

RECEIVED *VEC*  
SUPREME COURT  
STATE OF WASHINGTON  
Jan 22, 2014, 1:34 pm  
BY RONALD R. CARPENTER  
CLERK

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

RECEIVED BY E-MAIL

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re the Personal Restraint of	)	
	)	NO. 87654-1
RUSSELL McNEIL,	)	
	)	PETITIONER'S FIFTH
	)	STATEMENT OF
	)	ADDITIONAL AUTHORITIES
Petitioner.	)	

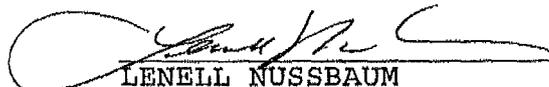
Pursuant to RAP 10.8, Petitioner respectfully submits the following additional authorities in support of his Petition on the following issues.

**ISSUE: RETROACTIVE APPLICATION OF MILLER V. ALABAMA:**

Toye v. State, \_\_\_ Fla. App. \_\_\_ (No. 2D12-5605, January 22, 2014):

We reverse, however, because we hold that the rule established in Miller--that a mandatory sentence of life imprisonment without the possibility of parole imposed on a juvenile homicide offender violates the Eighth Amendment--should be given retroactive effect.

Respectfully submitted this 22d day of January, 2014.

  
 LENELL NUSSBAUM  
 WSBA No. 11140  
 Attorney for Mr. McNeil

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DECLARATION OF SERVICE

ALEXANDRA FAST declares:

On this date I cause this document to be filed in the State of Washington Supreme Court; and caused a copy of this document to be served on the following entities via email, addressed as follows:

Mr. David B. Trefry  
[TrefryLaw@WeGoWireless.com](mailto:TrefryLaw@WeGoWireless.com)

Mr. James P. Hagarty  
[James.Hagarty@co.yakima.wa.us](mailto:James.Hagarty@co.yakima.wa.us)

Mr. Nick Straley  
[Nick.Straley@ColumbiaLegal.org](mailto:Nick.Straley@ColumbiaLegal.org)

Ms. Pam Loginsky  
[Pamloginsky@waprosecutors.org](mailto:Pamloginsky@waprosecutors.org)

Ms. Suzanne Elliott  
[suzanne-elliott@msn.com](mailto:suzanne-elliott@msn.com)

Ms. Victoria Lyons  
[victorialyonslaw@gmail.com](mailto:victorialyonslaw@gmail.com)

Ms. Nancy Tenney

[nancy\\_tenney@fd.org](mailto:nancy_tenney@fd.org)

Ms. Diane Kremenich

[Diane.Kremenich@co.snohomish.wa.us](mailto:Diane.Kremenich@co.snohomish.wa.us)

Ms. Hilary Thomas

[hthomas@co.whatcom.wa.us](mailto:hthomas@co.whatcom.wa.us)

Ms. Kathy Webber

[kwebber@co.snohomish.wa.us](mailto:kwebber@co.snohomish.wa.us)

Ms. Maureen Janega

[Maureen.Janega@ColumbiaLegal.org](mailto:Maureen.Janega@ColumbiaLegal.org)

Ms. Martina Kartman

[Martina.Kartman@ColumbiaLegal.org](mailto:Martina.Kartman@ColumbiaLegal.org)

Mr. Nick Allen

[Nick.Allen@ColumbiaLegal.org](mailto:Nick.Allen@ColumbiaLegal.org)

Ms. Melissa Lee

[Melissa.Lee@ColumbiaLegal.org](mailto:Melissa.Lee@ColumbiaLegal.org)

Mr. Travis Stearns

[stearns@defensenet.org](mailto:stearns@defensenet.org)

Ms. Sarah Dunne

[Dunne@aclu-wa.org](mailto:Dunne@aclu-wa.org)

Mr. James Andrus

James.andrus@klgates.com

Mr. Benjamin Mayer

Ben.mayer@klgates.com

Ms. Jennifer Addis

Jennifer.addis@klgates.com

Ms. Allyssa Lamb

Ally.lamb@klgates.com

Ms. Nancy Talner

talner@aclu-wa.org.

I declare under penalty of perjury under the laws of the state of Washington that the above statement is true and correct to the best of my knowledge.

1/22/14 • SEATTLE, WA

Date and Place

Alex Just

ALEXANDRA FAST

LENELL NUSSBAUM

ATTORNEY AT LAW

2003 WESTERN AVENUE, SUITE 330

SEATTLE, WASHINGTON 98121

(206) 728-0996

## OFFICE RECEPTIONIST, CLERK

---

**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Wednesday, January 22, 2014 1:36 PM  
**To:** 'Alexandra Fast'; TrefryLaw@wegowireless.com; James.Hagarty@co.yakima.wa.us; Nick Straley; Pamloginsky@waprosecutors.org; suzanne@suzanneelliottlaw.com; Victoria Lyons; nancy\_tenney@fd.org; Diane.Kremenich@co.snohomish.wa.us; hthomas@co.whatcom.wa.us; kwebber@co.snohomish.wa.us; Maureen.Janega@columbialegal.org; Martina.Kartman@columbialegal.org; Nick.Allen@columbialegal.org; Melissa.Lee@columbialegal.org; Travis Stearns; dunne@aclu-wa.org; james.andrus@klgates.com; ben.mayer@klgates.com; jennifer.addis@klgates.com; ally.lamb@klgates.com; talner@aclu-wa.org; Lenell Nussbaum  
**Subject:** RE: McNeil, Russell 87654-1

Rec'd 1-22-14

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

**From:** Alexandra Fast [mailto:ahfast2@gmail.com]  
**Sent:** Wednesday, January 22, 2014 1:12 PM  
**To:** OFFICE RECEPTIONIST, CLERK; TrefryLaw@wegowireless.com; James.Hagarty@co.yakima.wa.us; Nick Straley; Pamloginsky@waprosecutors.org; suzanne@suzanneelliottlaw.com; Victoria Lyons; nancy\_tenney@fd.org; Diane.Kremenich@co.snohomish.wa.us; hthomas@co.whatcom.wa.us; kwebber@co.snohomish.wa.us; Maureen.Janega@columbialegal.org; Martina.Kartman@columbialegal.org; Nick.Allen@columbialegal.org; Melissa.Lee@columbialegal.org; Travis Stearns; dunne@aclu-wa.org; james.andrus@klgates.com; ben.mayer@klgates.com; jennifer.addis@klgates.com; ally.lamb@klgates.com; talner@aclu-wa.org; Lenell Nussbaum  
**Subject:** McNeil, Russell 87654-1

Please accept for filing the attached "Petitioner's Fifth Statement of Additional Authorities" in regards to the Personal Restraint of Russell McNeil, 87654-1. A certificate of service is attached to the pleading.

Alexandra Fast  
Assistant to:  
Lenell Nussbaum, Attorney at Law  
Email: [Nussbaum@seanet.com](mailto:Nussbaum@seanet.com)  
WSBA No. 15277  
Lenell Nussbaum, Attorney at Law  
2003 Western Ave., Suite 330  
Seattle, Wa 98121  
USA  
Phone: [206-728-0996](tel:206-728-0996)  
Fax: [206-448-2252](tel:206-448-2252)