| | SUPREME COURT STATE OF WASHINGTON | | |
|----|---------------------------------------------------------------------------------|--------------------|-------------------------------------------------|
| 1 | | | Feb 24, 2016, 3:13 pm BY RONALD R. CARPENTER |
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| 6 | IN THE SUPREME COURT | | |
| 7 | OF THE STATE OF WASHINGTON | | |
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| 9 | STATE OF V | WASHINGTON, | |
| 10 | | Respondent, | NO. 88086-7 |
| 11 | | | |
| 12 | v. | | STATEMENT OF ADDITIONAL AUTHORITY |
| 13 | ALLEN EUGENE GREGORY, | | |
| 14 | | | |
| 15 | | Appellant. | |
| 16 | | | |
| 17 | Pursuant to RAP 10.8, Respondent, State of Washington, respectfully submits the | | |
| 18 | following as additional authority: | | |
| 19 | 1. <i>Glossip v. Gross</i> ,U.S, 135 S. Ct. 2726, 192 L. Ed. 2d 761 (2015) | | |
| 20 | (United States Supreme Court refusing to overrule its decisions that the | | |
| 21 | death penalty is <i>not</i> per se unconstitutional under Eighth Amendment). | | |
| 22 | 2. Kansas v. Carr, U.S, 136 S. Ct. 633, L. Ed. 2d | | |
| 23 | (2016)(case discussing Eighth Amendment's application to capital penalty | | |
| 24 | proceedings and differences between the "eligibility phase" and the | | |
| 25 | "selection phase"). | | |
| | | process process). | |

STATEMENT OF ADDITIONAL AUTHORITY ADDAUTHORITY Page 1

Office of Prosecuting Attorney 930 Tacoma Avenue South, Room 946 Tacoma, Washington 98402-2171 Main Office: (253) 798-7400

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- Jones v. Davis, 806 F.3d 538 (9th Cir. 2015), reversing Jones v. Chappell, 3. 31 F. Supp3d 1050(C.D. Cal. 2014)(reversing district court decision holding California's death penalty provisions violated the Eighth Amendment).
- Kansas v. Marsh, 548 U.S. 163, 173-74, 126 S. Ct. 2516, 165 L. Ed. 2d 4. 429 (2006) (A "state capital sentencing system must: 1) rationally narrow the class of death-eligible defendants; and (2) permit a jury to render a reasoned, individualized sentencing determination based on a death-eligible defendant's record, personal characteristics, and the circumstances of his crime," and if it "satisfies these requirements" then state is given "a range of discretion in imposing the death penalty, including the manner in which aggravating and mitigating circumstances are to be weighed.").
- 5. Cowiche Canyon Conservancy v. Bosley, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (arguments raised for the first time in a reply brief are too late to warrant the court's consideration).

Dated: February 24, 2016.

MARK LINDQUIST

Pierce County

Prosecuting Attorney

KATHLEEN PROCTOR Deputy Prosecuting Attorney

WSB # 14811

Certificate of Service: The undersigned certifies that on this day she caused this document to be delivered by U.S. mail or ABC-LMI delivery to the attorney of record for the appellant/respondent a true and correct copy/copies of the document to which this certificate is attached. This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington.

Signature

Page 2