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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	No. 88086-7
Respondent,)	
)	SECOND STATEMENT
v.)	OF ADDITIONAL
)	AUTHORITIES
ALLEN GREGORY,)	(RAP 10.8)
Appellant.)	

Pursuant to RAP 10.8, appellant Allen Gregory submits the following statement of additional authorities: *State v. Santiago*, ___ A.3d ___, 2015 WL 4771974 (Connecticut Supreme Court No. 17413, filed 8/25/15) at *1 (holding that, following its prospective abolition, death penalty violates state constitutional ban on cruel and unusual punishment).

See also id. at *30 (citing Governor Inslee's moratorium); *id.* at *31 (citing American Law Institute opinions and noting that U.S. Supreme Court has repeatedly done so); *id.* at 41 ("the selection of which offenders live and which offenders die appears to be inescapably tainted by caprice and bias"); *id.* at *45 ("After thoroughly reviewing the operation of Connecticut's capital sentencing scheme over the past four decades, we are persuaded that these critiques are well founded and that the opportunity for the exercise of unfettered discretion at key decision points in the process has meant that the ultimate punishment has not been reserved for the worst of the worst offenders."); *id.* at 54 ("If the fact that an elected legislature



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had authorized and enacted the punishment in question were enough to insulate it from judicial scrutiny, then the freedom from cruel and unusual punishment would be a hollow one.”).

And see id. at *57-*73 (Norcott and McDonald, Js., concurring) (fully joining majority and writing separately to underscore problems of racial and ethnic discrimination that have permeated administration of capital punishment); *id.* at *61 (“historical accounts of persistent racial disparities in capital sentencing have been borne out, repeatedly, by contemporary statistical evidence ...”); *id.* at *63-*67 (discussing unconscious bias and citing numerous studies including initial Beckett Report); *id.* at 67:

We recognize that, in *McCleskey v. Kemp*, ... 481 U.S. at 296-97, the United States Supreme Court concluded that this sort of evidence of systemic racial disparities, taken alone, is insufficient to render the death penalty unconstitutionally arbitrary and discriminatory under the eighth amendment of the federal constitution. We have serious, indeed, grave doubts, however, whether a capital punishment system so tainted by racial and ethnic bias could ever pass muster under our state constitution.

Respectfully submitted this 28th day of August, 2015.

s/ Lila J. Silverstein
s/ Neil M. Fox
LILA J. SILVERSTEIN (38394)
NEIL M. FOX (15277)
Attorneys for Appellant

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

STATE OF WASHINGTON,)	
)	
Respondent,)	
)	NO. 88086-7
v.)	
)	
ALLEN GREGORY,)	
)	
Appellant.)	

DECLARATION OF DOCUMENT FILING AND SERVICE

I, MARIA ARRANZA RILEY, STATE THAT ON THE 28TH DAY OF AUGUST, 2015, I CAUSED THE ORIGINAL **SECOND STATEMENT OF ADDITIONAL AUTHORITIES** TO BE FILED IN THE **WASHINGTON STATE SUPREME COURT** AND A TRUE COPY OF THE SAME TO BE SERVED ON THE FOLLOWING IN THE MANNER INDICATED BELOW:

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SIGNED IN SEATTLE, WASHINGTON THIS 28TH DAY OF AUGUST, 2015.



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To the Clerk of the Court:

Please accept the attached document for filing in the above-subject case:

Second Statement of Additional Authorities

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