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May 14, 2006

Clerk of the Court
Washington Supreme Court
Filed via e-mail

RECEIVED
SUPREME COURT
STATE OF WASHINGTON
2007 MAY 14 A 7:47
BY ROYAL L. R. CENTER
CLERK

RE: *In re PRP of Clark Elmore*—No. 70233-1
Statement of Additional Authorities

Clerk of the Court:

Pursuant to RAP 10.8 and RAP 16.10, Petitioner submits the following additional authority in support of his Personal Restraint Petition:

Improper Shackling of Defendant:

Williams v. State, ___ S.W.3d ___, 2007 WL 615120 (Ark. 2007) (Recognizing that “due process does not permit the use of visible restraints if the trial court has not taken account of the circumstances of the particular case,” but finding adequate justification for shackling demonstrated where defendant “had taunted the victims and victims’ relatives and had ended up in an altercation with one” and reviewing court noted it “would be difficult to imagine a criminal defendant that would better fit the definition of a high-risk defendant.”).

Ineffective Assistance of Counsel:

Lambright v. Schriro, ___ F.3d ___ (9th Cir., May 11, 2007 Slip Opinion) (Death sentence overturned where the testimony, affidavits, and other evidence introduced at the evidentiary hearing revealed that there was a substantial amount of mitigating evidence that defense counsel could have investigated, developed, and presented at Lambright’s sentencing hearing. Court held that attorneys representing defendants in capital sentencing proceedings have a duty to investigate and present mitigating evidence of mental impairment, which includes examination of mental health records. “Furthermore, counsel has an affirmative

duty to provide mental health experts with information needed to develop an accurate profile of the defendant's mental health." "Moreover, when tantalizing indications in the record suggest that certain mitigating evidence may be available, those leads must be pursued." "In light of his woefully inadequate investigation, it is not surprising that [defense counsel's] presentation at the sentencing proceeding was minimal and markedly unconvincing." "As this court has often made clear, counsel's duty to investigate all potentially mitigating evidence related to a defendant's mental health, family background, and prior drug use and to provide the sentencing court with a full presentation of the evidence that might lead the sentencer to spare his client's life is not discharged merely by conducting a limited investigation of these issues or by providing the sentencing court with a cursory or abbreviated presentation of potentially mitigating factors." (Internal citations and quotations removed).

Sincerely,

/s/Jeff Ellis

Jeff Ellis

Meredith Martin Rountree

Attorneys for Mr. Elmore

FILED AS ATTACHMENT
TO E-MAIL

cc: Hon. David McEachran
Whatcom County Prosecuting Attorney

Rec. 5-14-07

-----Original Message-----

From: Jeff Ellis [mailto:ellis_jeff@hotmail.com]

Sent: Saturday, May 12, 2007 1:47 PM

To: OFFICE RECEPTIONIST, CLERK; dmceachr@co.whatcom.wa.us

Subject: In re PRP of Clark Elmore, No. 70233-1

Clerk of the Court:

Attached please find a Statement of Supplemental Authorities to be filed in the above-entitled case. This same day, I have served an electronic copy on Prosecuting Attorney McEachran.

Please confirm receipt and contact me if you have any questions

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