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SUPREME COURT
STATE OF WASHINGTON
Jun 27, 2014, 9:49 am
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

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STATE OF WASHINGTON) No. 89881-2
Petitioner,) 6-27-2014
vs.) RESPONDENTS'
JOSEPH T. McENROE and) STATEMENT OF ADDITIONAL
MICHELE ANDERSON,) AUTHORITIES
Respondents.) RAP 10.8
_____)

During oral argument in this matter (Oral argument 6/26/2014) Justice Johnson asked counsel how the State "would prove a negative." The following additional authority is relevant to Justice Johnson's question:..

RCW 10.95.060 (4):

Upon conclusion of the evidence and argument at the special sentencing proceeding, the jury shall retire to deliberate upon the following question: "Having in mind the crime of which the defendant has been found guilty, are you convinced beyond a reasonable doubt that there are not sufficient mitigating circumstances to merit leniency?"

In order to return an affirmative answer to the question posed by this subsection, the jury must so find unanimously.

[1981 c 138 § 6.]

ORIGINAL

Dated: June 27, 2014.

Respectfully submitted:

Kathryn Ross, WSBA 6894
Attorney for Respondent McEnroe
The Defender Association Division
King County Office of Public Defense
810 Third Avenue
Seattle, Washington 98104
(206) 447-3968

PROOF OF SERVICE

On June 27, 2014, I sent by electronic mail and by United States Postal Service, properly stamped and addressed, the above document, to counsel listed below:

James Whisman

Andrea Vitalich

Office of King County Prosecuting Attorney

W 554 King County Courthouse

516 3rd Avenue

Seattle, WA. 98104.

Kathryn Ross

6/4/2014 at Seattle, Washington.

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Rec'd 6-27-14

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Dear Mr. Carpenter:

Please accept for filing and distribute the attached Statement of Additional Authority.

In addition, during oral argument on the State's request for reassignment some factual questions arose which were beyond the scope of the Amicus briefing and argument. Please bring to the attention of the justices that Respondents' answer to the State's request for reassignment, which responds to the factual allegations of the State regarding the trial judge, is contained in Respondents' "Motion to Strike Portion of 'Opening Brief of Petitioner'" which was filed on Monday, May 19, 2014. The Court allowed the substance of this motion to be incorporated by reference into the Amended Respondents' Brief, however because the Motion to Strike was filed earlier and as a separate document we have some concerns Respondents' factual answers on the reassignment issue may not be directly before the justices as they decide the case.

Respondents also filed a "Reply on Motion to Strike Portion of 'Opening Brief of Petitioner.'" The status of the document is unclear. However, should the justices wish to consider it, facts contained therein do address and counter the new factual matter alleged in the Reply Brief of Petitioner, particularly concerning substitution of Ms Anderson's former counsel.

Respectfully,

Katie Ross
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