the mansion and put her in the trunk of his car.

Jeanine was already in the trunk, bloody, with her hands still tied behind her back. He drove to his house and parked in the garage, where he let Jeanine and Laurie out of the car while he cleaned the blood from the trunk. After putting the girls back in the trunk, Raley watched TV with his sister and played Monopoly with her until 11pm and hung out with friends who were showing him their new car stereo.

At some point in the night Raley drove the victims to a remote location. He removed Jeanine from the trunk and threw her down a ravine. He then removed Laurie, beat her around the head

and neck with a club 10 or 11 times, and threw her down the ravine with her hands still tied, where she rolled next to Jeanine. In the morning Laurie was able to crawl up the hill and find help. The women were taken to the emergency room, where Jeanine bled to death on an operating table. An autopsy of Jeanine disclosed 41 stab wounds and a skull fracture.

On direct appeal in 1992, the California Supreme Court reversed his conviction for attempted oral copulation of one of his victims and affirmed the remaining convictions and the death sentence. The California Supreme Court denied his petition for habeas corpus the same year. Raley then filed a petition for habeas relief with the federal District Court, which was ultimately denied on all grounds in 2004. Raley then appealed to the Ninth Circuit Court of Appeals, which affirmed the denial of relief and voted to deny his petition for rehearing. The U.S. Supreme Court denied his petition for a writ of certiorari in October 2007.

Richard Ramirez

Supreme Court of California

Case No. S012944

August 7, 2006, Filed

Judges: Moreno, J., expressing the unanimous view of the court.

Opinion by: Moreno

Opinion

[71] [***686] MORENO, J.** –On November 7, 1989, defendant Richard Ramirez was sentenced to death for the so- **[**72]** called Night Stalker murders following his convictions of 12 counts of first degree murder (Pen. Code, § 187, subd. (a)), [1] one count of second degree murder (Pen Code, § 187, subd. (a)), five counts of attempted murder (§§ 187, 664), four counts of rape (§ 261, former subd. (2)), three counts of forcible oral copulation (§ 288a, former subd. ©), four counts of forcible sodomy (§ 286, former subd. ©), and 14 counts of first degree burglary (§ 459). The jury found true allegations of multiple-murder, burglary, rape, forcible sodomy, and forcible-oral-copulation special circumstances. (§ 190.2.) The court imposed a sentence of death. This appeal is automatic. (§ 1239, subd. (b).) For the reasons that follow, the judgment is affirmed.

FOOTNOTES

1 All further statutory references are to the Penal Code, unless otherwise noted.

[*687]** FACTS

Prosecution's Case

On the afternoon of June 28, 1984, Jack Vincow arrived at his elderly mother's apartment in Los Angeles and was surprised to find the screen missing from her open living room window and the front door unlocked. The missing window screen was on the floor of the living room, and the contents of the living room were in disarray. He found his mother, Jennie Vincow, dead in her bedroom. Her body was on the bed with her feet at the head of the bed. Her throat had been slashed and her body was partially covered by a blanket. He ran out of the apartment and called the police.

The victim had been stabbed multiple times in her upper chest, neck, arm, and leg and had some wounds on her hands. Her throat had been slashed "almost from ear to ear." It appeared she may have been sexually assaulted. Her dress was partially lifted and her girdle had been pulled down and torn.

The temperature of the deceased's liver was measured and the degree of rigor mortis noted, but the coroner had difficulty estimating the time of death. The temperature of the victim's liver indicated she had been dead only a couple of hours, but that estimate may have been inaccurate, because the body had been covered and the room may have been warm.

Other factors, particularly the degree of rigor mortis, indicated the victim had been dead for "anywhere from six to eight hours, up to as long as 72 hours." Jack Vincow had seen his mother alive approximately 24 hours earlier, however, when he had visited her the previous afternoon.

Police recovered fingerprints from the screen found on the living room floor that later were identified as defendant's fingerprints.

Nine months later, on March 17, 1985, shortly before 11:00 pm, Maria Hernandez entered the garage of the condominium she shared with her roommate, Dale Okazaki, in Rosemead. As the garage door was closing, she unlocked the door to her condominium and heard a noise behind her. She turned to see the defendant holding a gun pointed at her face. She raised her hand to shield her face and said something like "don't" or "stop."

Defendant approached within a few feed and fired the gun. The bullet hit Hernandez in her hand and apparently was deflected by the keys she was holding. She fell to the floor. She did not lose consciousness, but lay still. Defendant shoved her aside and entered the condominium. The door closed behind him and Hernandez opened the garage door and ran outside. She stumbled and fell. As she got up, she heard a "muffled loud sound." She ran around to the front of the condominium complex and saw defendant leaving the complex. She ducked behind a car as he pointed the gun at her. She said, "please don't shoot me again" and he lowered the gun and ran away.

Hernandez approached the front door of her condominium and found it ajar. Inside she found her roommate, Okazaki, lying dead on the kitchen floor. She had been shot in the forehead from no more than 18 inches away. Her blouse had been pulled up. Hernandez summoned the police. At a subsequent autopsy, a .22-caliber bullet was retrieved from Okazaki's skull.

Police found on the ground outside the garage a blue baseball-type cap bearing the name of the rock group AC/DC. An associate of defendant's later testified that the cap looked like one defendant wore. Hernandez later identified defendant as her assailant at a police lineup and identified the defendant at trial.

About an hour after Dale Okazaki was murdered and Maria Hernandez was shot, shortly before midnight on March 17, 1985, Jorge Gallegos was sitting in his parked car with his girlfriend in front of her residence in Monterey Park when his attention was drawn by the sound of two cars applying their brakes. A car driven by defendant apparently had forced a car driven by Tsai-Lian Yu to the side of the road, where it was forced to stop with its bumper against the bumper of a parked car. Defendant got out of his car and pulled Yu out of her car as she fought.

Joseph Duenas was in his second-floor apartment when he heard a woman scream "help me." He went onto his balcony and saw Yu struggling with a man near the curb. Duenas grabbed a telephone to call the police and returned to the balcony. He saw the man push Yu away, enter his car, and drive away. As defendant drove past Gallegos, Gallegos could see his profile and noted the license number of the defendant's vehicle. Gallegos identified the defendant at trial.

After the defendant left, Yu crawled a short distance and then lay still. A police officer soon arrived and found Yu breathing but unconscious. She stopped breathing and the officers administered "CPR" until an ambulance arrived. She had been shot twice in the chest at close range and was pronounced dead at the hospital. It later was determined that a .22-caliber bullet recovered from Yu's body had been fired from the same gun as the bullet that killed Dale Okazaki.

One of the victim's shoes was found on the ground and the other was in her car. A torn portion of a $20 bill was on the ground. The car was running with the transmission in reverse. Its headlights were on and the driver's side door was open.

Bruno Polo managed two pizzerias owned by Vincent Zazzara. On March 28, 1985, about 8:30 pm, Polo went to the home that Vincent Zazzara shared with his wife Maxine to deliver the day's receipts from the restaurant and found the screen door unlocked and the front door ajar.

Polo rang the doorbell and called out Vincent's name, but received no response. He placed the receipts in the mail slot, as was his usual practice, and left. When Polo had not heard from Vincent Zazzara by the following morning, he and a fellow employee went back to the Zazzara's house and found the door in the same position as the night before. They entered and found Vincent Zazzara lying dead on the couch in the den. He had been shot in the head from close range.

Maxine Zazzara's body was found in the bedroom lying on her bed, partially covered by a sheet. Her pajama top had been pulled up, exposing her breasts, and her pajama bottoms had been pulled down around her ankles. She had been shot in the head and neck at close range, stabbed in her neck, cheek, chest, abdomen, and pubic area, and her eyes had been cut out. Her eyes were never found. Drawers had been pulled out in the bedroom and bathroom, and clothing was strewn around the room. It later was determined that two .22-caliber bullets removed from Maxine Zazzara's head and neck had been fired from the same gun later used to kill Chainarong K.

Police discovered that the screen had been removed from a patio window at the Zazzara residence, which had been pried open. A bucket had been placed underneath the window. Footprints on the bucket and in the flower bed were made by an Avia athletic shoe.

On May 9, 1985, an intruder entered a house in Monrovia by removing louvers from a kitchen

window and climbing onto a patio chair that had been placed against the wall beneath the window. A shoe print recovered from the kitchen sink near the window was made by an Avia athletic shoe. The defendant‟s palm print was found on the sink.

On May 14, 1985, about 5:00 am, a police dispatcher received a 911 call from a residence in Monterey Park. A man repeated, “Help me, help me.” The dispatcher sent an ambulance, which arrived within five minutes.

The firefighter who responded found the iron security gate and the front door open. He entered and encountered Yuriko Lillie Doi in a nightgown who motioned toward her husband, William Doi, who was sitting in a chair in the den by a telephone; he was unconscious and breathing with difficulty. Books and papers were strewn around the room.

After taking a few labored breaths, Mr. Doi stopped breathing and the firefighters tried to resuscitate him. An ambulance arrived and took him to the hospital where he was pronounced dead. Mr. Doi, who was 65 years old, had been shot in the head with a .22-caliber bullet fired from a Jennings semiautomatic pistol that later was recovered from Jose Perez, a convicted felon who had obtained the gun from defendant.

Mrs. Doi was dressed in a nightgown. She had a thumb cuff on her left thumb and her other thumb had blood on it. Her face was swollen and bruised. The den and bedroom had been ransacked. Dresser drawers were open and clothes had been thrown around the room. Mrs. Doi, who had suffered a stroke prior to this incident, was unable to testify at trial.

A screen had been removed from an open bathroom window and was lying on the ground. Outside the window, the police found footprints from an Avia athletic shoe.

Linda Doi-Fick, the daughter of William and Yuriko Doi, later identified several items of property that had been taken from her parents‟ home, including her mother‟s wallet and pieces of jewelry, which had been recovered from Felipe Solano, who had purchased the items from defendant

Laurie Dempster, who delivers newspapers, testified that she had seen defendant in a car parked near the Doi's home an hour and a half before the attack.

On May 31, 1985, Carlos Valenzuela noticed that newspapers had been left in the driveway of the house shared by 83-year-old Mabel Bell and her 79-year-old sister, Florence L. He knocked on their door, but received no reply. The next day, he returned and knocked on the door again. When there was no reply, he entered the house through the unlocked door and found Bell and Florence L. Florence L. was lying on the bed in one bedroom. Bell was lying on the floor next to the bed in another room with a table on her chest. Valenzuela removed the table and left to call the police.

Paramedics arrived and found Bell still breathing and took her to a hospital. She was comatose. Her skull had been fractured; the injury could have been caused by a hammer. She had a black eye. A red circle with a star in it (a pentagram) [3] had been drawn on her thigh, perhaps using lipstick. She had injuries on her body caused by burns. Bell died from her injuries about a month later in July, 1985.

In the other bedroom, Florence L.‟s wrists had been bound using an electric cord and her ankles were taped together. Above the bed, a pentagram had been drawn on the wall. A tube of lipstick was found on the floor. A hammer lying on a table next to the bed had blood and hair on it. Florence L. was taken to a hospital, where an examination revealed evidence that she had been sexually assaulted. She had a puncture wound in her head, two black eyes, and her face was bruised. Florence L. Later regained consciousness, but police were unable to communicate with her.

The house had been ransacked. A partial shoe print found on an unplugged clock was consistent with an Avia athletic shoe. Several items taken from the residence later were recovered from Felipe Solano, who had purchased the items from the defendant.

Before dawn on May 30 1985, Carol K. was awakened in her Burbank home by the defendant. He may have entered through an unlocked “doggie door” in the back door. He was standing over her bed, holding a gun, and shining a flashlight in her eyes. The defendant ordered to “get up and don‟t make any noise.” He took her into the bedroom of her 12-year-old son, woke him up, and handcuffed her to her son. He called her names and repeatedly asked where was her money, jewelry, and other property.

The defendant ran from room to room, ransacking the house. He found Carol K.'s wallet and removed her money. Defendant made Carol K. and her son lie on the floor and covered them with a sheet. He then removed the handcuffs from Carol K, handcuffed her son behind his back, and put him in a closet.

The defendant took Carol K. to her bedroom, put the gun to her head and threatened to kill her. He then tied her hands behind her with a pair of pantyhose. He forced her to kneel with her head on the bed and covered her head with a pillow. Periodically, he punched her in the back. He ordered her to lie on the bed and raped her and sodomized her. He brought her son from the closet and handcuffed them together to the bed. The defendant said, “I don‟t know why I‟m letting you live. ...I‟ve killed people before.” He threatened to have a friend come back and kill her if she went to the police. The defendant left and they called the police.

The victim later identified the defendant in a lineup and at trial and identified several pieces of jewelry that police had recovered from Felipe Solano, who had purchased the items from the defendant.

Mary Cannon was a widow in her 80's who lived alone in Arcadia. On the morning of July 2, 1985, a neighbor, Frank Starich, noticed that a window screen was lying on the front porch and

her newspaper was in the driveway. He knocked on the door, but received no response, so he retrieved an extra key Cannon had given him. Starich and his wife entered the house, but soon left to call the police when they saw that things in the house had been thrown on the floor. The police arrived and found Cannon lying dead on the bed. She had been strangled and beaten and stabbed in the neck. Her nose was broken and both eyes blackened. She had a large, "extremely lethal," wound in the neck. A window in the bedroom was open and the bedroom had been ransacked.

On the carpet and on a tissue, police found shoe prints from an Avia athletic shoe.

Several days after Canon was murdered, shortly after midnight on July 5, 1985, 60-year-old Whitney B. dressed for bed and sat down on her bed with the light on. Several hours later, she awoke lying face down on her bed covered with blood. She had multiple skull fractures, which could have been caused by a tire iron that had been left by her bed.

A physician later testified, "This was the most massive head injury I"ve ever seen. She had greater than forty inches of linear lacerations crisscrossing every direction on her head." She had been strangled, which resulted in a fractured larynx, and had black eyes. She summoned her father, who called the police.

The screen had been removed from her bedroom window. A shoe print from an Avia athletic shoe was found in the bedroom.

Two days after the attempted murder of Whitney B., on July 7l 1985, a neighbor of Joyce Nelson noticed that a screen had been removed from Nelson"s bedroom window. Finding the front door ajar and seeing that Nelson"s home had been ransacked, he called the police, who found Nelson lying dead on her bedroom floor. She had died from blunt force head injuries and had been strangled. She had multiple bruises, lacerations and contusions on her face.

Between 3:00 and 4:30 am that morning, Laurie Dempster, the newspaper deliverer, had seen the defendant walking to his car, which was parked next door to Nelson"s house in Monterey Park. Dempster returned about 15 minutes later and noticed the car remained but the defendant was gone. In the flower bed beneath Nelson"s open bedroom window, police found a shoe print from an Avia athletic shoe.

About 3:30 am that same morning, July 7, 1985, Sophie D. awoke in her home in Monterey Park before dawn when the bedroom light went on. Defendant put a gun to her head, covered her mouth with a gloved hand, and threatened to kill her if she made a sound. The defendant handcuffed her, took several items of jewelry and some money, and then raped and sodomized her. The defendant handcuffed the victim to the bed and fled.

The victim yelled for help from a neighbor who was a deputy sheriff. He responded and called the police, who found that defendant had entered the house through a "cat door," which had

been bent out of shape.

The victim later identified the defendant at a lineup and identified several pieces of jewelry that police had recovered from Felipe Solano, who had purchased the items from defendant. The victim repeated her identification of the defendant at trial.

On the morning of July 19, 1985, the bodies of Maxon and Lela Kneiding were discovered in their bed by their daughter, who had come looking for them after they failed to meet her at a restaurant for breakfast as planned. Their throats had been slashed and they had been shot in the neck and head. The bedroom had been ransacked.

A .22-caliber bullet recovered from Ms. Kneidling‟s brain had been fired from the same gun that fired the bullets that killed Dale Okazaki and Tsai-Lian Yu. The victims‟ daughter later identified several pieces of her parents‟ jewelry that police had recovered from Felipe Solano, who had purchased them from defendant.

The next day, shortly after midnight on July 20, 1985, Somkid K. was sleeping on her living room couch when she was awakened by the sound of the sliding screen door opening. The defendant entered holding a gun and ordered her to be quiet. He went into the bedroom and shot her husband, Chainarong, in the head, killing him. The defendant returned to the living room and brought Somkid K. into the bedroom, threatening to kill her children if she resisted. He raped her, sodomized her, ate her, and forced her to orally copulate him. The defendant tied up her eight-year-old son and hit him. He took jewelry, money, and a video cassette recorder and left.

Police found shoe prints from an Avia athletic shoe on the front porch, the rear porch, and inside the house. The victim later identified the defendant in a lineup and identified several pieces of jewelry and a suitcase that police had recovered from Felipe Solano, who had purchased them from defendant. A .22-caliber bullet recovered from Chainarong K.‟s head had been fired from the same gun that fired the bullets that killed Vincent and Maxine Zazzara.

Early in the morning on August 5, 1985, Virginia Petersen woke up to find defendant walking into her bedroom pointing a gun at her. She asked who he was and demanded that he leave. He told her to be quiet, asked, “Where is it?” and then shot her in the face. Her husband, Christopher Petersen awoke and sat up and defendant shot him in the head, but he did not lose consciousness. He jumped from the bed and chased defendant, who fired at least two more shots and then fled through a sliding glass door that had been let unlocked. Christopher Petersen drove his wife to the hospital.

Virginia Petersen later identified defendant at a lineup and at trial.

Before the dawn on the morning of August 8, 1985, Sakina A. was awakened by the sound of defendant shooting her husband, Elyas, in the head as he lay next to her, asleep. The defendant

struck Sakina A. in the head and handcuffed her hands behind her back. He continued to beat her, forcing her to "swear upon Satan" that she would not scream.

The defendant blindfolded and gagged the victim before ransacking the bedroom, demanding money and jewelry. The defendant removed the victim's blindfold and gag, and she directed him to a briefcase that contained jewelry and her purse, which contained money. The defendant took a ring and necklace she was wearing. The defendant forced the victim to orally copulate him, then raped and sodomized her.

The victim's three-year-old son awoke, and defendant bound his hands and feet and covered his head with pillows. He handcuffed Sakina A. to a doorknob, threatening to return and kill her, her three-year-old son, and her infant child if she called the police. The defendant then fled.

Sakina A. untied her son, called in vain for her husband, and screamed for help. Receiving no reply, she sent her son to a neighbor's house by promising the child that the neighbor would give him popsicles and candy bars. The neighbor returned the child to his home, found Sakina A., and summoned the police.

Police found a sliding glass door had been pried open. Elyas A. had been killed by a single bullet to the head. Subsequent analysis revealed that a 25-caliber bullet recovered from the victim's head had been fired from the same gun that fired bullets recovered from the home of Virginia and Christopher Petersen.

Sakina A. later identified the defendant at a lineup and identified a television, a videocassette recorder, and several pieces of jewelry that police had recovered from Felipe Solano, who had purchased them from defendant. The victim repeated her identification of the defendant at trial.

On August 30, 1985, law enforcement officers had focused their suspicion upon the defendant and obtained a photograph of him, which they distributed to law enforcement agencies throughout Southern California and released to the news media. The defendant's photograph appeared in the newspaper the next morning.

On the morning of August 31, 1985, Manuela Villanueva was sitting in her parked car when the defendant ran up and demanded her car keys. She ran out of the car and called for help. Frank Moreno and Carmelo Robles responded and chased defendant down an alley.

The defendant climbed over a fence and encountered Fastino Pinon, who was working on his car, which was running. The defendant entered the vehicle, saying he had a gun, but Pinon attempted to pull defendant from the vehicle. They struggled as the car moved and struck a chimney. The defendant left and ran toward the street.

Angelena Delatorre was sitting in her parked car across the street from Pinon's house when the

defendant demanded her car keys. She refused and he pulled her out and entered her car. She screamed and her neighbor, Jose Burjoin, responded and ordered defendant to leave.

Delatorre's husband, Manuel, arrived and struck the defendant on the head with a steel bar. The defendant left the car and ran down the street. Manuel Delatorre pursued and struck the defendant on the head a second time, causing the defendant to fall. He stayed with defendant until the police arrived, as a crowd formed. Some people in the crowd were holding the newspaper with the defendant's photograph on the front page. On the ride to the police station the defendant asked the officer to "just shoot me," saying he wanted to die. He said, "all the killings are going to be blamed on me."

At the police station, the defendant spontaneously confessed: "I want the electric chair. They should have shot me on the street. I did it, you know. You guys got me, the Stalker. Hey I want a gun to play Russian Roulette. I'd rather die than spend the rest of my life in prison. Can you imagine the people caught me, not the police?"

The defendant laughed and then added: "You think I'm crazy, but you don't know Satan." He hummed the song "Night Prowler" by the rock group AC/DC.

The defendant continued: "Of course I did it, you know that I'm a killer. Give me your gun, I'll take care of myself. You know I'm a killer, so shoot me. I deserve to die. You can see Satan on my arm." The defendant moved his shirt sleeve to reveal a pentagram drawn on his left shoulder.

On September 2, 1985, a guard saw the defendant in his jail cell bleeding from his right palm. The defendant used his blood to draw a pentagram on the floor and write the number 666.

On October 24, 1985, during the defendant's arraignment in municipal court, the defendant turned to the audience, raised his hand, and said, "Hail Satan." A pentagram and the number 666 appeared on the defendant's palm.

On October 30, 1986, the defendant called a guard over to his jail cell, displayed photographs of two of the murder victims, and said: "People come up here and call me a punk and I show them the photographs and tell them there's blood behind the Night Stalker and then they go away all pale."

7. OPINIONS OF CRIME VICTIMS WHO HAVE DEFENDANTS ON DEATH ROW

It is not only the victims of heinous crimes who suffer grievously at the hands of the murderers. As the narrative below reveal, the loved ones do as well.

Jane Bouffard:

It was early 1996, life was good. Busy careers; our son had married and presented us with two grandsons; our daughter was a junior in college. Not too political. If asked, I would probably say I wasn't in favor of the death penalty, but that was far from my mind in those days. Then our lives dramatically changed one sunny February morning.

A neighbor of my elderly parents, Gladys and Elmer Benson, called to say something was going on at their South Gate house. My dad was 79 and had experienced a couple of strokes in recent years. I asked if something had happened to him. He responded that he thought someone had stabbed both my folks to death**.** All hell broke loose!

It turned out that a married neighbor (a term generally given to a trusted person) had approached my parents in the middle of the night trying to get money so he could spend time with a girl friend. My parents must have said, "No" or that they didn't have any money. He ended up stabbing my 74 year old mom 39 times leaving her to die in front of the kitchen refrigerator. He then walked over to my dad sitting in his wheelchair and stabbed him 19 times to his death. He proceeded to search the house for valuables taking my mom's wallet, collectable coins and other items.

He was apprehended the same day as the murder.

We knew very little about how the criminal justice system worked. I remember a Deputy District Attorney explaining the process to me. A process difficult to comprehend when your mind can hardly remember which day it is. At some point I remember being told that my parents'' murder was a death penalty case. They would send it downtown for an official determination. Our state's most severe form of punishment. They got it!

Everyone understood how horrible this murder was. How could anyone stab an elderly couple to death; a defenseless old couple, my dad even in a wheel chair? I can't even imagine the last hour of my parents'' lives. They were good people who had lived in the same home for almost 40 years; they survived the depression, were hard working people who paid their bills and raised their kids; teaching them the importance of education, work and contributing to the community. My dad was a proud Navy Seabee and WWII veteran. He had owed his own General Contracting business for almost 40 years. My mom volunteered for everything and helped everyone. They were well known in the community.

This was a horrible crime….to stab two elderly defenseless people to death….to stab my mom and then walk over to my dad sitting in his wheel chair and stab him to death. What kind of person does that? Our system of justice provides for a death penalty for the most horrific of crimes. The people of California have consistently voted that they wanted a death penalty. California taxpayers have spent millions housing this murderer. A jury of his peers, who heard all the evidence, unanimously voted that this murder was the worst of the worst and that he should be put to death. The California Supreme Court has upheld his conviction. DNA evidence ties him directly to the murder. Yet he continues to file appeal after appeal and the court repeatedly grant extensions of time limits for responding to those appeals. My folks deserve so much better.

WHY I SUPPORT THE DEATH PENALTY – Joan Alexander

I am one of the children of Ebora Alexander who was assassinated on August 31, 1984 along with my sister, Dietra Alexander, Damani Garner and Damon Butler. They were all shot in the head by several known gang members that terrorized various locations in Los Angeles.

My mother and father raised all of us (I have 10 siblings) to have respect for people and the law. The gruesome manner in which my family members were killed still haunts all of us to this day. The one factor that kept us with our sanity following these horrendous murders was that the animals were caught and each were going to have to be prosecuted for what they did.

The only acceptable outcome for these crimes was that none of the defendants would ever walk the streets of this city again. The fact that only one of the three defendants (Ty Quon Cox) is on death row is acceptable to us because that individual actually carried out the murders. He was and as far as I am concerned is still a cold-blooded murderer with no redeemable attributes. Knowing that after all of these years, he is still alive on the taxpayers‟ dime is an insult to me.

Many people believe that executing is still killing a person. Well, I say to them, that is our law. One of the deterrents that we have as a society is knowing that when you commit a crime as horrendous as this is that you will pay the ultimate price . . . death. This is our law and it should remain the law. We still continue to have violent crimes in this state. I believe that with the inconsistency in how we carry out our punishments for horrendous murders, people who do decide to murder people are not deterred. For them, if they get caught, going to jail is no big thing. At least they are still alive.

I was brought up to value a life, that life is the most precious thing we have, and if you take it you DESERVE the most severe punishment allowed by law. My family‟s lives were extremely valuable to all of us. They deserve no better justice than to have the individuals who took their lives lose theirs. Without the death penalty in place, the law is telling us that our family‟s lives did not matter.

8. NINTH CIRCUIT MOCKERY OF THE DEATH PENALTY

The best demonstration of the role of the judges in aiding and abetting the failure of the death penalty is U.S. Court of Appeals for the Ninth Circuit's rulings on federal habeas writs.

"Federal courts have granted relief in the form of a new guilt trial or a new penalty hearing in roughly 70% of the 100 cases that federal courts have disposed of thus far." (Alarcon Law Review, p. 93.)

A full 70% of the federal habeas writs are reversed. Can any statistic say it better? The judges are the ones who are making a mockery of the law passed by the people.

One is left to wonder if any judge who personally opposes the death penalty should sit on any aspect of a death penalty case, be it a federal or state judge. They should have disqualified themselves under current ethic rules.

9. ALTERNATIVES TO COMPLETE ABOLITION OF THE DEATH PENALTY

1. Fix the System.

   A. Consider disqualifying judges who personally oppose the death penalty sitting on any death-penalty cases. This could be accomplished by legislation or by initiative.

   Arguably judges who are death penalty opponents should disqualify themselves under current ethical guidelines but obviously have not.

   B. Enact a law by either legislation or initiative to speed the appeal process, especially the habeas corpus by both the state and federal courts.

   As contained in this paper's section on habeas corpus, Texas has enacted a very strict statute which is controlled by the trial judge with habeas proceedings beginning at the same time as the direct appeal. It has cut down the total appeal time to at least one quarter (1/4) of what the California Procedure does.

   Both procedures, insuring that no judge who opposes the death penalty could sit, and a strict time-conscious law limiting the time for all appeal action, including direct appeal and habeas would correct the deplorable situation fostered on the California system.

2. Reforms to the death penalty should be limited to speeding up the judicial process and sensible safeguards to protect the innocent. Retroactive elimination of the death penalty for 700-plus inmates would be affront to the thousands of victims, living and dead, of the heinous murderers currently sitting on death row.

10. SOURCES FOR DEATH PENALTY INFORMATION

1. Criminal Justice Legal Foundation, Kent Scheidegger, (916) 446-0345, kent.scheidegger@cjlf.org.

2. Justice For All, Dudley Sharp, (713) 622-5491, (832) 439-2113, sharpjfa@aol.com.

3. California District Attorney Association, Scott Thorpe (916) 443-2017.

4. San Quentin Prison, Warden's Office (415) 454-1460, ext. 5000; Sgt. Walters, Information Officer, ext. 5008.

5. Alarcon and Mitchell Law Review article, "Executing the Will of the Voters? A Roadmap to Mend or End the California Legislature's Multi-Billion Dollar Death Penalty Debacle."

6. Copy of "The Savings, Accountability and Full Enforcement for California Act." e.g., the initiative that is gathering signatures.

7. Copy of 48-page testimony of Chief Justice Ron George on January 10, 2008 before the Commission on the Fair Administration of Justice.

Considering the Role of Judges under the Constitution of the United States, HEARING before the Committee on the Judiciary, United States Senate, 112th Congress, First Session, October 5, 2011, Serial No. J-112-46, S. Hrg, 112-137, page 38.

Statement of U. S. Senator Jeff Sessions (R-Ala.), "... I would note, Justice Breyer, that I voted for well over 90 percent of President Obama's nominees, but I do think we have a range in which if you believe they are too flexible about interpreting the Constitution, then I would conclude they are not faithful to the Constitution and, therefore, I could not support them, even though they may be wonderful, decent people, intellectually gifted in that regard. And one of my standards is a **death penalty** case. **Any judge [who] says that the U.S. Constitution calls for the elimination of the death penalty really should not be on the bench**. At least they will not get my vote for the bench."

http://www.gpo.gov/fdsys/pkg/CHRG-112shrg70991/pdf/CHRG-112shrg70991.pdf.]