

RECEIVED ^{VSC}
SUPREME COURT
STATE OF WASHINGTON
Nov 12, 2013, 8:13 am
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re Personal Restraint of

RUSSELL D. McNEIL and
HERBERT C. RICE,

Petitioners.

NO. 87654-1

FOURTH STATEMENT
OF ADDITIONAL
AUTHORITIES

COMES NOW the petitioner, State of Washington, by and through, Pamela B. Loginsky, Special Deputy Prosecuting Attorney for Yakima County, and respectfully requests that the Court consider the following additional authority pursuant to RAP 10.8:

State v. Posey, 174 Wn.2d 131, 136, 272 P.3d 840 (2012) (identifying Laws of 1905, ch. 18, as the earliest juvenile legislation)

Laws of 1905, ch. 18, § 1 (“This act shall apply only to children under the age of seventeen years, not now or hereafter inmates of any State institution, or any Training School for boys, or Industrial School for Girls, or some institution incorporated under the laws of this State, . . .”)

Laws of 1913, ch. 160, § 12 (when a child under the age of 18 is “arrested upon the charge of having committed a crime, the court, in its discretion, may order such child to be turned over to the proper officers for trial under the provisions of the criminal code”)

State ex rel. Sowders v. Superior Court, 105 Wash. 684, 179 P. 79 (1919) (a child who is convicted of a crime under the Criminal Code is to be sentenced under that code)

State v. Maish, 29 Wn.2d 52, 54, 63, 185 P.2d 486 (1947) (a 16-year-old tried under the criminal code for murder in the first degree received a death sentence that was affirmed on appeal)

State v. Carpenter, 166 Wash. 478, 479, 7 P.2d 573 (1932) (death sentence imposed upon Dubuc for first degree murder).

Washington Department of Corrections, Persons Executed Since 1904 in Washington State (stating Walter Dubuc was executed on April 15, 1932, at age 17) (available at <http://www.doc.wa.gov/offenderinfo/capitalpunishment/executedlist.asp> (last visited Nov. 11, 2013)).

Jackson v. Norris, 2013 Ark. 175, 2013 Ark. LEXIS 201 at ** 9, ** 12, ** 14 (Sep. 25, 2013) (the State did not challenge retroactive application of *Miller* on remand; capital murder is a Class Y felony; “ Class Y felony, the sentence is not a mandatory sentence of life imprisonment without parole, but instead a discretionary sentencing range of not less than ten years and not more than forty years, or life. Ark. Code Ann. § 5-4-401(a)(1) (Repl. 1997)”)

Arkansas Code of 1983, Title 16, Chapter 93, Probation and Parole

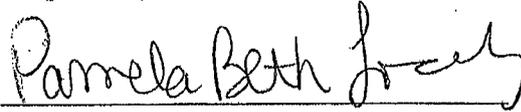
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DATED November 12, 2013.

Respectfully Submitted,



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PROOF OF SERVICE

I, Pamela B. Loginsky, declare that I have personal knowledge of the matters set forth below and that I am competent to testify to the matters stated herein. On November 12, 2013, I e-mailed a copy of the document to which this proof of service is appended to:

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Signed under the penalty of perjury under the laws of the state of Washington

this 12th day of November, 2013, at Olympia, Washington.



Pamela B. Loginsky, WSBA #18096
Staff Attorney

OFFICE RECEPTIONIST, CLERK

To: Pam Loginsky; Sarah Dunne at dunne@aclu-wa.org; Kathy Weber at kwebber@co.snohomish.wa.us; Hilary Thomas at hthomas@co.whatcom.wa.us; James Hagarty at James.Hagarty@co.yakima.wa.us; Martina Kartman at Martina.Kartman@ColumbiaLegal.org; Maureen Janega at Maureen.Janega@ColumbiaLegal.org; Melissa Lee at Melissa.Lee@ColumbiaLegal.org; Nick Allen at Nick.Allen@ColumbiaLegal.org; Nick Straley at Nick.Straley@ColumbiaLegal.org; Travis Stearns at stearns@defensenet.org; Nancy Tenney at nancy_tenney@fd.org; Victoria Lyons at victorialyonslaw@gmail.com; Allyssa Lamb at ally.lamb@klgates.com; Benjamin Mayer at ben.mayer@klgates.com; James Andrus at james.andrus@klgates.com; Jennifer Addis at jennifer.addis@klgates.com; Suzanne Lee Elliott at suzanne-elliott@msn.com; Lenell Nussbaum at lenell@nussbaumdefense.com; David Trefrey at TrefryLaw@WeGoWireless.com

Subject: RE: In re Personal Restraint of McNeil and Rice, No. 87654-1

Rec'd 11/12/2013

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: Pam Loginsky [mailto:Pamloginsky@waprosecutors.org]

Sent: Tuesday, November 12, 2013 7:09 AM

To: Sarah Dunne at dunne@aclu-wa.org; Kathy Weber at kwebber@co.snohomish.wa.us; Hilary Thomas at hthomas@co.whatcom.wa.us; James Hagarty at James.Hagarty@co.yakima.wa.us; Martina Kartman at Martina.Kartman@ColumbiaLegal.org; Maureen Janega at Maureen.Janega@ColumbiaLegal.org; Melissa Lee at Melissa.Lee@ColumbiaLegal.org; Nick Allen at Nick.Allen@ColumbiaLegal.org; Nick Straley at Nick.Straley@ColumbiaLegal.org; OFFICE RECEPTIONIST, CLERK; Travis Stearns at stearns@defensenet.org; Nancy Tenney at nancy_tenney@fd.org; Victoria Lyons at victorialyonslaw@gmail.com; Allyssa Lamb at ally.lamb@klgates.com; Benjamin Mayer at ben.mayer@klgates.com; James Andrus at james.andrus@klgates.com; Jennifer Addis at jennifer.addis@klgates.com; Suzanne Lee Elliott at suzanne-elliott@msn.com; Lenell Nussbaum at lenell@nussbaumdefense.com; David Trefrey at TrefryLaw@WeGoWireless.com

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Dear Clerk and Counsel:

Attached for filing is a statement of additional authorities. I will bring 13 hard copies to the Court this morning prior to oral argument. I will also bring hard copies for Ms. Elliot and Ms. Nussbaum.

Please let me know if you should encounter any difficulty in opening this document.

Sincerely,

Pam Loginsky
Staff Attorney
Washington Association of Prosecuting Attorneys

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