

# INDIANA DEATH ROW (1977-2021)

## ALLEN, HOWARD ARTHUR, JR. # 56

OFF DEATH ROW SINCE 07-03-12  
DOB: 02-10-1949 DOC#: 881978 Black Male

Marion County Superior Court  
Judge John R. Barney, Jr.

**Trial Cause #:** CR87-194C

**Prosecutor:** Thomas W. Farlow, Robert P. Thomas,  
John V. Commons

**Defense:** Alex R. Voils, Jr., David B. Sexton

**Date of Murder:** July 14, 1987

**Victim(s):** Ernestine Griffin W / F / 73 (No relationship to Allen)

**Method of Murder:** stabbing with butcher knife

**Summary:** Ernestine Griffin was an elderly woman who lived alone near 57th and Keystone in Indianapolis. She lived next to the dental office of Dr. Seaman, who knew her quite well. One day Griffin called and advised that a man had stopped by her house inquiring about an old car Dr. Seaman had for sale. Griffin stated that she had the man write down his name and number and she passed it along to Dr. Seaman: "Howard Allen 545-4109." The next morning, Dr. Seaman walked over to her house and discovered Griffin's body lying on the floor with a butcher knife in her chest. Griffin also suffered a blunt force injury to her face. A note with the name and phone number of Allen was found in the kitchen. A handwriting expert would later testify that Allen had indeed written the note. Allen at first denied all knowledge of Griffin or Dr. Seaman. Over several hours of questioning, he finally admitted that he had been in the home asking about the car and had struck her with his fist. He stated that he did so only after Dr. Seaman had insulted him on the phone and Griffin had cussed him. Finally, he said, "I didn't stab the lady, but if I did, I need help." A co-worker at the car wash where Allen worked testified that Allen had given him a camera on the day of the murder to put in a locker. The camera was identified by serial number and the film still in the camera as belonging to Griffin.

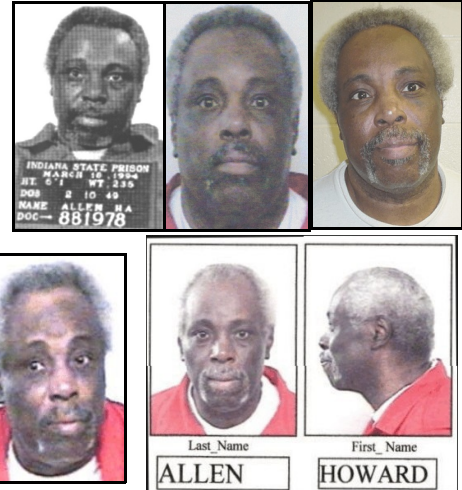
**Trial:** Information/PC for Murder Filed (07-15-87); Death Sentence Request Filed (08-31-87); Jury Trial (06-08-88, 06-09-88, 06-10-88); Verdict (06-11-88); DP Trial (06-11-88, 06-12-88); DP Verdict (06-13-88); Court Sentencing (08-30-88).

**Conviction:** Murder, Felony-Murder, Robbery (A Felony)

**Sentencing:** August 30, 1988 (Death Sentence, 50 years - Murder/Felony Murder merged)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** dysfunctional family, education, and social environment  
parents separated and divorced  
mental retardation, low intelligence, mental instability



**Direct Appeal:** Allen v. State, 686 N.E.2d 760 (Ind. September 25, 1997) (49S00-9207-DP-566)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Brent L. Westerfeld, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Allen v. Indiana, 119 S.Ct. 807 (1999) (Cert. denied)

In the Matter of Hatfield, 607 N.E.2d 384 (Ind. January 25, 1993) (49S00-9301-MS-152)  
(Court Reporter found in contempt for failure to meet deadlines)

In the Matter of Sexson, 666 N.E.2d 402 (Ind. June 14, 1996) (49S00-9509-DI-1068)  
(Disciplinary proceeding; by agreement, attorney Sexton suspended from practice for 6 months with automatic reinstatement - Missed appellate deadlines, filed 20-page brief, was paid \$40,743.50 and billed an additional \$13,097.00 for appellate work) Per Curiam Opinion; Shepard, Debruler, Sullivan, Selby concur; Dickson dissents believing sanction inadequate.

**PCR:** PCR Petition filed 12-15-98. Amended PCR Petition filed 06-07-99, 07-13-99.  
State's answer filed 01-14-99. Answer to Amended PCR Petition filed 06-04-99, 07-19-99.  
PCR Hearing 07-19-99, 07-20-99, 07-21-99.  
Special Judge Raymond D. Kickbush.  
For Defendant: Joanna Green, Kathleen Cleary, Danielle Gregory,  
Deputy Public Defenders (Carpenter).  
For State: Michael A. Hurst, Priscilla J. Fossum, Deputy Attorneys General (Modisett).  
PCR Petition denied 10-06-99.

Allen v. State, 749 N.E.2d 1158 (Ind. June 29, 2001) (49S00-9804-PD-249)  
(Appeal of PCR denial by Special Judge Raymond D. Kickbush)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Joanna Green, Kathleen Cleary, Danielle Gregory, Deputy Public Defenders (Carpenter).  
For State: Priscilla J. Fossum Deputy Attorney General (Freeman-Wilson).  
Allen v. Indiana, 122 S.Ct. 1925 (2002) (Cert. denied).

Successive PCR Petition tendered, claiming retardation and citing Atkins v. Virginia.  
07-15-03 Indiana Supreme Court declines to authorize Successive PCR.

**Habeas:** 03-18-02 Petition for Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Howard A. Allen, Jr. v. Cecil Davis, Superintendent (IP 01-1658-C-T/K)  
Judge John D. Tinder.  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Ballwin, MO.  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
09-30-02 Petitioner's Memorandum in support of Writ of Habeas Corpus filed.  
04-18-03 Response and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-05-03 Petitioner's Reply Memorandum in support of Writ of Habeas Corpus filed.  
11-07-03 Response to Petitioner's Traverse filed.  
01-27-05 Supplement filed in opposition to Writ of Habeas Corpus.  
03-30-05 Supplement filed in support of Writ of Habeas Corpus.  
09-19-03 Writ of Habeas Corpus denied.

Allen v. Buss, 558 F.3d 657 (7th Cir. March 11, 2009) (07-2486)  
(Appeal of denial of Writ of Habeas Corpus)  
Reversed and remanded 3-0; Opinion by Judge Anne Claire Williams  
Judge Ilana Diamond Rovner and Judge Joel M. Flaum concur.  
("for an evidentiary hearing to address whether Allen is mentally retarded under Indiana law")

For Defendant: Alan M. Freedman, Laurence E. Komp, Midwest Center for Justice, Chicago, IL  
For State: Stephen R. Creason, Deputy Attorney General (G. Zoeller)

Allen v. Wilson, 2012 WL 2577492 (S.D. Ind. July 3, 2012) (1:01-cv-1658-JDT-TAB)

On remand, evidentiary hearing was held on July 19-21, 2010. Two years later, U.S. District Judge John Daniel Tinder holds that Allen is mentally retarded as defined under Indiana Law and entitled to relief under Atkins.

**On Remand:** On May 28, 2013 Allen was resentenced by the Marion County Superior Court to 60 years (21,900 days) on Count I: Murder, and to 50 years (18,250 days) on Count III: Robbery (Class A Felony), to run concurrently with each other and consecutively with sentence received in 49G05-8708-CF-020966. (9,450 days credit time)

- ▶ ALLEN (AT 71 YEARS OLD) DIED AT THE INDIANA STATE PRISON ON JUNE 5, 2020, AFTER SERVING ± 33 YEARS IN CUSTODY.

### **AVERHART, RUFUS LEE # 15 & # 84 (Zolo Agona Azania)**

OFF DEATH ROW SINCE 05-10-07  
DOB: 12-12-54 DOC# 4969 Black Male

Allen County Superior Court  
Judge Alfred W. Moellering  
Venued from Lake County

**Trial Cause #:** CR-81-401 (Allen County)  
**Prosecutor:** John M. McGrath, James W. McNew  
**Defense:** David R. Schneider

**Date of Murder:** August 11, 1981

**Victim(s):** George Yaros W / M / 57 (Gary Police Officer - No relationship to Averhart)

**Method of Murder:** shooting with .44 handgun

**Summary:** Averhart, Hutson and North robbed the Gary National Bank and shot Gary Police Officer George Yaros, who was arriving on the scene. As they fled to their car, Averhart stopped and again shot Officer Yaros at close range. A high-speed chase/shootout resulted in the getaway car crashing into a tree. Averhart was followed from the scene, and with the aid of bystanders was discovered walking nearby. The gun used to shoot and kill Officer Yaros, a gun taken from the bank security guard, and a wig worn by Averhart during the robbery were also recovered.

**Trial:** Voir Dire (04-19-82, 04-20-82); Jury Trial (04-21-82, 04-22-82, 04-23-82, 04-26-82); Defendant presented no witnesses, submitted no jury instructions; Deliberations 1 hour, 15 minutes; Verdict (04-26-82); DP Trial (04-27-82); Defendant presented no witnesses, submitted no jury instructions; Deliberations 3 hours, 20 minutes; Verdict (04-27-82); Court Sentencing (05-25-82).

**Conviction:** Murder, Felony Murder (Tried jointly with Hutson and North; all three convicted as charged; DP sought against all three but jury recommended death for Averhart only)

**Sentencing:** May 25, 1982  
(Death Sentence - Murder/Felony Murder merged; Hudson and North sentenced to 60 years)



**Aggravating Circumstances:** b(1) Robbery  
b(6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Averhart v. State, 470 N.E.2d 666 (Ind. October 29, 1984) (1182-S-414)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Givan, Debruler, Hunter, Prentice concur.  
For Defendant: Stephen C. Bower, Kentland, Special State Public Defender  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Averhart v. Indiana, 105 S.Ct. 2051 (1985) (Cert. denied)

**PCR:** PCR Petition filed 09-23-85. Amended PCR Petition filed 03-31-86, 12-07-86, 05-18-87.  
State's answer filed 10-23-85.  
Answer to Amended PCR Petition filed 04-28-86, 05-19-86, 01-30-87, 02-24-87, 08-03-87.  
Hearing 05-19-86 to 05-23-86, 08-21-86 to 08-22-86, 05-18-87 to 05-20-87. (10 days)  
Special Judge Vern E. Sheldon  
For Defendant: Michael Freese, Rhonda Long-Sharp, Linda Rodriguez, Deputy Public Defenders  
For State: James McNew, Michael Thill  
PCR Petition denied 02-23-88.

Averhart v. State, 614 N.E.2d 924 (Ind. May 27, 1993) (02S00-8808-PC-751)  
(Appeal of PCR denial by Special Judge Vern E. Sheldon)  
Conviction Affirmed 5-0 DP Vacated 4-1  
Per Curiam Opinion; Shepard, Debruler, Dickson, Krahulik concur; Givan dissents.  
(Reversed on grounds of ineffective counsel - failure to present mitigating evidence, and based upon the State's failure to provide gunshot residue tests; remanded for new jury and judge sentencing hearing or imposition of sentence for a term of years)  
For Defendant: Rhonda Long-Sharp, Valerie K. Boots, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** Trial was venued again to Allen County. Following a new jury and judge sentencing hearing, the jury recommended death and Judge Kenneth R. Scheibenberger sentenced Averhart to death on 03-18-96. On appeal, trial court directed to provide an amended sentencing order.  
For State: Susan Collins, Peter Shakula  
For Defendant: Kevin L. Likes, Auburn, Michelle Fennessy, Indianapolis, Isaiah Skip Gant

**Direct Appeal:** Azania v. State, 730 N.E.2d 646 (Ind. June 6, 2000) (02S00-8808-PC-751)  
DP Affirmed 4-1  
Dickson Opinion; Shepard, Sullivan, Rucker concur. Boehm dissents on grounds that Averhart did not present certain mitigating evidence of family life only because the trial court upheld the state's threat to present evidence of a prior homicide as rebuttal.  
For Defendant: Kevin L. Likes, Auburn, Michelle Fennessy, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**§ 1983:** Azania v. Squadrito, 114 F.2d 1191 (7th Cir. 1997) (§1983 action against Allen County Jail and Sheriff, alleging conspiracy to hinder his death penalty resentencing hearing; After dismissal by District Court, he sought a new hearing, alleging newly discovered evidence. This Rule 60(b) motion was also dismissed. - Affirmed 3-0; Judge Joel M. Flaum, Judge Daniel A. Manion, Judge Terrance T. Evans)  
Azania v. Bechert, 172 F.3d 52 (7th Cir. 1999) (§ 1983 suit against former public defenders for conspiring with judge and prosecutors; discovery request denied)

**PCR:** Azania v. State, 738 N.E.2d 248 (Ind. November 2, 2000) (Indiana Supreme Court Order authorizing successive PCR on issue of tainted jury pool, but denying authorization on all other claims.

PCR denied 04-12-01.

Azania v. State, 778 N.E.2d 1253 (Ind. November 22, 2002) (02S00-0009-SD-538)

(Appeal of PCR denial by Allen Superior Court Judge Kenneth R. Scheibenberger)

Conviction Affirmed 5-0 DP Vacated 3-2

Boehm Opinion; Sullivan, Rucker concur. Shepard, Dickson dissent.

(Allen County computerized jury selection system did not substantially comply with statutes.)

For Defendant: Jesse A. Cook, Terre Haute, Michael E. Deutsch, Chicago

William Goodman, New York, Monica Foster, Indianapolis, Brief of Amici Curiae.

For State: Christopher L. Lafuse, Deputy Attorney General (S. Carter)

**On Remand:** Trial was venued again to Allen County.

Defendant's Motion to Return case to Lake County for trial denied.

Boone County Circuit Court Judge Steven H. David appointed Special Judge.

For Defendant: Jesse A. Cook, Terre Haute, Michael E. Deutsch, Chicago

On May 1, 2005, Judge Steven H. David granted Azania's Motion to Dismiss the Death Penalty Request, holding that the 24 year delay since the murder was mostly the fault of the State and has deprived him of fundamental due process.

State v. Azania, 865 N.E.2d 994 (Ind. May 10, 2007) (02S03-0508-PD-364)

(State's Interlocutory Appeal of Special Judge Steven David's dismissal of pending death penalty request on retrial due to passage of time)

Reversed 3-2; (Sullivan Opinion; Shepard and Dickson concur;

Boehm and Rucker dissent on grounds that 25 years on death row is cruel and unusual and that the passage of time has caused his mitigation evidence to disappear)

For Defendant: Jesse A. Cook, Terre Haute, Michael E. Deutsch, Chicago, Deputy Public Defenders, John L. Stainthorp, Erica Thompson, Chicago, IL

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Amici Curiae: Indiana Black Caucus, Center for Constitutional Rights, Center for Justice in Capital Cases, Charles Hamilton Houston Institute for Race and Justice, Criminal Justice Institute, Illinois Association of Criminal Defense Lawyers, National Conference of Black Lawyers, National Lawyers Guild, National Legal Aid & Defender Association, Andrea D. Lyon, Chicago, IL, Monica Foster, Indianapolis.

State v. Azania, 875 N.E.2d 701 (Ind. November 7, 2007) (On Rehearing) (02S03-0508-PD-364)

(Commanding use of current Death Penalty statute at retrial, where Judge must sentence in accordance with jury verdict, except that LWOP is not an option)

Opinion by Sullivan; Shepard, Dickson, J., Concur.

Boehm dissents in part, claiming that Judge always retains discretion to reject jury death finding. Rucker dissents in part, claiming that LWOP should be an option.

For Defendant: Michael E. Deutsch, Chicago, IL, Jessie A. Cook, Terre Haute, IN

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

**On Remand:** On eve of a third trial in Allen County, on October 17, 2008 Averhart was resentenced pursuant to a Stipulated Sentencing Agreement to 74 years imprisonment (consecutive terms of 60 years imprisonment for Murder, and 14 years imprisonment for Armed Robbery) by Allen County Superior Court Special Judge Robert Altice. (02D04-8109-CF-000401)

Credit for pretrial detention for 9,930 days from August 11, 1981 thru and including October 17, 2008. Discharged from the Indiana Department of Corrections on February 6, 2017.

Azania v. Superintendent, Ind. State Prison, (N.D. Ind. Feb. 18, 2015)

United States District Court for the Northern District of Indiana, South Bend Division

(No. 3:09 CV 499)

Judge James T. Moody, United States District Judge

Petition for Writ of Habeas denied. Certificate of Appealability denied.

- ▶ AZANIA (AT 62 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON FEBRUARY 6, 2017, AFTER SERVING ± 35 YEARS IN CUSTODY.

## BAER, FREDRICK MICHAEL #102

OFF DEATH ROW SINCE JANUARY 11, 2018  
DOB: 10-19-1971 DOC#: 910135 White Male

Madison County Superior Court #1  
Judge Fredrick R. Spencer



**Trial Cause #:** 48D01-0403-MR-062

**Prosecutor:** Rodney J. Cummings, David L. Puckett

**Defense:** Jeffrey A. Lockwood, Bryan R. Williams

**Date of Murder:** February 25, 2004

**Method of Murder:** slashing throat with knife



**Victim(s):** Cory Clark W / F /26, Jenna Clark W / F / 4 (No relationship to Baer)

**Summary:** On the morning of February 25, 2004, in a rural residential neighborhood near Lapel High School, Cory Clark, age 24, stepped onto the porch of her home as the defendant drove by. He turned his vehicle around and drove back, stopped near her driveway, and got out. Cory and her 4 year old daughter Jenna were alone in their home near Lapel. Her 7 year old daughter was at school and her husband was outside the state. Later that day, they were found murdered in their home, Cory in a bedroom nude from the waist down, lying in a pool of blood with her throat lacerated, and Jenna in another bedroom with spinal injuries and a severely lacerated throat that nearly decapitated her. Cory's purse containing three to four hundred dollars was missing from the house. Baer admitted committing the murders. telling police that had entered the residence and used a knife to slit the throat of Cory Clark, then chased down 4-year-old Jenna and slit her throat as well. He also had attempted to rape Cory before her death. Baer had been working at a nearby construction site that day, left work, committed the murders, then returned to the job. The apparent motive was to feed a drug habit and a deviate sexual appetite. There is no evidence that Cory and Jenna Clark were anything other than total strangers to the defendant.

**Trial:** Information/PC for Murder Filed (03-03-04); Amended Information and Death Sentence Request Filed (04-07-04); Recusal of Presiding Judge (12-16-04); Change of Venue Granted (01-31-05); Motion to Plead Guilty But Mentally Ill (02-28-05); Plea Rejected (03-01-05); Motion to Sever Unrelated Offenses Granted (04-04-05); Voir Dire in Huntington County (04-26-05, 04-27-05, 04-28-05); Amended Information Filed (05-02-05, 05-12-05); Jury Trial in Madison County (05-03-05, 05-04-05, 05-05-05, 05-10-05, 05-11-05, 05-12-05); Verdict (05-12-05); Amended Information Filed (05-17-05); DP Trial (05-19-05, 05-20-05); Verdict (05-20-05); Court Sentencing (06-09-05).

**Conviction:** Murder, Murder, Robbery (A Felony), Attempted Rape (A Felony), Theft (D Felony)

**Sentencing:** June 9, 2005 (Death Sentence - No sentence entered for Robbery, Attempted Rape, and Theft)

**Aggravating Circumstances:** b (1) Robbery  
b (1) Attempted Rape  
b (8) Two Murders  
b (9) On Parole  
b (12) Victim Less Than 12 Years

**Mitigating Circumstances:** mental illness, paranoid personality disorder, anxiety disorder  
severe drug dependency  
difficult childhood, family strife, drug use  
toxic parenting  
bad report cards, inattentive, impulsive  
mother had chemotherapy  
sister got killed

**Direct Appeal:** Baer v. State, 866 N.E.2d 752 (Ind. March 26, 2007) (48S00-0404-DP-181)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Affirmed 5-0; Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur)  
For Defendant: Mark D. Maynard, Anderson  
For State: Andrew A. Kobe, Deputy Attorney General (S. Carter)  
Baer v. Indiana, 128 S.Ct. 1869 (2008) (Cert. denied)

**PCR:** PCR denied February 27, 2009 by Madison County Superior Court Judge Fredrick R. Spencer.

Baer v. State, 942 N.E.2d 80 (Ind. January 26, 2011) (48S00-0709-PD-362)  
(Appeal of PCR denial by Madison County Special Judge Thomas H. Newman Jr.)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Rucker, David concur.  
For Defendant: Joanna Green, Thomas C. Hinesley, Deputy Public Defenders (Owens)  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

**Habeas:** Baer v. Neal (1:11-cv-01168-SEB-TAB)  
U.S. District Court for the Southern District of Indiana (Indianapolis)  
Judge Sarah Evans Barker, Magistrate Tim A. Baker

08/29/2011 Motion for a Stay of Execution  
08/29/2011 Notice of Intent To File First Federal Habeas Petition  
11/29/2011 First Petition for Writ of Habeas Corpus filed  
02/16/2012 Entry - Granting Requests for First Interim Payment of Fees: Mr. Freedman is entitled to out of court compensation totaling \$10,697.80; Ms. Donnelly is entitled to out of court compensation totaling \$25,400.60.  
05/25/2012 Return to Order to Show Cause,  
10/29/2012 Traverse and Memorandum in Support of Petition for Writ of Habeas  
03/18/2013 Entry - Granting Requests for Second Interim Payment of Fees: Mr. Freedman is entitled to out of court compensation totaling \$7,654.00; Ms. Donnelly is entitled to out of court compensation totaling \$22,072.00.  
05/15/2014 Entry - Fredrick Michael Baer has filed a motion to waive all final appeals and a motion to withdraw the motion to waive all appeals.  
12/18/2014 ORDER - Petition for a Writ of Habeas Corpus DENIED.

Baer v. Wilson, 2014 U.S. Dist. LEXIS 174713 (S.D. Ind. December 18, 2014)  
United States District Court for the Southern District of Indiana, Indianapolis  
(1:11-cv-1168-SEB-TAB)  
Judge Sarah Evans Barker  
Baer's petition for a writ of habeas corpus must be DENIED.  
Opinion later vacated by Baer v. Neal, 879 F.3d 769 (7th Cir. January 11, 2018)  
For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.  
For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Wilson, 2015 U.S. Dist. LEXIS 197428 (S.D. Ind. December 22, 2015)  
United States District Court for the Southern District of Indiana, Indianapolis  
(1:11-cv-01168-SEB-TAB)

Judge Sarah Evans Barker

Certificate of Appealability denied.

(The AEDPA forbids habeas relief on issues "adjudicated on the merits" in state court unless the state decision "was contrary to, or an unreasonable application of, clearly established Federal law" or "was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding.")

For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.

For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Neal, 879 F.3d 769 (7th Cir. January 11, 2018) (No. 15-1933)

Appeal from the United States District Court for the Southern District of Indiana

(No. 1:11-cv-1168) Judge Sarah Evans Barker

(At the penalty phase, defendant's counsel failed to challenge crucial misleading jury instructions that modified Indiana's statutory mitigating factor and included a "voluntary intoxication" instruction and a pattern of prosecutorial misconduct that conflated the standards of a legal insanity defense and guilty but mentally ill, and the state court unreasonably applied Strickland in denying defendant relief. Counsel's deficiency resulted in a denial of due process, and the errors were sufficient to undermine confidence in the outcome of a defendant's penalty trial and so defendant was prejudiced. While defendant's offenses were despicable and his guilt was clear, he was entitled to a penalty trial untainted by constitutional error. Judgment reversed. Case remanded.)

Conviction Affirmed 3-0      DP Reversed 3-0

Opinion by: Williams; Bauer, Flaum concur.

For Defendant: Marie F. Donnelly, Alan M. Freedman, Midwest Center for Justice, Evanston, IL.

For State: Andrew A. Kobe and Kelly A. Loy, Deputy Attorneys General (Zoeller)

Baer v. Neal (7th Cir. Ind., Apr. 4, 2018) (Rehearing denied)

Neal v. Baer, 139 S. Ct. 595 (2018) (Cert. denied)

**On Remand:** On August 1, 2019, pursuant to a Sentencing Agreement, the State of Indiana withdrew its request for a death sentence on Counts 1 and II for murder; the Defendant admitted 5 aggravators charged, and Madison Circuit Judge Mark Dudley resentenced Baer to two consecutive terms of Life Without Parole. No sentences were entered for the other convictions on Count III: Robbery (Class A Felony), Count IV: Theft (Class D Felony), and Count V: Attempted Rape (Class A Felony).  
For Defendant: Mark E. Kamish, Stacy R. Uliana.  
For State: Madison County Prosecuting Attorney Rodney Cummings.

► BAER IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## BAIRD, ARTHUR PAUL, II # 49

OFF DEATH ROW SINCE 08-29-05

DOB: 02-06-1946 DOC#: 872036 White Male

Montgomery County Circuit Court  
Judge Thomas K. Milligan

**Trial Cause #:** CR85-66

**Prosecutor:** Wayne E. Steele, Peggy O. Lohorn

**Defense:** Harry A. Siamas

**Date of Murder:** September 6-7, 1985

**Victim(s):** Nadine Baird W / F / 32 (wife); Kathryn Baird W / F / 78 (mother);  
Arthur Paul Baird, I W / M / 68 (father)

**Method of Murder:** manual strangulation (Nadine); stabbing with knife (Katherine);  
stabbing with knife (Arthur)

**Summary:** Baird strangled his wife on their bed in their trailer home in Darlington for no apparent reason. His wife was 6 months pregnant. He spent several hours watching TV and holding his wife's body. Early the following morning, he went to his parents' home nearby, and after feeding the chickens and getting a haircut from his Mom, he stabbed them both to death with a butcher knife. He left after loading up his belongings, and was arrested in Huntingburg, 2½ hours away, the next day. (insanity defense)

**Trial:** Information/PC for Murder filed (09-08-85); Amended Information for DP filed (09-10-85); Plea Agreement filed (10-07-86); Defendant demands Jury Trial (12-22-86); Voir Dire (02-04-87, 02-05-87, 02-06-87, 02-09-87, 02-10-87); Jury Trial (02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-17-87); Verdict (02-17-87); DP Trial (02-18-87); Verdict (02-19-87); Court Sentencing (03-13-87).

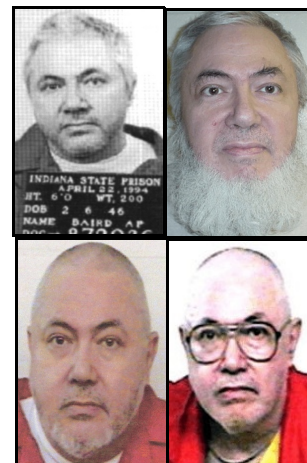
**Conviction:** Murder, Murder, Murder, Feticide (C Felony)

**Sentencing:** March 13, 1987 (Jury recommended death for the murder of his Mother and his Father, but against death for the murder of his wife. The Court sentenced Baird to 60 years for the Murder of Nadine Baird and 8 years for Feticide, to be served concurrently; Death for the Murder of Kathryn Baird and Death for the Murder of Arthur Paul Baird, I.)

**Aggravating Circumstances:** b(8) 3 murders

**Mitigating Circumstances:** extreme mental and emotional disturbance  
no criminal history  
active in church; person of good character  
employed; provided for family  
honorable discharge from military

**Direct Appeal:** Baird v. State, 604 N.E.2d 1170 (Ind. December 1, 1992) (54S00-8804-CR-428)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Debruler Opinion; Shepard, Givan, Dickson, Krahulik concur.  
For Defendant: David P. Freund, M.E. Tuke, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Baird v. Indiana, 114 S.Ct. 255 (1993) (Cert. denied)



**PCR:** PCR Petition filed 04-29-94.  
State's Answer filed 01-23-95.  
PCR Hearing 09-12-95.  
Special Judge Vincent F. Grogg.  
For Defendant: Jessie A. Cook, Mark Earnest  
For State: Joseph R. Buser  
PCR Petition denied 12-07-95.

Baird v. State, 688 N.E.2d 911 (Ind. 1997) (54S00-9304-PD-434)  
(Appeal of PCR denial by Special Judge Vincent F. Grogg)  
Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby, concur.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Baird v. Indiana, 119 S.Ct. 122 (1998) (Cert. denied)

Baird v. State, 831 N.E.2d 109 (Ind. July 19, 2005) (54S00-0505-SD-240)  
Motion for leave to file successive Petition for PCR. Motion denied.  
("Mentally ill" short of insanity when murders committed not a defense)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

Baird v. State, 833 N.E.2d 28 (Ind. August 25, 2005) (54S00-0505-SD-240)  
Motion for leave to file second successive Petition for PCR. Motion denied.  
(Showing of present incompetency insufficient)  
Shepard, Sullivan, Dickson concur; Boehm, Rucker dissent.  
Baird v. Indiana, 126 S.Ct. 312 (2005) (Cert. denied).

**Habeas:** 03-27-98 Petitioner files Notice of Intent to File Habeas.  
03-02-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Arthur Paul Baird, II v. Rondle Anderson, Superintendent (TH 98-70-C-M/F)  
Judge Larry J. McKinney  
For Defendant: Jessie A. Cook, Terre Haute  
For State: James D. Dimitri, Andrew L. Hedges, Geoffrey Slaughter, James B. Martin,  
Deputy Attorneys General (S. Carter)  
06-04-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-25-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-17-03 Writ of Habeas Corpus denied.

Baird v. Davis, 388 F.3d 1110 (7th Cir. November 12, 2004) (03-3170)  
(Appeal of denial of Writ of Habeas Corpus)  
Affirmed 2-1; Opinion by Circuit Judge Richard A. Posner.  
Judge Diane P. Wood concurs. Judge Kenneth F. Ripple Dissents.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: Steve Carter, Attorney General  
Baird v. Davis, 125 S.Ct. 953 (April 18, 2005) (Cert. denied)

**Clemency:** On August 29, 2005, Indiana Governor Mitch Daniels commuted the death sentence of Arthur Paul Baird II to Life Imprisonment Without Parole. Baird had served on death row since March 13, 1987. Despite a recommendation against clemency by the Indiana Parole Board, Governor Daniels noted that Life Without Parole was not available at the time of Baird's trial, that Baird had initially accepted a plea agreement to a term of years before trial, and that the victim's family had no objections then or now. This marked only the third time since the reinstatement of the Death Penalty in Indiana in 1977 that an Indiana Governor had commuted a death sentence. On July 2, 2004 Governor Joseph Kernan commuted the death sentence of Darnell Williams to Life Imprisonment Without Parole. On January 7, 2005, outgoing Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels to Life Without Parole.  
[https://www.in.gov/governorhistory/mitchdaniels/files/EO\\_05-23\\_Clemency\\_Arthur\\_Baird\\_II.pdf](https://www.in.gov/governorhistory/mitchdaniels/files/EO_05-23_Clemency_Arthur_Baird_II.pdf)

- ▶ BAIRD IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE, AND 60 YEARS IMPRISONMENT FOR MURDER.

## **BARKER, CHARLES E. # 87**

OFF DEATH ROW SINCE 12-21-05

DOB: 01-19-1958 DOC#: 976850 White Male

Marion County Superior Court  
Judge John R. Barney, Jr.

**Trial Cause #:** 49G05-9308-CF-095544

**Prosecutor:** Lawrence O. Sells, Brian G. Poindexter

**Defense:** Alex R. Voils, Jr., Carolyn W. Rader

**Date of Murder:** August 3, 1993

**Method of Murder:** shooting with handgun

**Victim(s):** Francis Benefiel W / M / 66; Helen Benefiel W / F / 65 (Grandparents of former girlfriend)

**Summary:** Barker's former girlfriend, Candice Benefiel, was staying with her grandparents, Francis and Helen Benefiel, in their home. Barker watched the home one night for several hours, then broke in and struggled with Candice. Francis came to her aid and jumped on Barker, who shrugged him aside and shot him through the heart. Barker then broke down a bathroom door and found Helen and the one year old child of Barker and Candice. Barker shot Helen in the head and took the child. He then forced Candice to leave with him, first to the home of his former wife, Deanna Barker, then to Tennessee, where he was later arrested. At trial, Barker claimed he just wanted to see his daughter, he shot Francis in self-defense and shot Helen accidentally.

**Trial:** Information/PC for Murder filed (08-04-93); Amended Information for DP filed (02-18-94); Voir Dire (06-17-96, 06-18-96, 06-19-96); Jury Trial (06-20-96, 06-21-96, 06-23-96, 06-24-96); Verdict (06-24-96); DP Trial (06-25-96, 06-26-96, 06-27-96); Verdict (06-27-96); Court Sentencing (11-26-96, 12-30-96).

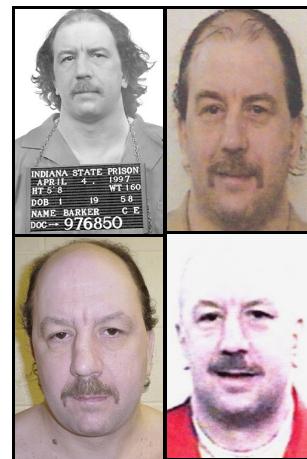
**Conviction:** Murder, Murder, Kidnapping (A Felony), Confinement (B Felony), Burglary (B Felony), Burglary (B Felony), Carrying a Handgun (A Misdemeanor)

**Sentencing:** November 26, 1996 and December 30, 1996 (Death Sentence)  
50 years, 20 years, 20 years, 20 years, 1 year, all consecutive, 1210 days credit

**Aggravating Circumstances:** b (1) Burglary  
b (1) Kidnapping  
b (8) 2 murders

**Mitigating Circumstances:** brain damage; low IQ, 3rd grade reading level  
progressive neurological disease

**Direct Appeal:** Barker v. State, 695 N.E.2d 925 (Ind. June 12, 1998) (49S00-9411-DP-1107)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Boehm Opinion; Shepard, Dickson, Selby, Sullivan concur.  
(Failure to instruct on Life Without Parole / Improper admission of prior assaults on Candice)  
For Defendant: Susan D. Burke, Carolyn W. Rader, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)



**On Remand:** Marion Superior Court Judge Grant W. Hawkins granted Motion to Dismiss Death Penalty, declaring that the Indiana death penalty statute was unconstitutional in light of Apprendi v. New Jersey, since a jury was not required to make death finding.  
State v. Barker, 768 N.E.2d 425 (Ind. April 26, 2002) (49S00-0110-DP-461)  
Interlocutory appeal by State. Reversed and remanded for new sentencing phase trial.  
Per Curiam Opinion; Shepard, Dickson, Sullivan, Boehm, Rucker.  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Marion Superior Court Judge Grant W. Hawkins again granted Motion to Dismiss Death Penalty, declaring that the Indiana death penalty statute was unconstitutional in light of Ring v. Arizona, which requires that aggravators outweigh mitigators “beyond a reasonable doubt,” which our statute does not require.

Barker v. State, 809 N.E.2d 312 (Ind. May 25, 2004) (49S00-0308-DP-392)  
Interlocutory appeal by State. Reversed and remanded for new sentencing phase trial.  
Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.  
(Rucker notes that Ring/Apprendi requires that weighing be “beyond a reasonable doubt”, but would not declare statute unconstitutional. He would simply construe the statute to implicitly require such a standard.)  
For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

State v. Barker, 826 N.E.2d 648 (Ind. May 4, 2005) (On Rehearing)  
(Death penalty statute requiring court to impose sentence if jury is unable to agree on a sentence recommendation after reasonable deliberations does not violate STATE constitutional right to jury trial.)  
For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Opinion by Dickson; Shepard, Sullivan, Boehm concur. Rucker dissents.  
Barker v. Indiana, 126 S.Ct. 666 (2005) (Cert. denied)

On December 21, 2005 Barker entered a guilty plea to all charges in the Marion Superior Court and was sentenced to Life Without Parole on two counts of Murder. Consecutive sentences were given for Kidnapping (50 years), Confinement (20 years), Burglary (20 years), Burglary (20 years), and Carrying a Handgun Without a License (1 year).

- ▶ BARKER IS CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE, AND CONSECUTIVE TERMS TOTALING 110 YEARS IMPRISONMENT.

## BELLMORE, LARRY # 42

OFF DEATH ROW SINCE 10-29-92  
DOB: 12-03-1946 DOC# 861877 White Male

Morgan County Circuit Court Judge James E. Harris

**Trial Cause #:** C85-S-50

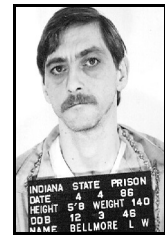
**Prosecutor:** Jane Spencer Craney

**Defense:** Ronald Tedrow, Kevin P. McGoff

**Date of Murder:** June 30, 1985

**Victim(s):** Donna Denney W / F / 46 (No relationship to Bellmore)

**Method of Murder:** stabbing with knife/ manual strangulation



**Summary:** Bellmore (age 38) and Wesley Young (age 19) were hired or requested by Wesley's Father, David Young, to "rough up" David Young's girlfriend (Donna Denney) after they broke up. Bellmore and Wesley went to Denney's home near Martinsville. After talking on the back porch, Bellmore suddenly attacked her, choked her, and threw her off the porch. Obeying instructions from Bellmore, Wesley stabbed her twice in the abdomen. Bellmore announced that he would "take something and make it look like a burglary." While they ransacked the home, Denney struggled inside and tried to telephone for help. Bellmore knocked the phone from her hand and said "The bitch won't die." Bellmore then threw her to the floor and stabbed her repeatedly for 30 seconds "like a sewing machine." Bellmore then dragged her outside and told Wesley to take her purse. \$190 found in her purse was split between Bellmore and Wesley. David Young committed suicide before trial. Wesley Young testified against Bellmore at trial.

**Trial:** Information/PC for Murder filed (07-17-85); Amended Information filed (09-11-85); Jury Trial (01-06-86, 01-07-86, 01-08-86, 01-09-86, 01-10-86, 01-11-86, 01-13-86, 01-14-86, 01-15-86, 01-16-86, 01-17-86, 01-18-86, 01-19-86, 01-20-86); Verdict (01-20-86); Court Sentencing (04-02-86, 04-03-86, 04-04-86).

**Conviction:** Murder

**Sentencing:** April 4, 1986 (Death Sentence)

**Aggravating Circumstances:** b(1) Burglary

**Mitigating Circumstances:** no violent criminal conduct for 20 years  
lesser sentences received by accomplices

**Direct Appeal:** Bellmore v. State, 602 N.E.2d 111 (Ind. October 29, 1992) (55S00-8703-CR-328)

Conviction Affirmed 5-0 DP Vacated 4-1

Dickson Opinion; Debruler, Krahulik, Shepard concur; Givan dissents.

(Remanded for "new sentencing determination" - Tattoo of knife dripping with blood placed on Bellmore's arm while in jail after trial improperly considered as an aggravating circumstance)

For Defendant: Brent L. Westerfeld, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** On December 29, 1992, in compliance with Indiana Supreme Court Opinion, Bellmore was sentenced by Morgan County Circuit Court Judge James E. Harris to 60 years imprisonment for Murder.

- ▶ BELLMORE (AT AGE 65) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JULY 12, 2012, AFTER SERVING ± 27 YEARS IN CUSTODY.

## **BENEFIEL, BILL J. # 59**

EXECUTED BY LETHAL INJECTION 04-21-05 12:31 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 06-03-1956 DOC#: 886175 White Male

Vigo County Superior Court Judge Michael H. Eldred

**Trial Cause #:** 84DO1-8705-CF-34

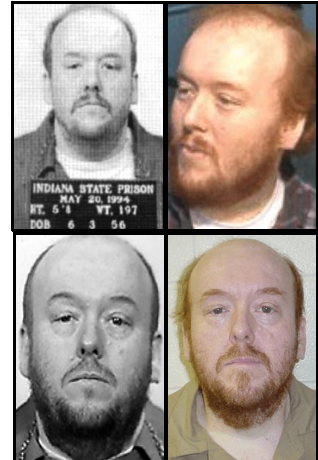
**Prosecutor:** Phillip I. Adler

**Defense:** Daniel L. Weber, Christopher B. Gambill

**Date of Murder:** February 7, 1987

**Victim(s):** Delores Wells W / F / 19 (No relationship to Benefiel)

**Method of Murder:** asphyxia with superglue



**Summary:** The State's case was established by a surviving victim, 17 year old Alicia, who was kidnapped on the way to a store two blocks from her home in Terre Haute by Benefiel, armed with a gun and wearing a mask. Alicia was tied-up and gagged, driven to Benefiel's home and taken inside. During 4 months of captivity inside Benefiel's home, Alicia was raped and sodomized over 60 times at gunpoint. Most of this time she was chained and handcuffed to a bed. He glued her eyelids shut, put tape over her eyes, and toilet paper in her mouth. She was cut with a knife and beaten. After 3½ months, Alicia saw a second girl, Delores Wells, in the home. She was naked and handcuffed on the bed, with tape over her eyes and mouth. She later saw Benefiel beat Delores and put superglue in her nose, then pinch it together. Benefiel left the home for 2 hours and upon his return, confessed to Alicia that he had killed and buried Delores. When police knocked on the door, Benefiel stuffed Alicia into a ceiling crawl space. The police entered with a search warrant and rescued her. The body of Delores was found soon after in a wooded area. An autopsy revealed injuries to her vagina and anus, and established asphyxia as the cause of death. (Insanity Defense)

**Trial:** Information/PC for Murder, Death Penalty filed (05-06-87); Voir Dire in Vanderburgh County (09-12-88, 09-13-88, 09-14-88, 09-15-88); Jury Trial in Vigo County (09-17-88, 09-19-88, 09-20-88, 09-21-88, 09-22-88, 09-23-88, 09-26-88, 09-27-88, 09-28-88, 09-29-88, 09-30-88, 10-01-88, 10-03-88); Verdict (10-04-88); DP Trial (10-04-88); Verdict (10-04-88); Court Sentencing (11-03-88).

**Conviction:** Murder, Confinement (B Felony), Rape (B Felony), Criminal Deviate Conduct (B Felony)

**Sentencing:** November 3, 1988 (Death Sentence)

**Aggravating Circumstances:** b(1) Rape  
b(1) Criminal Deviate Conduct

**Mitigating Circumstances:** mental disease  
irresistible impulse

**Direct Appeal:** Benefiel v. State, 578 N.E.2d 338 (Ind. September 18, 1991) (84S00-8906-CR-483)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Givan Opinion; Shepard, Debruler, Dickson, Krahulik concur.  
For Defendant: Christopher B. Gambill, Daniel L. Weber, Vigo County Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Benefiel v. State, 112 S.Ct. 2971 (1992) (Cert. denied)

**PCR:** Notice of Intent to File PCR filed 07-01-92.

PCR Petition filed 02-28-94. Amended PCR Petition filed 01-26-96.

State's Answer to Amended PCR Petition filed 01-31-96.

PCR Hearing 05-20-96, 05-21-96.

Special Judge Frank M. Nardi.

For Defendant: Kenneth L. Bird, Marie F. Donnelly, J. Jeffreys Merryman, Deputy State Public Defenders.

For State: Phillip I. Adler

PCR Petition denied 09-03-96.

Benefiel v. State, 716 N.E. 2d 906 (Ind. September 29, 1999) (84S00-9207-PD-590)

(Appeal of PCR denial by Special Judge Frank M. Nardi)

Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Joanna Green, Marie F. Donnelly, Deputy Public Defenders (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Benefiel v. Indiana, 121 S.Ct. 83 (2000) (Cert. denied)

**Habeas:** 02-01-00 Notice of Intent to File Petition for Habeas Corpus filed.

05-05-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.

Bill J. Benefiel v. Rondle Anderson, Superintendent (TH 00-C-0057-Y/H)

Judge Richard L. Young

09-13-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

03-09-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

01-17-02 Petitioner's Motion to Withdraw Appeals and Set Execution Date.

01-07-03 Petition for Writ of Habeas Corpus denied.

For Defendant: Marie F. Donnelly, Charlottesville, VA, Alan M. Freedman, Evanston IL

For State: Michael A. Hurst, Thomas D. Perkins, Stephen R. Creason,  
Deputy Attorneys General (S. Carter)

Benefiel v. Davis, 357 F.3d 655 (7th Cir. January 30, 2004) (03-1968)

(Appeal of denial of Writ of Habeas Corpus)

Affirmed 3-0

Opinion by Circuit Judge Terrance T. Evans. Judges Frank H. Easterbrook, William J. Bauer concur.

For Defendant: Alan M. Freedman, Gary Prichard, Evanston, IL

For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Benefiel v. Davis, 125 S.Ct. 481 (November 08, 2004) (Cert. denied).

Benefiel v. Davis, 125 S.Ct. 953 (January 10, 2005) (Reh. denied).

Benefiel v. Davis, 403 F.3d 825 (7th Cir. March 31, 2005).

Appeal of denial of Motion to Reopen habeas proceedings by U.S. District Court, Southern District of Indiana. Affirmed 3-0.

For Defendant: Alan M. Freedman, Gary Prichard, Evanston, IL

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Frank H. Easterbrook Opinion; William J. Bauer, Terence T. Evans concur.

Benefiel v. Davis, 125 S.Ct. 1884 (April 20, 2005) (Stay Denied).

BENEFIEL WAS EXECUTED BY LETHAL INJECTION ON 04-21-05 AT 12:35 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 83RD CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 13TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **BENIRSCHKE, WILLIAM J. # 57**

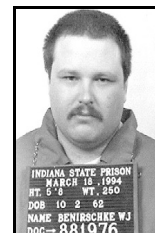
OFF DEATH ROW SINCE 01-06-95  
DOB: 10-02-1962 DOC#: 881976 White Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45GO4-8802-CF-00049

**Prosecutor:** Thomas W. Vanes

**Defense:** William Davis



**Date of Murder:** February 12, 1988

**Victim(s):** James Cromwell W / M / 34; Walter Muvich W / M / 35 (Employers of Benirschke)

**Method of Murder:** shooting with .22 rifle

**Summary:** Benirschke felt he was being shortchanged by his employers at J&W Janitorial. He walked into the office, shot Muvich 4 times, then shot Cromwell twice, then shot each in the head. He took Muvich's checkbook from his pocket. He later said he went there to shoot Muvich, but had to shoot Cromwell because he was a witness. (Insanity Defense)

**Trial:** Information/PC for Murder filed (02-18-88); Amended Information for Death Penalty filed (02-29-88); Voir Dire (08-01-88); Jury Trial (08-02-88, 08-03-88, 08-04-88); Deliberations 3 hours, 45 minutes; Verdict (08-04-88); DP Trial (08-05-88); Deliberations 3 hours, 40 minutes; Verdict (08-05-88); Court Sentencing (08-31-88).

**Conviction:** Murder, Murder, Robbery (B Felony)

**Sentencing:** August 31, 1988 (Death Sentence, 10 years)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no significant prior criminal history  
a history of depression and antisocial personality  
drug abuse  
high school graduate  
3 year U.S. Marine Corps service in Germany

**Direct Appeal:** Benirschke v. State, 577 N.E.2d 576 (Ind. September 4, 1991) (45S00-8902-CR-00108)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Krahluk Opinion; Shepard, Givan, Dickson, Debruler concur.  
For Defendant: Marce Gonzalez, Jr., Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Benirschke v. State, 582 N.E.2d 355 (Ind. 1991) (Reh. denied)  
Benirschke v. Indiana, 112 S.Ct. 3042 (1992) (Cert. denied)

**PCR:** PCR Petition filed 02-11-93.  
State's Answer to PCR Petition filed 03-17-93.  
Hearing set for 01-09-95.  
Special Judge Richard J. Conroy.  
For Defendant: Ann M. Pfarr, Kathleen A. Sullivan, Deputy Public Defenders

On January 6, 1995, pursuant to a Joint Motion to Dismiss PCR and Modify Sentence, Special Judge Richard J. Conroy sentenced Benirschke to consecutive terms of 60 years (Murder), 60 years (Murder), and 20 years (Robbery), for a total sentence of 140 years imprisonment.

► BENIRSCHKE IS CURRENTLY SERVING TERMS OF IMPRISONMENT TOTALING 140 YEARS.

## **BIEGHLER, MARVIN # 19**

EXECUTED BY LETHAL INJECTION ON 01-27-06 AT 1:17 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 12-15-1947 DOC#: 13153 White Male

Howard County Superior Court Judge Dennis H. Parry  
Originally venued to Wabash County.  
By agreement, returned to Howard County.

**Trial Cause #:** C2436 (Howard County)

**Prosecutor:** Richard L. Russell, Charles J. Myers

**Defense:** Charles Scruggs, John C. Wood

**Date of Murder:** December 10, 1981

**Victim(s):** Tommy Miller W / M / 21 (Drug Customer of Bieghler)  
Kimberly Miller W / F / 19 (Drug Customer's Wife)

**Method of Murder:** shooting with .38 handgun

**Summary:** Bieghler was in the business of buying and selling marijuana. Tommy Miller sold drugs for Bieghler. After one of Bieghler's chief operatives was arrested and a large shipment seized, he suspected Miller of "snitching" on him. Bieghler and his bodyguard, Brook, drove to Miller's trailer near Kokomo, and while his bodyguard waited outside, Bieghler went in and shot both Tommy Miller and his pregnant wife Kimberly with a .38 pistol. A dime was found near each body. He was later arrested in Florida. Brook cut a deal and was the star witness for the State at trial. While the gun was never recovered, nine .38 casings found at the scene matched those found at Bieghler's regular target shooting range.

**Trial:** Information/PC for Murder filed (03-30-82); Amended Information for Death Penalty filed (04-12-82); Motion for Speedy Trial (11-29-82); Voir Dire (02-02-83, 02-03-83, 02-04-83, 02-07-83, 02-08-83, 02-09-83, 02-10-83, 02-11-83, 02-12-83); Jury Trial (02-14-83, 02-15-83, 02-16-83, 02-17-83, 02-21-83, 02-22-83, 02-23-83, 02-24-83, 02-25-83, 02-28-83); Deliberations 13 hours, 10 minutes; Verdict (03-01-83); DP Trial (03-03-83); Deliberations 11 hours, 55 minutes; Verdict (03-03-83); Court Sentencing (03-25-83).

**Conviction:** Murder, Murder, Burglary

**Sentencing:** March 25, 1983 (Death Sentence; no sentence entered for Burglary)

**Aggravating Circumstances:** b (1) Burglary  
b (8) 2 murders

**Mitigating Circumstances:** None

**Direct Appeal:** Bieghler v. State, 481 N.E.2d 78 (Ind. July 31, 1985) (1183S409)

Conviction Affirmed 4-0 DP Affirmed 4-0

Pivarnik Opinion; Givan, Debruler, Prentice concur; Hunter not participating.

For Defendant: Bruce M. Frey, Marion

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Bieghler v. Indiana, 106 S.Ct. 1241 (1986) (Cert. denied)



**PCR:** PCR Petition filed 06-16-86, 09-08-88.

State's Answer to PCR Petition filed 07-31-86, 03-15-93.

PCR Hearing 03-22-93 to 04-14-93 (12 days)

Special Judge Bruce C. Embrey

For Defendant: Novella Nedeff, M.E. Tuke, Kenneth L. Bird, Lorinda Meier Youngcourt,  
Deputy Public Defenders (Carpenter)

For State: Robert Bly, James Andrews, Mark A. McCann

03-27-95 PCR Petition denied.

Bieghler v. State, 690 N.E.2d 188 (Ind. December 19, 1997) (34S00-9207-PD-583)

(Appeal of PCR denial by Special Judge Bruce C. Embrey)

Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Kenneth L. Bird, Lorinda Meier Youngcourt, Deputy Public Defenders (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Bieghler v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

Bieghler v. State, 839 N.E.2d 691 (Ind. December 28, 2005) (34S00-0511-SD-679)

Motion for leave to file Successive Petition for PCR. Motion denied.

(Lethal Injection not cruel and unusual, 24 years on death row not cruel and unusual and whether it is deterrent is up to legislature, Whether state should be required to prove burden higher than reasonable doubt should have been raised earlier)

Shepard, Sullivan, Dickson, Boehm, Rucker concur.

**Habeas:** 04-10-98 Notice of Intent to File Petition for Habeas Corpus filed.

01-20-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.

Marvin Bieghler v. Rondle Anderson, Superintendent (IP 98-C-490-M/S)

Judge Larry J. McKinney

09-03-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

01-19-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

07-07-03 Petition for Writ of Habeas Corpus denied.

11-05-03 Certificate of Appealability granted.

For Defendant: Brent L. Westerfield, Indianapolis, Lorinda Meier Youngcourt, Huron

For State: Robert L. Collins, Arthur Thaddeus Perry, Deputy Attorneys General (S. Carter)

Bieghler v. McBride, 389 F.3d 701 (7th Cir. November 18, 2004) (03-3749).

(Appeal of denial of Habeas Writ)

Affirmed 3-0; Terence T. Evans Opinion; Michael S. Kanne, Ilana Diamond Rovner concur.

For Defendant: Brent L. Westerfield, Linda Meier Youngcourt, Huron

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Bieghler v. McBride, 126 S.Ct. 430 (2005) (Cert. denied)

Donahue v. Bieghler, 126 S.Ct. 1190 (2006) (Stay vacated)

Bieghler v. Indiana, 126 S.Ct. 1190 (2006) (Stay denied; Cert. denied)

BIEGHLER WAS EXECUTED BY LETHAL INJECTION ON 01-27-06 AT 1:17 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 87TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 17TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **BIVINS, GERALD W. # 75**

EXECUTED BY LETHAL INJECTION 03-14-01 1:26 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 12-07-1959 DOC#: 922004 White Male

Boone County Superior Court Special Judge Thomas K. Milligan

**Trial Cause #:** 06D01-9104-CF-24

**Prosecutor:** Rebecca S. McClure, Bruce E. Petit

**Defense:** Allen F. Wharry, Michael D. Gross

**Date of Murder:** January 16, 1991

**Victim(s):** William Harvey Radcliffe W / M / 39 (No relationship to Bivins)

**Method of Murder:** shooting with handgun

**Summary:** Bivins, Chambers, and Weyls engaged in a 2-day central Indiana crime spree. They shoplifted blue jeans at gunpoint from a Lafayette Lazarus. They then drove to a Holiday Inn in Lebanon, forced their way into a guest's room, robbed him, stole his vehicle, and left him tied to the bathtub. Heading back toward Lafayette, they stopped at a rest stop north of Lebanon, and robbed Reverend Radcliffe at gunpoint in the restroom. After taking his wallet, Bivins turned Radcliffe around into a stall and shot him in the head. Later, Bivins said he did so "because he wanted to know what it felt like to kill." Full confessions followed.

**Trial:** Information/PC for Murder filed (04-11-91); Amended Information for Death Penalty filed (04-26-91); Voir Dire (02-25-92, 02-26-92, 02-27-92, 02-28-92, 02-29-92); Jury Trial (02-29-92, 03-02-92, 03-03-92, 03-04-92, 03-05-92, 03-06-92); Verdict (03-07-92); DP Trial (03-07-92); Verdict (03-07-92); Court Sentencing (06-05-92).

**Conviction:** Murder, Robbery (B Felony), Confinement (B Felony), Auto Theft (D Felony), Theft (D Felony) (2 counts)

**Sentencing:** June 5, 1992 (Death Sentence; 20 years, 20 years, 3 years, 3 years, 3 years consecutive)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** intoxication; drinking heavily on night of murder  
used alcohol and drugs as teenager  
death of grandfather  
he was an alcoholic  
his accomplice was the instigator

**Direct Appeal:** Bivins v. State, 642 N.E.2d 928 (Ind. November 4, 1994) (06S00-9105-DP-00401)  
Convictions Affirmed 5-0 (Except Theft must be merged into Robbery)  
DP Affirmed 5-0  
Dickson Opinion; Debruler, Givan, Shepard, Sullivan concur.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Bivins v. State, 650 N.E.2d 684 (Ind. 1995)  
(State's Petition for Rehearing denied 4-1; Shepard dissents re: victim impact evidence)  
Bivins v. Indiana, 114 S.Ct. 892 (1994) (Cert. denied)  
Bivins v. Indiana, 116 S.Ct. 783 (1996) (Cert. denied)

**PCR:** PCR Petition filed 12-18-95.  
State's Answer to PCR Petition filed 01-10-96.



Hearing 12-02-96 to 12-04-96 (3 days)  
Special Judge James R. Detamore  
For Defendant: Lorinda Meier Youngcourt, Huron, Janet S. Dowling, Albuquerque, NM  
For State: Geoff P. Davis, Deputy Attorney General, Bruce E. Petit  
03-21-97 PCR Petition denied.

Bivins v. State of Indiana, 735 N.E.2d 1116 (Ind. September 26, 2000) (06S00-9602-PD-173)  
(Appeal of PCR denial by Special Judge James R. Detamore)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Lorinda Meier Youngcourt, Huron, Janet S. Dowling Albuquerque, NM,  
Deputy Public Defenders (Carpenter)  
For State: Andrew L. Hedges, Deputy Attorney General (Modisett)

Bivins v. State of Indiana, 741 N.E.2d 1196 (Ind. Jan. 19, 2001)  
Order of Indiana Supreme Court (5-0) denying rehearing of decision which affirmed the trial court's denial of post-conviction relief, and setting execution date.

BIVINS WAIVED THE REMAINDER OF HIS APPEALS TO FEDERAL COURT AND WAS EXECUTED BY LETHAL INJECTION ON 03-14-01 AT 1:26 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 78TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 8TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **BOYD, RUSSELL ERNEST # 22**

OFF DEATH ROW SINCE 09-10-93  
DOB: 02-13-1958 DOC#: 9649 White Male

Clark County Circuit Court Judge Clifford H. Maschmeyer

**Trial Cause #:** 82-CR-27

**Prosecutor:** Jerome F. Jacobi, Steven D. Stewart

**Defense:** Michael T. Forsee, Charles Gregory Read

**Date of Murder:** August 27, 1982

**Victim(s):** Judith Falkenstein W / F / 30 (No relationship to Boyd)



**Method of Murder:** ligature strangulation with belt

**Summary:** When the victim's 10 year old daughter returned one afternoon from next door, she found the living room window open, the couch pulled away from the window, and \$117 missing from the mantel. She went upstairs and found her mother nude and suspended from the bedroom dresser. A belt was pulled tightly around her neck, with the other end knotted and wedged inside the dresser. She was bruised and cut. Burglars had entered the Falkenstein home 4 days earlier through the same window and stole coins and jewelry. Boyd was identified by several neighbors in the area at the time of the murder, and friends testified he had suddenly come into a lot of money. Property from the first burglary was found in a dumpster where Boyd was staying with a friend. After first denying any involvement, Boyd later confessed to committing the first burglary, and to entering the house on the afternoon of the murder, but claimed to have entered the bedroom only to find Falkenstein already dead.

**Trial:** Information/PC for Murder and DP filed (08-30-82); Voir Dire (08-23-83); Jury Trial (08-24-83, 08-25-83, 08-26-83, 08-29-83, 08-30-83, 08-31-83, 09-01-83, 09-02-83, 09-06-83, 09-07-24-83, 09-08-83, 09-09-83, 09-12-83); Verdict (09-12-83); DP Trial (09-14-83); Verdict (09-14-83); Court Sentencing (10-04-83).

**Conviction:** Murder, Felony-Murder, Burglary

**Sentencing:** October 4, 1983 (Death Sentence; Murder and Burglary merged into Felony-Murder)

**Aggravating Circumstances:** b(1) Burglary

**Mitigating Circumstances:** None

**Direct Appeal:** Boyd v. State, 494 N.E.2d 284 (Ind. June 24, 1986) (384-S-113)

Conviction Affirmed 5-0 DP Affirmed 5-0

Pivarnik Opinion; Givan, Debruler, Shepard, Dickson concur.

For Defendant: Michael T. Forsee, Charles G. Read, Jeffersonville, Public Defenders

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Boyd v. Indiana, 107 S.Ct. 910 (1987) (Cert. denied)

**PCR:** PCR Petition filed 01-04-88. Amended PCR Petition filed 09-17-90.

State's Answer to PCR Petition filed 01-25-88, 10-02-90.

Special Judge Robert L. Bennett.

For Defendant: Novella L. Nedeff, J. Michael Sauer, Steven H. Schutte, Deputy Public Defenders

For State: Steven D. Stewart

12-17-92 Defendant files Motion for Summary Judgment as to Death Sentence.

12-17-92 Motion for Summary Judgment as to Death sentence denied.

03-30-93 Hearing on Motion to Reconsider denial of summary Judgment as to Death sentence.

09-10-93 Motion for Summary Judgment as to Death sentence granted.

09-10-93 Death Sentence vacated. New Jury Sentencing Hearing scheduled for 11-08-93.

11-02-93 Parties file Agreement for Resentencing Upon Waiver of Rights and Dismissal of PCR.

11-05-93 Court accepts Agreement. Boyd resentenced to consecutive terms of 60 years (Murder) and 20 years (Burglary), for a total sentence of 80 years imprisonment.

- ▶ BOYD (AT AGE 61) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON FEBRUARY 3, 2019, AFTER SERVING ± 36 YEARS IN CUSTODY.

## **BREWER, JAMES # 1**

OFF DEATH ROW SINCE 06-28-90

DOB: 06-10-1956 DOC#: 13107 Black Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 4CR-16-178-74

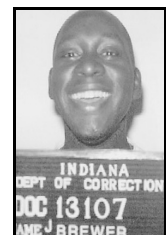
**Prosecutor:** Thomas W. Vanes, Peter Katic

**Defense:** James T. Frank

**Date of Murder:** December 4, 1977

**Victim(s):** Stephen Skirpan W / M / 29 (No relationship to Brewer)

**Method of Murder:** shooting with handgun



**Summary:** Brewer and Kenneth Ray Brooks went to the Skirpan residence, flashed a badge and claimed to be Officers investigating a traffic accident. They announced they had a search warrant, and when Skirpan asked to see it, Brewer shouted "This is a hold up!" Both men drew handguns and Skirpan was pushed aside. A shot was fired and Skirpan was killed. The men took money and fled. Brewer was arrested later the same night with commemorative coins on his person matching those taken in the robbery. Evidence of four other robberies committed in the same area on the same day, with the victims identifying Brewer, was admitted into evidence. Brooks pled guilty to Murder and was sentenced to 60 years imprisonment on December 20, 1978.

**Trial:** Indictment for Murder and DP filed (01-20-78); Motion for Speedy Trial (01-20-78); Voir Dire (02-13-78); Jury Trial (02-14-78, 02-15-78, 02-16-78, 02-17-78); Verdict (02-17-78); DP Trial (02-18-78); Verdict (02-18-78); Court Sentencing (03-01-78).

**Conviction:** Murder

**Sentencing:** March 1, 1978 (Death Sentence) First person sentenced to death under IC 35-50-2-9.

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** intoxication  
low IQ  
21 years old at time of murder  
mother died when he was 11 years old  
member of minority race

**Direct Appeal:** Brewer v. State, 417 N.E.2d 889 (Ind. March 6, 1981) (678-S-119)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Prentice Opinion; Givan, Hunter, Pivarnik concur; Debruler dissents.  
For Defendant: Dennis R. Kramer, Crown Point  
For State: Thomas D. Quigley, Palmer K. Ward, Deputy Attorneys General (Pearson)  
Brewer v. Indiana, 102 S.Ct. 3510 (1982) (Cert. denied)  
Brewer v. Indiana, 103 S.Ct. 18 (1982) (Reh. denied)

**PCR:** PCR Petition filed 10-08-82. Amended PCR Petition filed 04-19-83.  
State's Answer to PCR Petition filed 11-10-82, 05-17-83.  
PCR Hearing 02-10-83.  
For Defendant: Paul Levy, Deputy Public Defender (Carpenter)  
For State: Thomas W. Vanes  
PCR Petition denied 09-20-84 by Judge Richard W. Maroc.

Brewer v. State, 496 N.E.2d 371 (Ind. August 6, 1986) (485-S-167) (Appeal of PCR denial)  
Conviction Affirmed 4-1 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Dickson concur; Debruler, Shepard dissent.  
For Defendant: Paul Levy, Deputy Public Defender (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Brewer v. Indiana, 107 S.Ct. 1591 (1987) (Cert. denied)

**Habeas:** Brewer v. Shettle, 917 F.2d 1306 (7th Cir. November 1, 1990) (90-2530) (Unpublished)  
("We affirm the order of the district court directing that a writ of habeas corpus shall issue unless the State of Indiana conducts a new sentencing hearing for James Brewer within 90 days of the issuance of the mandate. An opinion will follow in due course.")

Brewer v. Aiken, 935 F.2d 850 (7th Cir. June 14, 1991) (90-2530)  
(Appeal of granting Writ of Habeas Corpus by Judge S. Hugh Dillon, U.S. District Court, Southern District of Indiana, conditional upon the State providing a new Sentencing Hearing to Brewer within 90 days due to ineffective assistance of counsel during penalty phase: Failure to investigate mental and family history, and to present mitigators relating to limited intellect and passive personality.)  
Opinion by Circuit Judge John L. Coffey Judge Easterbrook, Judge Kanne.  
For Defendant: Jessie A. Cook, Terre Haute  
For State: David A. Arthur, Deputy Attorney General (Pearson)

**On Remand:** 10-31-91 Sentencing Agreement filed, Brewer resentenced to 54 years imprisonment.

- ▶ BREWER (AT AGE 50) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JUNE 24, 2006, AFTER SERVING ± 28 YEARS IN CUSTODY.

## **BROWN, DEBRA DENISE # 45**

OFF DEATH ROW SINCE 11-29-18  
DOB: 11-11-1962 DOC#: 864793 Black Female

Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-203-1184-842

**Prosecutor:** Thomas W. Vanes, Kathleen M. O'Halloran

**Defense:** Daniel L. Toomey, Albert E. Marshall, Jr.

**Date of Murder:** June 18, 1984

**Victim(s):** Tamika Turks B / F / 7 (No relationship to Brown)

**Method of Murder:** ligature strangulation with bedsheet



**Summary:** 7 year old Tamika and her 9 year old niece, Annie, were walking back from the candy store to their home when they were confronted by Brown and Alton Coleman. Brown and Coleman convinced them to walk into the woods to play a game. Once there, they removed Tamika's shirt and tore it into small strips which they used to bind and gag the children. When Tamika began to cry, Brown held her nose and mouth while Coleman stomped on her chest. After carrying Tamika a short distance away, Annie was forced to perform oral sex on both Brown and Coleman, then Coleman raped her. Brown and Coleman then choked her until she was unconscious. When she awoke, they were gone. Tamika was found dead in the bushes nearby, strangled with an elastic strip of bedsheet. The same fabric was later found in the apartment shared by Coleman and Brown. Annie received cuts so deep that her intestines were protruding into her vagina. Evidence of a remarkably similar murder in Ohio was admitted at trial. These acts proved to be part of a midwestern crime spree by Coleman and Brown that included up to 8 murders, 7 rapes, 3 kidnappings , and 14 armed robberies.

**Trial:** Information/PC for Murder and DP filed (11-26-84); Motion for Detainer filed (05-17-85); Initial Hearing (12-10-85); Coleman Trial (03-31-86 to 04-12-86); Voir Dire (05-07-86, 05-08-86, 05-09-86, 05-10-86, 05-12-86); Jury Trial (05-12-86, 05-13-86, 05-14-86, 05-15-86, 05-16-86, 05-17-86); Deliberations 3 hours, 37 minutes; Verdict (05-17-86); DP Trial (05-17-86; 05-19-86, 05-20-86, 05-21-86); Deliberations 10 hours, 30 minutes; Verdict (05-22-86); Court Sentencing (06-20-86, 06-23-86).

**Conviction:** Murder, Attempted Murder (A Felony), Child Molesting (A Felony)

**Sentencing:** June 23, 1986 (Death Sentence, 40 years, 40 years consecutive)

**Mitigating Circumstances:** borderline mental retardation  
substantial domination by Coleman; dependent personality  
general lack of aggressiveness  
head trauma as a child  
21 years old at time of murder

**Aggravating Circumstances:** b (1) Child Molesting  
b (7) 2 prior murder convictions in Hamilton County, Ohio  
b (7) 2 prior murder convictions in Hamilton County, Ohio

**Direct Appeal:** Brown v. State, 577 N.E.2d 221 (Ind. August 29, 1991) (45S00-8703-CR-271)  
Conviction Affirmed 4-1 DP Affirmed 4-1  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Daniel L. Toomey, Merrillville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Brown v. State, 583 N.E.2d 125 (Ind. 1991) (Rehearing Denied 4-1)  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.

Brown v. Indiana, 113 S.Ct. 101 (1992) (Cert. denied)  
Brown v. Indiana, 113 S.Ct. 639 (1992) (Reh. denied)

**PCR:** PCR Petition filed 04-08-93.

State's Answer to PCR Petition filed 10-28-93.

PCR Hearing 06-05-95 to 06-07-95 (3 days)

For Defendant: Ken Murray, Columbus, OH, James N. Thiros, Merrillville

For State: Kathleen M. O'Halloran, Kathleen A. Sullivan, Natalie Bokota

PCR Petition denied 02-28-96.

Brown v. State, 698 N.E.2d 1132 (Ind. July 17, 1998) (45S00-9212-PD-939)

(Appeal of PCR denial by Special Judge Richard P. Conroy)

Conviction Affirmed 5-0 DP Affirmed 5-0

Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.

For Defendant: Ken Murray, Columbus, OH, Janet S. Dowling, Indianapolis

For State: Christopher L. LaFuse, Deputy Attorney General (Modisett)

Brown v. Indiana, 119 S.Ct. 1367 (1999) (Cert. denied)

**Habeas:** 12-11-98 Notice of Intent to File Petition for Habeas Corpus filed.

03-16-99 Order denying State's Motion to Transfer Venue to Southern District of Indiana.

07-16-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Ohio.

07-02-02 Order granting Brown's Motion to Hold Proceedings in Abeyance

Debra Denise Brown v. Shirley A. Rogers (1:99-CV-00549-ALM-MRA)

Judge Algenon L. Marbley, Magistrate Elizabeth Preston Deavers

For Defendant: Kenneth Foye Murray, Phoenix, AZ, Arizona Public Defender.

For State: Andrew A. Kobe, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Petition filed and pending in the United States District Court, Southern District of Ohio. The State of Indiana's Petition to Transfer to Indiana was denied. Order entered 07-02-2002 granting Motion to Hold Proceedings in Abeyance.

Brown has been incarcerated in Ohio since her conviction for Aggravated Murder. In 1991, Ohio Governor Richard Celeste commuted Brown's Ohio death sentence to life in prison. On April 26, 2002, Alton Coleman was executed by lethal injection in the state of Ohio.

**Ohio:** State v. Brown, 1987 WL 9743 (Ohio App. 1 April 15, 1987) (Not Reported in N.E.2d)

(Direct Appeal of murder conviction and death sentence from Cincinnati, Hamilton County, Ohio, for the killing of Tonnie Storey on July 11, 1984. Judgment and sentence unanimously affirmed.)

**Successive PCR:** Deborah Denise Brown v. State of Indiana (45G01-1806-PC-000007 / 1CR-203-1184-842)

Lake Superior Court Criminal Division Judge Salvadore Vasquez

06/12/2018 Successive Petition for Post-Conviction Relief Filed

06/12/2018 State's Response and Answer Filed

08/07/2018 Amended Petition Filed

11/15/2018 Agreement of Parties Filed

11/29/2018 Order modifying sentence per Sentencing Agreement

Pursuant to a Sentencing Agreement, the State agreed to withdraw its request for a death sentence and on November 29, 2018 Brown was instead sentenced to 60 years imprisonment on Count I: Murder, to run consecutively with previously imposed sentences on Count II: Attempted Murder (Class A Felony) - 40 years, and Count III: Child Molesting (Class A Felony) - 40 years, for a total aggregate sentence of 140 years imprisonment. This sentence is also consecutive to the two life sentences Brown is currently serving in the State of Ohio (B84-3538 and B84-2559). This pending Successive PCR and the pending Habeas action in the State of Ohio (99-cv-00549) shall be withdrawn with prejudice. (Signed by Lake County Prosecuting Attorney, Indiana Attorney General, Debra Denise Brown, and Counsel Ken Murray.

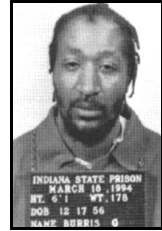
- ▶ BROWN IS CURRENTLY SERVING CONSECUTIVE TERMS OF IMPRISONMENT TOTALING 140 YEARS IN INDIANA, CONSECUTIVE TO LIFE WITHOUT PAROLE SENTENCES IN OHIO.

## **BURRIS, GARY # 8 & # 69**

EXECUTED BY LETHAL INJECTION 11-20-97 1:00 AM EST  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 12-17-56 DOC#: 11746 Black Male

Marion County Superior Court Judge John W. Tranberg



**Trial Cause #:** 49GO4-8801-CF-000166

**Prosecutor:** J. Gregory Garrison, John D. Tinder

**Defense:** Thomas E. Alsip, L. Craig Turner

**Date of Murder:** January 29, 1980

**Victim(s):** Kenneth W. Chambers B / M / 31 (No relationship to Burris)

**Method of Murder:** shooting with .38 handgun

**Summary:** Kenneth Chambers was a cab driver in Indianapolis. His nude body was found in an alley near Fall Creek Parkway, face down and stuck to the ground by a pool of his frozen blood. His hands were tied behind his back, and there was a small caliber gunshot wound to the right temple. The cab company log revealed that Burris had called for a cab and was Chambers' last fare. A witness testified that Burris returned to his apartment with Emmett Merriweather and James Thompson with wads of money and a cab driver's run sheet and clipboard. Burris was arrested later that day at the apartment of his girlfriend where a .38 caliber handgun was found hidden in a stereo speaker. The ISP Lab confirmed it to be the murder weapon. Chambers' cab was found parked nearby. Burris later confessed to a cellmate that he had forced Chambers to lie face down on the freezing ground, and shot him in the head as he begged for his life. Accomplice Thompson was later convicted and sentenced to 50 years imprisonment. Accomplice Merriweather testified at both trials and was sentenced to 15 years imprisonment.

**Trial:** Information/PC for Murder Filed (01-30-80); Death Sentence Request Filed (03-14-80); Jury Trial (12-01-80, 12-02-80, 12-03-80, 12-04-80); Verdict (12-04-80); DP Trial (12-05-80); DP Verdict (12-05-80); Court Sentencing (02-20-81).

**Conviction:** Felony-Murder

**Sentencing:** February 20, 1981 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** sociopathic personality  
accomplices could have committed murder  
acts were insufficient to warrant death  
abandoned by his parents (presented at 2nd trial)  
raised in house of prostitution  
at age 12 he was declared a ward of county due to neglect  
obtained GED

**Direct Appeal:** Burris v. State, 465 N.E.2d 171 (Ind. June 29, 1984) (981-S-250)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Givan, Debruler, Hunter, Prentice concur.  
For Defendant: James G. Holland, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Burris v. Indiana, 105 S.Ct. 816 (1985) (Cert. denied)

**PCR:** Burris v. State, 558 N.E.2d 1067 (Ind. August 24, 1990) (49S00-8610-PC-917)  
(Appeal of PCR denial by Special Judge Roy Jones)  
Conviction Affirmed 5-0 DP Vacated 3-2  
(DP vacated and remanded due to ineffective assistance of counsel - referring to Burris as "street person" and failure to investigate and present mitigators)  
Shepard Opinion; Debruler, Dickson concur; Givan, Pivarnik dissent.  
For Defendant: Linda Wagoner, Fort Wayne  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Burris v. State, 687 N.E.2d 190 (Ind. November 17, 1997)  
(Order declining 5-0 to authorize successive PCR on conviction)  
Shepard, Dickson, Sullivan, Selby, Boehm concur.

**On Remand:** Voir Dire (09-23-91, 09-24-91); DP Trial (09-25-91, 09-26-91, 09-27-91); Deliberations 8 hours, 22 minutes; Hung Jury/Mistrial (09-30-91); Court Sentencing (11-22-91).

Special Judge Patricia J. Gifford  
For Defendant: Michael Fisher, R. Mark Inman, Indianapolis  
For State: Barbara J. Trathen, Carole J. Johnson  
11-22-91 Burris again sentenced to death by Special Judge Patricia J. Gifford.

**Direct Appeal:** Burris v. State, 642 N.E.2d 961 (Ind. November 4, 1994) (49S00-9203-DP-187)  
DP Affirmed 5-0  
Givan Opinion; Shepard, Dickson, Debruler, Sullivan concur.  
For Defendant: Mark Inman, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Burris v. Indiana, 116 S.Ct. 319 (1995) (Cert. denied)

**Habeas:** 12-09-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Gary Burris v. Robert A. Farley, Superintendent (3:92-CV-00755-AS)  
Judge Allen Sharp  
For Defendant: David E. Vandercoy, Valparaiso University Law Clinic  
For State: Wayne E. Uhl, Deputy Attorney General (S. Carter)

03-19-93 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-30-93 Amendment to Petition for Writ of Habeas Corpus filed.  
09-03-93 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
09-07-93 Oral Arguments  
01-27-94 Petition for Writ of Habeas Corpus denied.  
02-10-94 Certificate of Probable Cause granted.

Burris v. Farley, 845 F. Supp. 636 (N.D. Ind. January 27, 1994) (3:92-CV-0755-AS)  
(Petition for Habeas Writ on conviction only; Petition denied 01-27-94)

Burris v. Farley, 51 F.3d 655 (7th Cir. November 22, 1995) (Affirmed) (94-1328)  
(Appeal of denial of Habeas Writ; Affirmed 3-0)  
Opinion by Judge Frank H. Easterbrook; Judge Daniel A. Manion, Judge Richard D. Cudahay concur  
For Defendant: David E. Vandercoy, Valparaiso University Law Clinic  
For State: Wayne Uhl, Deputy Attorney General (P. Carter)  
Burris v. Indiana, 116 S.Ct. 747 (1996) (Cert. denied)

Petition for Writ of Habeas Corpus filed 11-13-95 in U.S. District Court, Northern District of Indiana.  
Gary Burris v. Alan Parks, Superintendent (3:95-CV-00917-AS)  
Judge Allen Sharp

For Defendant: Alan M. Freedman, Evanston, IL, Bruce Bornstein, Chicago, IL  
For State: Geoffrey P. Davis, Geoffrey Slaughter, Deputy Attorneys General (P. Carter)  
11-20-95 Petition for Writ of Habeas Corpus and Stay of Execution denied.

Burris v. Parke, 948 F. Supp. 1310 (N.D. Ind. December 26, 1996) (3:95-CV-0917 AS)  
(Petition for Habeas denied by Judge Allen Sharp, U.S. District Court, Southern District of Indiana)

Burris v. Parke, 72 F.3d 47 (7th Cir. November 23, 1995) (95-3725)  
(Dismissal of Habeas Writ on grounds of "abuse of writ"; Stay of Execution Denied)  
Per Curiam Opinion, Judge Frank H. Easterbrook, Judge Daniel A. Manion concur;  
Judge Richard D. Cudahay dissents.

For Defendant: Alan M. Freedman, Bruce H. Bornstein, Chicago, IL  
For State: Geoffrey P. Davis, Geoffrey Slaughter, Deputy Attorneys General (P. Carter)  
Burris v. Parke, 95 F.3d 465 (7th Cir. September 12, 1996) (95-3725)  
(Vacating dismissal of Habeas Writ, with directions for District Court to consider on the merits)  
Judge Richard A. Posner, Judge Daniel A. Manion, Judge Michael S. Kanne.  
For Defendant: Alan M. Freedman, Bruce H. Bornstein, Chicago, IL, Carol R. Heise, Patricia Mysza, Chicago, IL, John Blume, Habeas Assistance Project, Columbia, SC  
For State: Geoffrey P. Davis, Geoffrey Slaughter, Deputy Attorneys General (P. Carter)

Burris v. Parke, 116 F.3d 256 (7th Cir. June 19, 1997) (97-1218)  
(Appeal of denial of Habeas Writ; Affirmed 2-1)  
Judge Frank H. Easterbrook, Judge Daniel A. Manion concur; Judge Richard D. Cudahay dissents.  
For Defendant: Alan M. Freedman, Chicago, IL  
For State: Geoffrey Slaughter, Deputy Attorney General (Modisett)

Burris v. State, 684 N.E.2d 193 (Ind. August 26, 1997) (Order setting execution date)  
Burris v. Parke, 130 F.3d 782 (7th Cir. November 15, 1997)  
(Request to Recall Mandate dismissed 2-1; Judge Easterbrook Opinion, Manion concurs, Cudahay dissents.)  
Burris v. Parke, 118 S.Ct. 462 (November 19, 1997) (Application for stay denied)

BURRIS WAS EXECUTED BY LETHAL INJECTION 11-20-97 1:00 A.M. EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 75TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 5TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **CANAAN, KEITH BRIAN # 48**

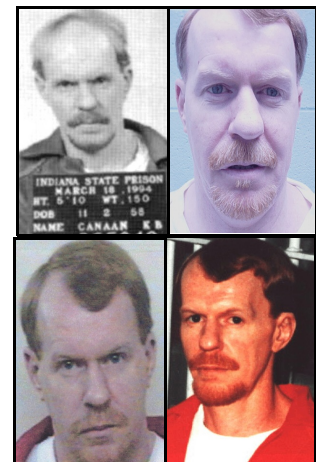
OFF DEATH ROW SINCE 01-10-03  
DOB: 11-02-1958 DOC#: 865840 White Male

Vanderburgh County Circuit Court  
Judge William H. Miller

**Trial Cause #:** 5215  
**Prosecutor:** Robert J. Pigman, Chris Lenn  
**Defense:** Barry L. Standley, Beverly Harris

**Date of Murder:** December 28, 1985  
**Victim(s):** Lori Bullock W / F / 22 (No relationship to Canaan)

**Method of Murder:** stabbing with butcher knife



**Summary:** Police responded to a dispatch to an Evansville apartment building. Inside, they discovered the body of Lori Bullock laying on a bed with a butcher knife in her neck and cuts to her vaginal area. The apartment was ransacked and money and jewelry were missing. Police recovered a Kool cigarette butt outside the apartment with saliva consistent with Canaan. His fingerprints were found on a package of spaghetti in the kitchen. Canaan was identified by those in an upstairs apartment as having knocked on their door near the time of the murder. Canaan had previously been at the apartment and was invited into the living room by the victim's roommates after he knocked on their door claiming to be looking for girls who lived upstairs. When arrested, Canaan had a package of Kool cigarettes on him.

**Trial:** Information/PC for Murder and DP filed (12-30-85); Voir Dire from Knox County (08-14-86; 08-15-86); Jury Trial (08-18-86; 08-19-86); Mistrial granted when officer refers to defendant's "prison shorts" (08-19-86); Voir Dire in Gibson County (11-06-86, 11-07-86); Jury Trial in Vanderburgh County (11-11-86, 11-12-86); ; 08-16-86, 08-14-86; 08-15-86; 08-16-86,); Verdict (11-12-86); Habitual Trial (11-12-86); Verdict (11-12-86); DP Trial (11-13-86); Verdict (11-13-86); Court Sentencing (11-26-86).

**Conviction:** Murder, Burglary (B Felony), Attempted Criminal Deviate Conduct (A Felony)  
Habitual Offender (Trifurcated Trial)

**Sentencing:** November 26, 1986 (Death Sentence; no sentence entered on other convictions)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Attempted CDC

**Mitigating Circumstances:** None

**Direct Appeal:** Canaan v. State, 541 N.E.2d 894 (Ind. July 28, 1989) (82S00-8705-CR-521)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Shepard, Givan concur; Debruler, Dickson dissent.  
For Defendant: Barry L. Standley and Beverly K. Harris, Evansville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Canaan v. Indiana, 111 S.Ct. 230 (1990) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition filed 11-07-90.  
PCR Petition filed. Amended PCR Petition filed 06-12-91, 10-01-91, 04-22-93, 05-16-94.  
State's Answer to Amended PCR Petition filed 06-17-91, 10-08-91, 06-03-94.  
PCR Hearing 11-08-91.  
Judge Richard L. Young  
For Defendant: Michael C. Keating, Glenn A. Grampp, Special Deputy Public Defenders (Carpenter)  
For State: Robert J. Pigman, Ron Bell  
PCR Petition denied 07-13-92.  
Motion to Reopen Hearing granted without objection 12-08-92.  
PCR Hearing 04-22-93, 04-23-93.  
PCR Petition denied 01-06-94.

Canaan v. State, 683 N.E.2d 227 (Ind. June 23, 1997) (82S00-9012-PD-816)  
(Appeal of PCR denial by Judge Richard L. Young)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Steven H. Schutte, Lisa Malmer, Deputy Public Defenders, Michael C. Keating,  
Glenn A. Grampp, Special Assistants, Indianapolis (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Canaan v. Indiana, 118 S.Ct. 2064 (1998) (Cert denied)

12-14-98 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-04-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
04-07-00 Motion to Amend Petition denied.  
01-10-03 Petition for Writ of Habeas Corpus granted.  
02-06-03 State's Notice of Appeal filed.

Canaan v. McBride, 395 F.3d 376 (7th Cir. January 11, 2005) (03-1384).  
(Appeal of granting of Habeas Writ)  
Affirmed 3-0 as to Death Penalty, Reversed as to Attempted Criminal Deviate Conduct.  
Diane P. Wood Opinion; William J. Bauer, Ilana Diamond Rovner concur.  
For Defendant: Stephen R. Creason, Scott A. Kreider, Deputy Attorney General (S. Carter)  
For State: F. Thomas Schornhorst, Gulfshores, AL, John Pinnow, Greenwood

▶ CANAAN IS CURRENTLY SERVING TERMS OF YEARS TOTALING 160 YEARS IMPRISONMENT.

**Method of Murder:** shooting with .357 handgun

**Summary:** Castor and his brother worked for Sugar Creek Resort near Greenfield. After reviewing company documents, they concluded that the corporate owners of the resort had been defrauding lending institutions, and decided to blackmail them for \$250,000. When they contacted their superior at the company to do so, the company called in the FBI and local sheriff and recorded the conversations. Castor claimed that the company had hired hit men who had looked for him and ransacked his home. A meeting was eventually arranged for the payoff to take place at an Amoco station on State Road 9 just north of I-70. Castor and his brother arrived driving separately. While Castor was waiting inside his truck, several unmarked FBI and Sheriff vehicles closed in. One vehicle pulled directly in front of Castor, blocking his escape. The passenger, Deputy Malcolm Grass, jumped out with his gun drawn. While no one was in uniform, officers announced themselves as Castor got out of his truck firing a .357. A ricochet bullet killed Deputy Grass. Castor surrendered and claimed that he thought they were the company's hit men.

**Trial:** Information/PC for Murder and Death Penalty Filed (05-08-86); DP Request Filed (05-08-86); Venued to Wayne County (07-19-86); Amended DP Request Filed (03-14-88); Voir Dire (03-14-88, 03-15-88, 03-16-88); Jury Trial (03-16-86, 03-17-88, 03-18-88, 03-21-88, 03-22-88, 03-23-88, 03-24-88, 03-25-88); Verdict (03-25-88); DP Trial (03-26-88); DP Verdict (03-27-88); Pro-Se Request Granted (06-07-88); Court Sentencing (07-29-88).

**Conviction:** Murder, Carrying a Handgun Without a License

**Sentencing:** July 29, 1988 (Death Sentence, 6 months concurrent)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Castor v. State, 587 N.E.2d 1281 (Ind. March 2, 1992) (89S00-9006-DP-409)  
Conviction Affirmed 5-0 DP Vacated 4-1  
Krahulik Opinion; Debruler, Dickson, Givan concur; Shepard dissents.  
(Defendant must "know," not merely "should know," that murder victim was officer; appointment of psychiatrist was required for DP hearing)  
For Defendant: Keith A. Dilworth, Charles R. Hyde, Richmond  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Castor v. Clark, 111 S.Ct. 2276 (1991) (Cert. denied)  
Castor v. Clark, 112 S.Ct. 16 (1991) (Reh. denied)

**On Remand:** March 1995 Castor committed to Logansport Mental Hospital; proceedings stayed.  
05-07-96 DP Request withdrawn, resentenced by Wayne Superior Court Judge Barbara A. Harcourt to a fixed term of 60 years imprisonment for Murder.

Castor v. State, 754 N.E.2d 506 (Ind. September 13, 2001)  
(Direct appeal after remand and sentence of 60 years imposed; Affirmed)  
Castor v. State, 876 N.E.2d 388 (Ind. App. November 7, 2007)  
(Appeal of PCR denial by trial court on 60 year sentence; Affirmed)

- ▶ CASTOR (AT 74 YEARS OLD) DIED IN THE INDIANA DEPARTMENT OF CORRECTIONS ON JANUARY 30, 2015, AFTER SERVING ± 29 YEARS IN CUSTODY.

## COLEMAN, ALTON # 43

EXECUTED 04-26-02 10:13 AM BY STATE OF OHIO  
DOB: 11-06-1955 DOC#: 865839 Black Male

Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-203-1184-842

**Prosecutor:** Thomas W. Vanes, Richard Cook

**Defense:** Cornell Collins, Lonnie Randolph



**Date of Murder:** June 18, 1984

**Victim(s):** Tamika Turks B / F / 7 (No relationship to Coleman)

**Method of Murder:** ligature strangulation with bedsheet

**Summary:** Seven year old Tamika and her nine year old niece, Annie, were walking back from the candy store to their home when they were confronted by Debra Denise Brown and Coleman. Brown and Coleman convinced them to walk into the woods to play a game. Once there, they removed Tamika's shirt and tore it into small strips which they used to bind and gag the children. When Tamika began to cry, Brown held her nose and mouth while Coleman stomped on her chest. After carrying Tamika a short distance away, Annie was forced to perform oral sex on both Brown and Coleman, then Coleman raped her. Brown and Coleman then choked her until she was unconscious. When she awoke, they were gone. Tamika was found dead in the bushes nearby, strangled with an elastic strip of bedsheet. The same fabric was later found in the apartment shared by Coleman and Brown. Annie received cuts so deep that her intestines were protruding into her vagina. Evidence of a remarkably similar murder in Ohio was admitted at trial. These acts proved to be part of a midwestern crime spree by Coleman and Brown that included up to 8 murders, 7 rapes, 3 kidnappings, and 14 armed robberies. Brown has accumulated death sentences in Indiana, Illinois, and Ohio.

**Trial:** Information/PC for Murder and DP filed (11-26-84); Motion for Detainer filed (05-17-85); Initial Hearing (10-01-85); Voir Dire (03-31-86, 04-01-86, 04-02-86); Jury Trial (04-02-86, 04-03-86, 04-04-86, 04-07-86, 04-08-86, 04-09-86, 04-10-86); Deliberations 02 hours; Verdict (04-11-86); DP Trial (04-12-86); Deliberations 1 hour, 40 minutes; Verdict (04-12-86); Court Sentencing (05-02-86); Brown Trial (05-07-86 to 05-22-86).

**Conviction:** Murder, Attempted Murder (A Felony), Child Molesting (A Felony)

**Sentencing:** May 7, 1986 (Death Sentence, 50 years, 50 years consecutive)

**Aggravating Circumstances:** b (1) Child Molesting  
b (7) 2 prior murder convictions in Ohio

**Mitigating Circumstances:** None

**Direct Appeal:** Coleman v. State, 558 N.E.2d 1059 (Ind. August 24, 1990) (45S00-8610-CR-937)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
(Infamous note left for Coleman in elevator by lead prosecutor Thomas Vanes: "Pissy you got the balls (ball) to testify???" constituted misconduct but was not reversible error)  
Shepard Opinion; Givan, Pivarnik, Dickson concur; Debruler dissents.  
For Defendant: James F. Stanton, Crown Point, Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Coleman v. Indiana, 111 S.Ct. 2912 (1991) (Cert. denied)

**PCR:** PCR Petition filed 05-15-92.

State's Answer to PCR Petition filed 07-30-92

PCR Hearing 11-15-94, 11-16-94, 11-17-94.

Special Judge Richard J. Conroy

For Defendant: Kathleen J. Littell, Valerie K. Boots, Robert E. Lancaster, Deputy Public Defenders

For State: Kathleen A. Sullivan, Natalie Bokota

PCR Petition denied 03-23-95.

Coleman v. State, 703 N.E.2d 1022 (Ind. 1998) (45S00-9203-PD-158)

(Appeal of PCR denial by Special Judge Richard J. Conroy)

Conviction Affirmed 5-0 DP Affirmed 5-0

Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Kathleen Cleary, Robert E. Lancaster, Deputy Public Defenders (Carpenter)

For Amicus Curiae: Charles A. Asher, South Bend, Indiana Association of Criminal Defense Lawyers.

For State: Christopher L. Lafuse, Deputy Attorney General (Modisett)

Coleman v. Indiana, 120 S.Ct. 1717, 146 L.Ed.2d 389 (2000)

(Petition for Writ of Certiorari granted. Judgment vacated and remanded back to Indiana Supreme Court for further consideration in light of Williams v. Taylor, 529 U.S. 362, 120 S.Ct. 1495, 146 L.Ed.2d 389 (2000), where Virginia death sentence reversed on grounds of ineffective assistance of counsel, relying upon two-pronged test of Strickland)

Coleman v. State, 741 N.E.2d 697 (Ind. December 29, 2000) (45S00-9203-PD-158)

(On Remand from U.S. Supreme Court to Indiana Supreme Court)

Conviction Affirmed 4-0 DP Affirmed 4-0

Shepard Opinion; Dickson, Sullivan, Boehm concur. Rucker did not participate.

For Defendant: Kathleen Cleary, Robert E. Lancaster, Deputy Public Defenders (Carpenter)

For State: Christopher L. Lafuse, Deputy Attorney General (Freeman-Wilson)

Coleman v. Indiana, 122 S.Ct. 649 (2001) (Cert. denied)

Coleman v. Indiana, 122 S.Ct. 1137 (2002) (Reh. denied)

COLEMAN WAS INCARCERATED IN OHIO ON DEATH ROW SINCE HIS 1988 CONVICTIONS AND DEATH SENTENCE FOR AGGRAVATED MURDER IN HAMILTON COUNTY. COLEMAN WAS EXECUTED BY LETHAL INJECTION BY THE STATE OF OHIO ON APRIL 26, 2002, AT 1:26 AM EST. AT THE TIME OF HIS EXECUTION THERE WAS OVER 3,500 PRISONERS ON DEATH ROWS ACROSS THE U.S. COLEMAN WAS THE ONLY ONE WITH DEATH SENTENCES IN 3 STATES: INDIANA, OHIO, AND ILLINOIS.

#### **Ohio:**

State v. Coleman, 37 Ohio St.3d 286, 525 N.E.2d 792 (Ohio July 6, 1988)

(Direct appeal of murder conviction and death sentence in Hamilton County for the killing of Marlene Walters on July 13, 1984 - Affirmed)

Coleman v. Ohio, 488 U.S. 900, 109 S.Ct. 250, 102 L.Ed.2d 238 (October 11, 1988) (Cert. denied)

State v. Coleman, 45 Ohio St.3d 298, 544 N.E.2d 622 (Ohio September 20, 1989)

(Direct appeal of murder conviction and death sentence in Hamilton County for the killing of 15-year-old Tonnie Storey on July 19, 1984 - Affirmed)

Coleman v. Ohio, 493 U.S. 1051, 110 S.Ct. 855, 107 L.Ed.2d 849 (January 16, 1990) (Cert. denied)

#### **Illinois:**

People v. Coleman, 544 N.E.2d 330 (Ill. June 19, 1989)

(Direct appeal of murder conviction and death sentence in Lake County for the kidnapping and killing of 9-year-old Vernita Wheat on June 19, 1984 - Affirmed)

Coleman v. Illinois, 497 U.S. 1032, 110 S.Ct. 3294, 111 L.Ed.2d 802 (June 28, 1990) (Cert. denied)

**CONNER, KEVIN AARON # 60**

EXECUTED BY LETHAL INJECTION 07-27-05 12:31 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 03-27-1965 DOC#: 881980 White Male

Marion County Superior Court Judge John W. Tranberg



**Trial Cause #:** 49GO1-8802-CF-08449

**Prosecutor:** John V. Commons, David E. Cook

**Defense:** Steven B. Lazinsky, Rick Mendes

**Date of Murder:** January 26, 1988

**Victim(s):** Steve Wentland W / M / 19; Tony Moore W / M / 24; Bruce Voge W / M / 19 (Acquaintances)

**Method of Murder:** stabbing with knife (Wentland); shooting with shotgun (Moore/Voge)

**Summary:** Conner was drinking with friends Steve Wentland, Tony Moore, and Bruce Voge at Moore's home. Wentland left for a drive with Moore in the front seat and Conner in the back. Wentland and Moore argued and Moore struck Wentland with Conner's knife. Wentland fled from the car but was chased down and run over by Moore. Conner then stabbed him to death. They drove to the warehouse of Conner's employer, where Conner and Moore began arguing about the nights events. Conner shot Moore to death with a shotgun. Conner then returned to Moore's home and shot Voge on the couch. Conner then fled to Texas.

**Trial:** Information/PC for Murder and Death Penalty Filed (01-28-88); Death Sentence Request Filed (02-03-88); Jury Trial (10-03-88, 10-04-88, 10-05-88, 10-06-88, 10-07-88); Verdict (10-07-88); DP Trial (10-09-88); DP Verdict (10-09-88); Court Sentencing (11-03-88).

**Conviction:** Murder, Murder, Murder

**Sentencing:** November 3, 1988

(Death Sentences for murder of Moore and Voge, 60 years for murder of Wentland)

**Aggravating Circumstances:** b (8) 3 murders

**Mitigating Circumstances:** intoxication  
22 years old at time of murder  
no significant history of criminal conduct  
genuine remorse  
loss of his father  
interest in drawing and writing  
generosity in helping pay rent for girlfriend

**Direct Appeal:** Conner v. State, 580 N.E.2d 214 (Ind. October 24, 1991) (49S00-8904-CR-00314)

Conviction Affirmed 5-0 DP Affirmed 5-0

Krahulik Opinion; Shepard, Debruler, Givan, Dickson concur.

For Defendant: L. Craig Turner, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Conner v. Indiana, 112 S.Ct. 1501 (1992) (Cert. denied)

Conner v. Indiana, 112 S.Ct. 2006 (1992) (Reh. denied)

**PCR:** PCR Petition filed 01-12-93. Amended PCR Petition filed 01-30-95.  
State's Answer to PCR Petition filed 01-28-93, .  
PCR Hearing 02-07-95, 02-08-95, 02-09-95, 02-14-95, 02-21-95.  
Special Judge James K. Coachys  
For Defendant: Kathleen J. Littell, Thomas C. Hinesley.  
For State: John V. Commons, Frank A. Gleaves.  
PCR Petition denied 03-29-95.

Conner v. State, 711 N.E.2d 1238 (Ind. May 25, 1999) (49S00-9207-PD-00591)  
(Appeal of PCR denial by Special Judge James K. Coachys)  
Affirmed 5-0. Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: Thomas C. Hinesley, Kathleen Littell-Cleary, Deputy Public Defenders (Carpenter)  
For State: Preston W. Black, Deputy Attorney General (P. Carter)  
Conner v. Indiana, 121 S.Ct. 81 (2000) (Cert. denied)

Conner v. State, 829 N.E.2d 21 (Ind. June 16, 2005) (49S00-0504-SD-164).  
(Conner sought permission to file Successive Petition for Postconviction Relief. Held: Denied.)  
Shepard, Dickson, Sullivan, Boehm, Rucker concur.

**Habeas:** 12-21-99 Notice of Intent to file Petition for Writ of Habeas Corpus filed.  
09-26-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Kevin A. Conner v. Ron Anderson, Superintendent (IP 99-C-1923-B/S)  
Judge Sarah Evans Barker  
For Defendant: Kathy Lea Stinton-Glen, Linda M. Wagoner, Indianapolis  
For State: Michael A. Hurst, James B. Martin, Deputy Attorneys General

02-05-01 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
11-08-02 Petitioner files Findings of Fact, Conclusions of Law for Writ of Habeas Corpus.  
01-15-03 Petition for Writ of Habeas Corpus denied.  
06-05-03 Certificate of Appealability granted in part.

Conner v. Anderson, 259 F.Supp.2d 741 (S.D. Ind. January 15, 2003) (IP 99-C-1923-B/S)  
(Habeas denied by Judge Sarah Evans Barker, U.S. District Court, Southern District of Indiana.)  
For Defendant: Kathy Lea Stinton-Glen, Linda M. Wagoner, Indianapolis  
For State: Timothy W. Beam, Deputy Attorney General (S. Carter)

Conner v. McBride, 375 F.3d 643 (7th Cir. July 20, 2004) (03-1951).  
(Appeal of denial of Writ of Habeas Corpus Writ in (IP 99-C-1923-B/S)  
Affirmed 3-0. Michael S. Kanne Opinion; Frank H. Easterbrook, Ilana Diamond Rovner concur.  
For Defendant: Linda M. Wagoner, Indianapolis, Kathy Lea Stinton-Glen, Zionsville  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Conner v. McBride, 125 S.Ct. 1399 (February 28, 2005) (Cert. denied).  
Conner v. McBride, 125 S.Ct. 1930 (April 25, 2005) (Reh. denied).

CONNER WAS EXECUTED BY LETHAL INJECTION ON 07-27-05 12:31 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 85TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 15TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## COOPER, PAULA R. # 46

OFF DEATH ROW SINCE 07-13-89

DOB: 08-25-1969 DOC#: 864800 Black Female

Lake County Superior Court Judge James C. Kimbrough

**Trial Cause #:** 3CR-109-685-433

**Prosecutor:** James W. McNew

**Defense:** Kevin B. Relphorde

**Date of Murder:** May 14, 1985

**Victim(s):** Ruth Pelke B / F / 78 (No relationship to Cooper)

**Method of Murder:** stabbing with knife 33 times



**Summary:** Cooper, age 15, devised a scheme with two of her friends to get money. They went to the home of a 78 year old Bible teacher, Ruth Pelke, gaining entry by telling her they wanted Bible lessons and asking her to write down information about the classes. Armed with a butcher knife, Cooper then knocked her to the floor from behind, struck her with a vase, cut her arms and legs, then climbed on top of her stabbing her in the chest and stomach 33 times. While doing so, she repeatedly asked, "Where's the money, bitch?" The only response was the Bible teacher reciting the Lord's Prayer. The home was searched by the girls for money. Cooper took \$10 and Pelke's car.

**Trial:** Information/PC for Murder and Juvenile Waiver Order filed (06-28-85); Initial Hearing (07-01-85); Amended Information for DP filed (07-08-85); Guilty Plea Without Agreement (04-21-86); Sentencing (07-11-86); Resentenced to 60 years imprisonment (08-18-89).

**Conviction:** Pled Guilty to Murder and Felony-Murder without Plea Agreement

**Sentencing:** July 11, 1986 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** 15 years old at time of murder  
youngest ever on Indiana Death Row

**Direct Appeal:** Cooper v. State, 540 N.E.2d 1216 (Ind. July 13, 1989) (45S00-8701-CR-61)

Conviction Affirmed 5-0 DP Vacated 5-0

Shepard Opinion; Debruler, Givan, Dickson, Pivarnik concur.

(Violates 8th Amendment and Indiana Constitution; murderers less than 16 years old at the time of the murder cannot receive the death sentence - Remanded to impose 60 year term of imprisonment)

For Defendant: William L. Touchette, Lake County Public Defender,

Victor L. Streib, Marshall College of Law, Cleveland, OH

For State: Michael Gene Worden, Deputy Attorney General (Pearson)

Amicus Curiae: John R. Van Winkle, John G. Shubat, Indiana Juvenile Justice Task Force; Richard A. Waples, Indiana Civil Liberties Union; Lawrence A. Vanore, ICLU; Nigel Rodley, Joan W. Howarth, Michael Sutherlin, Joan Fitzpatrick, Alice M. Miller, Jane G. Rocamora, Amnesty International; Joseph A. Morris, Dennis J. Stanton, Mid-America Legal Foundation, Leadership Councils of America, and the Lincoln Institute for Research and Education.

**On Remand:** Pursuant to Indiana Supreme Court Opinion, Cooper was resentenced in the Lake Superior Court to a 60 year term of imprisonment on August 18, 1989 by Special Judge Richard J. Conroy.

- ▶ COOPER (AT 43 YEARS OLD) WAS DISCHARGED BY THE INDIANA DEPARTMENT OF CORRECTIONS ON JUNE 17, 2013 AFTER SERVING ± 28 YEARS IN CUSTODY. COOPER COMMITTED SUICIDE IN INDIANAPOLIS ON MAY 26, 2015 BY A SELF-INFLICTED GUNSHOT TO HER HEAD.

## CORCORAN, JOSEPH EDWARD # 91

ON DEATH ROW SINCE 08-26-99

DOB: 04-18-1975 DOC#: 992454 White Male

Allen County Superior Court Judge Frances C. Gull

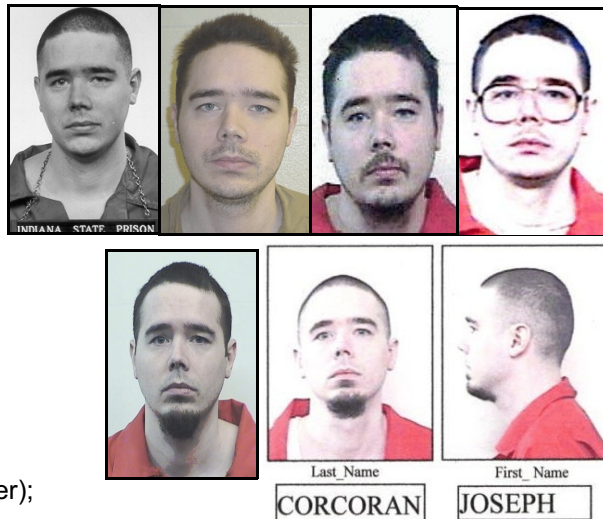
**Trial Cause #:** 02D04-9707-CF-000465

**Prosecutor:** Robert W. Gevers, II

**Defense:** John S. Nimmo and Mark A. Thoma

**Date of Murder:** July 26, 1997

**Victim(s):** James Corcoran W / M / 30 (brother);  
Robert Turner W / M / 32 (sister's fiancé);  
Timothy Bricker W / M / 30 (friend of brother);  
Doug Stillwell W / M / 30 (friend of brother).



**Method of Murder:** Shooting with Ruger Mini-14 Semi-Automatic Rifle

**Summary:** The defendant was living in a home along with his brother James Corcoran, his sister Kelly Nieto, and her fiancé Robert Turner. On July 26, 1997 the defendant was upstairs while his brother and Turner sat in the living room with friends Timothy Bricker and Doug Stillwell. According to the defendant, he heard them talking about him, so he went downstairs and confronted them. He first placed his 7 year old niece in an upstairs bedroom to protect her from the gunfire, then loaded his semi-automatic rifle. Before they had a chance to move, the defendant shot and killed his brother, Turner, and Bricker. Stillwell fled to the kitchen, but was cornered, shot and killed. The defendant then laid down the rifle, went to a neighbor's house, and asked them to call the police. A search of the defendant's room and secure attic, to which only he had access, revealed over 30 firearms, several munitions, explosives, guerilla tactic military issue books, and a copy of The Turner Diaries. Corcoran asserted an insanity defense based upon his diagnosis as having either a paranoid or schizotypal personality disorder.

**Trial:** Information/PC for Murder filed (07-31-97); Amended Information for DP filed (05-13-98); 2nd Amended Information for DP filed (05-10-99); Voir Dire in Porter County (05-17-99, 05-18-99, 05-19-99); Jury Trial in Allen County (05-20-99, 05-21-99, 05-22-99); Verdict (05-22-99); DP Trial (05-24-99); Verdict (05-25-99); Court Sentencing (08-26-99); New Sentencing Order entered (09-30-01).

**Conviction:** Murder (4 counts)

**Sentencing:** August 26, 1999 (Death Sentence); Revised Sentencing Order filed September 30, 2001.

**Aggravating Circumstances:** b (8) Multiple Murders

**Mitigating Circumstances:** Extreme mental / emotional disturbance  
Capacity to appreciate criminality impaired  
Unable to assist defense because of mental illness  
Fully cooperated with police, admitted guilt  
Good behavior in jail  
Protected 7 year old niece before murders  
No significant prior criminal conduct  
Remorseful  
Young age (22)

**Direct Appeal:** Corcoran v. State, 739 N.E.2d 649 (Ind. December 6, 2000) (02S00-9805-DP-293)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
(DP Vacated and remanded for more specific sentencing order, since trial court may have impermissibly relied upon non-statutory aggravating factors.)  
For Defendant: P. Stephen Miller, John C. Bohdan, Fort Wayne  
For State: Priscilla J. Fossum, Deputy Attorney General (Freeman-Wilson)

**On Remand:** Corcoran again sentenced to death by Allen County Superior Court Judge Frances Gull, filing a new sentencing order on 09-30-01.

**Direct Appeal:** Corcoran v. State, 774 N.E.2d 495 (Ind. September 5, 2002) (02S00-9805-DP-293)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Dickson, Boehm, Sullivan concur. (Rucker dissents, stating that a person suffering a "severe mental illness" should only be sentenced to LWOP.)  
For Defendant: P. Stephen Miller, John C. Bohdan, Fort Wayne  
For State: James B. Martin, Deputy Attorney General (S. Carter)

**PCR:** Notice of Intent to file PCR Petition filed 04-02-03.  
Motion by Defendant to Determine Competency filed 09-09-03.  
10-21-03 "Cause is submitted and evidence heard on the issue of Defendant's competency to waive Post-Conviction Relief. All matters taken under advisement."  
12-19-03 Court notifies Indiana Supreme Court "of the Court's finding of competency and the lack of any Petition for Post-Conviction Relief being filed."  
01-07-04 Notice of Appeal filed by Defendant.

Allen County Superior Court Judge Frances C. Gull  
For Defendant: Laura L. Volk, Joanna McFadden, Deputy Public Defenders (Carpenter)  
For State: J. Michael Loomis

Corcoran v. State, 820 N.E.2d 655 (Ind. January 11, 2005) (02S00-0304-PD-00143)  
Finding of competency affirmed 4-1.  
Sullivan Opinion; Shepard, Dickson, Boehm concur. Rucker dissents.  
(Corcoran waived PCR, but Public Defender filed anyway claiming that Corcoran was incompetent to waive. Trial Court found Corcoran competent to waive PCR. Corcoran recanted his waiver during the appeal of that decision, requesting dismissal of appeal and remand back to trial court to litigate PCR.)  
For Defendant: Joanna McFadden, Deputy Public Defender (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Corcoran v. State, 827 N.E.2d 542 (Ind. May 12, 2005) (On Rehearing) (02S00-0304-PD-00143)  
(Affirming ruling that Corcoran was competent to waive, and denying request for dismissal of appeal)  
For Defendant: Joanna McFadden, Deputy Public Defender (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Sullivan Opinion; Shepard, Dickson, Boehm concur. Rucker dissents.

Corcoran v. State, 845 N.E.2d 1019 (Ind. April 18, 2006) (02S00-0508-PD-350)  
Affirmed 4-1; Sullivan Opinion; Shepard, Dickson, Boehm concur. Rucker dissents.  
(Affirming dismissal of PCR Petition as too late, after Corcoran changed his mind and signed Petition)  
For Defendant: Joanna McFadden, Laura L. Volk Deputy Public Defenders (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

**Habeas:** 11-08-05 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Joseph Edward Corcoran v. Cecil Davis, Superintendent (3:05-CV-00389-AS-CAN)  
Judge Allen Sharp  
For Defendant: Alan M. Freedman, Laurence E. Komp, Midwest Center for Justice, Chicago, IL  
For State: Stephen R. Creason, James B. Martin, Deputy Attorneys General (S. Carter)

12-02-05 Petition by Corcoran pro-se to halt all appeals  
03-31-06 Hearing on Petitioner's Motion to halt all appeals  
Respondent to file brief by 08-01-06, Petitioner to Reply by 10-02-06.  
Respondent to file Return to Order to Show Cause by 06-29-06

Corcoran v. Buss, 483 F.Supp. 709 (N.D. Ind. April 9, 2007) (#3:05-CV-00389-AS-CAN)  
(Judge Allen Sharp granting Writ of Habeas Corpus as to death sentence, holding that Prosecutor had unreasonably offered to forego death penalty if Corcoran would waive jury trial. 120 days to resentence to penalty less than death)  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: Stephen R. Creason, James B. Martin, Deputy Attorneys General (S. Carter)

Corcoran v. Buss, 551 F.3d 703 (7th Cir. December 31, 2008) (07-2093, 07-2182)  
(Cross Appeals after granting Writ of Habeas Corpus)  
Reversed 3-0 on issue of Prosecutor offer to forego death sentence.  
Affirmed 2-1 on issue of waiver of PCR proceedings.  
Opinion by William J. Bauer.  
Judge Diane S. Sykes concurs; Judge Ann Claire Williams dissents on waiver issue.  
For Defendant: Alan M. Freedman, Laurence E. Komp, Midwest Center for Justice, Chicago, IL  
For State: James B. Martin, Deputy Attorney General (S. Carter)

Corcoran v. Levenhagen, 130 S.Ct. 8 (October 20, 2009) (08-10495)  
In a Per Curiam Opinion, the U.S. Supreme Court held that the 7th Circuit erred by rejecting the remaining sentencing issues without discussion and remanded the case back to the 7th Circuit.

Corcoran v. Levenhagen, 593 F.3d. 547 (7th Cir. January 27, 2010) (07-2093, 07-2182)  
DP Vacated 3-0; Remanded for new DP Judge Sentencing Hearing.  
Opinion by Judge William J. Bauer; Judge Diane S. Sykes and Judge Ann Claire Williams concur.  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
(Trial Court improperly considered non-statutory aggravators in death sentence: Corcoran's "future dangerousness," his victims' innocence, and the heinousness of the murders.)

Wilson v. Corcoran, 131 S.Ct. 13 (November 08, 2010) (10-91)  
(Appeal of granting of Habeas Writ of Habeas Corpus by U.S. District Court Judge Allen Sharp)  
Vacating Court of Appeals Opinion at 593 F.3d 547 (7th Cir. April 14, 2010).  
7th Circuit could not find a federal violation when the Indiana Supreme Court made a factual determination that a state trial Judge had not considered non-statutory aggravators. No opinion on merits of Writ.

Corcoran v. Wilson, 651 F.3d 611 (June 23, 2011) (07-2093, 07-2182)  
(On remand, the 7th Circuit held that remand to District Court required to decide unaddressed issues)  
Per Curiam Opinion. (Judge William J. Bauer, Judge Diane S. Sykes, Judge Ann Claire Williams)

**Habeas:** Corcoran v. Buss, 2013 U.S. Dist. LEXIS 4499 (N.D. Ind. January 10, 2013)  
United States District Court for the Northern District of Indiana  
South Bend Division, No. 3:05-CV-389 JD  
United States District Judge Jon E. Deguilio  
Habeas denied. Denying Habeas on remaining grounds. (Consideration of non-aggravators and failure of Indiana DP statute to distinguish circumstances where death or LWOP are warranted)  
For Joseph Edward Corcoran: Pro-se.  
For Defendant: Alan Freedman, Evanston, IL; Laurence Komp, Manchester, MO.  
For State: Stephen R. Creason, James B Martin, Deputy Attorneys General (Zoeller)

Corcoran v. Buss, 2013 U.S. Dist. LEXIS 204551 (N.D. Ind. March 27, 2013)

United States District Court for the Northern District of Indiana

South Bend Division, No. 3:05-CV-389 JD

United States District Judge Jon E. Deguilio

(Certificate of appealability with respect to the treatment of aggravating and mitigating factors in the sentencing process.

For Joseph Edward Corcoran: Pro-se.

For Defendant: Alan Freedman, Evanston, IL; Laurence Komp, Manchester, MO.

For State: James Blaine Martin, Deputy Attorney General (Zoeller)

Corcoran v. Neal, 783 F.3d 676 (7th Cir. April 14, 2015) (No. 13-1318)

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

No. 3:05-CV-389 JD

(In a thorough opinion, the district court rejected these claims and denied the writ. We affirm.)

Opinion by Sykes; Bauer, Williams concur.

For Defendant: Alan Freedman, Evanston, IL; Laurence Komp, Manchester, MO.

For State: Stephen R. Creason, James B Martin, Deputy Attorneys General (Zoeller)

Corcoran v. Neal, 136 S. Ct. 1493 (Mar. 28, 2016) (Cert. denied)

AWAITING EXECUTION.

### **DANIELS, MICHAEL WILLIAM # 3**

OFF DEATH ROW SINCE 01-07-05

DOB: 03-08-1958 DOC#: 13135 Black Male

Marion County Superior Court

Judge Patricia J. Gifford



**Trial Cause #:** CR78-47D

**Prosecutor:** Thomas J. Young, Marcus C. Emery (Stephen Goldsmith)

**Defense:** Merle B. Rose, William F. Wurster

**Date of Murder:** January 16, 1978

**Victim(s):** Allan H. Streett W / M / 43 (No relationship to Daniels)

**Victim Website:** <http://www.arlingtoncemetery.net/astreett.htm>

**Method of Murder:** shooting with handgun

**Summary:** Defendant and two other men drove around residential neighborhoods in Indianapolis stopping and robbing persons shoveling snow in front of their homes. At the residence of U.S. Army Chaplain Allan Streett, Daniels and another man confronted Streett and his 15 year old son who were shoveling snow at approximately 9:30 p.m. Two men came up from behind and said, "Don't move and no one will get hurt." The 15 year old turned and saw Daniels waving a gun at him. Daniels ordered Allen Streett and his son to hand over their wallets. When Allen Streett responded that he did not have his wallet with him, Daniels shot and killed him. The 15 year old handed over his wallet to the other intruder, who then fled with Daniels. Three other residents at other locations were victimized that same night in a similar fashion. In all, six eyewitnesses identified Daniels at trial. In addition, accomplice Kevin Edmonds testified for the State, also implicating Daniels.

**Trial:** Information/PC for Murder and Death Penalty Filed (01-27-78); Death Sentence Request Filed (05-17-78); Jury Trial (08-20-79, 08-21-79, 08-22-79, 08-23-79, 08-24-79); Verdict (08-24-79); DP Trial (08-24-79); DP Verdict (08-24-79); Court Sentencing (09-14-79).

**Conviction:** Felony-Murder, Robbery (A Felony) (4 counts), Attempted Robbery (A Felony)  
**Sentencing:** September 14, 1979 (Death Sentence)

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** lack of education  
below normal IQ, slow learner

**Direct Appeal:** Daniels v. State, 453 N.E.2d 160 (Ind. September 9, 1983) (380-S-66)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.  
For Defendant: Richard Kammen, Indianapolis  
For State: Palmer K. Ward, Deputy Attorney General (Pearson)  
Daniels v. Indiana, 109 S.Ct. 3182 (1989)  
(Judgment Vacated and remanded for consideration of Gathers victim impact)  
  
Daniels v. State, 561 N.E.2d 487 (Ind. October 19, 1990) (49S00-8601-PC-33)  
(Appeal after Remand, DP Affirmed 4-1)  
Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: Richard A. Waples, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** Daniels v. State, 528 N.E.2d 775 (Ind. September 23, 1988) (49S00-8601-PC-33)  
(Appeal of PCR denial by Special Judge Thomas A. Alsip)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.  
For Defendant: Richard A. Waples, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

11-16-92 Defendant files pro-se PCR Petition.  
11-23-92 Judge Patricia J. Gifford denies as not in proper form.  
03-15-93 Defendant files PCR Petition.  
04-02-93 Judge Thomas Alsip denies motion.  
11-22-93 Defendant files Form for Successive PCR Rule 1.  
12-06-94 Defendant files Motion for Summary Judgment on death penalty claim.  
03-29-95 Special Judge James R. Detamore denies Motion for Summary Judgment.  
03-30-95 Defendant files Motion for Summary Judgment.  
04-03-95 Defendant files Motion for Summary Judgment.  
For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis  
For State: Marc E. Lundy

06-26-95 Hearing held; Special Judge James R. Detamore granted Defendant's Motion for Summary Judgment, enforcing plea agreement for a term of years, and resentenced Daniels to concurrent terms of 60 years (Murder), 50 years (Robbery), 20 years (Robbery), 20 years (Robbery), 20 years (Robbery), for a total sentence of 60 years imprisonment.

State v. Daniels, 680 N.E.2d 829 (Ind. May 16, 1997) (49S00-9411-SD-1079)  
(State's appeal of granting of partial summary judgment by Special Judge James R. Detamore on 2nd PCR - PCR Court directed to enter judgment for State on Plea Agreement issue; remanded on remaining issues)  
Reversed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis  
For State: Meredith J. Mann, Deputy Attorney General (P. Carter)

09-24-96 Sentence imposed on 06-26-95 set aside and original convictions and sentence reinstated.  
02-10-97 Amended PCR Petition filed.

Hearing held on remaining issues 02-11-97, 03-04-97, 03-05-97.  
For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis  
For State: Marc E. Lundy  
07-09-97 PCR Petition denied by Special Judge James R. Detamore.

Daniels v. State, 741 N.E.2d 1177 (Ind. January 12, 2001) (49S00-9411-SD-1079)  
(Appeal of 2nd PCR denial by Special Judge James R. Detamore)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Shepard Opinion; Sullivan, Dickson, concur. Boehm, Rucker dissent as to DP.  
For Defendant: Mark A. Earnest, Eric K. Koselke, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

**Habeas:** 09-26-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Michael W. Daniels v. Robert A. Farley, Superintendent (IP 93-C-0586- M/F)  
Judge Larry J. McKinney  
For Defendant: Judith G. Menadue, Elkhart, Mark A. Earnest, Indianapolis  
For State: Wayne E. Uhl, Deputy Attorney General (Freeman-Wilson)  
03-18-94 Entry directing dismissal until state remedies exhausted.  
05-01-01 Notice of Intent to Amend pro-se Petition for Writ of Habeas Corpus filed.  
02-01-02 Amended Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District  
Michael W. Daniels v. Daniel McBride, Superintendent (IP 01-C-0550-Y/K)  
Judge Richard L. Young  
For Defendant: Mark A. Earnest, Eric Koselke, Brent L. Westerfield, Indianapolis  
For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General

07-02-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
12-04-02 Petitioner's Motion to Appoint Guardian Ad Litem  
04-25-03 Petitioner's Motion for psychological examination.  
10-07-03 Mr. Hailey appointed Guardian Ad Litem at \$125 per hour.  
05-04-04 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
02-24-05 Amended Petition for Writ of Habeas Corpus filed.  
04-07-05 Amended Petition for Writ of Habeas Corpus denied.

Daniels v. Knight, 476 F.3d 426 (7th Cir. 2007) (05-2620) (Habeas denial affirmed after Clemency)

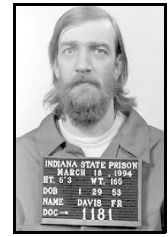
**Clemency:** On January 7, 2005, outgoing Indiana Governor Joseph Kernan commuted the death sentence of Michael Daniels, the longest serving prisoner on Indiana Death Row. Daniels was sentenced to death on September 14, 1979. Governor Kernan showed less than courage in granting the clemency, without notice to the Indiana Attorney General, in his last days in office after being defeated in his bid for reelection. As reasons for the clemency, Governor Kernan basically stated that Daniels was "almost" retarded, "almost" entered into a plea agreement for a lesser sentence, and the case was "almost" reversed on appeal. Also the case was very old. This marked only the second time since the reinstatement of the Death Penalty in Indiana in 1977 that an Indiana Governor had commuted a death sentence. On July 2, 2004 Governor Kernan issued an Executive Order commuting the death sentence of Darnell Williams to Life Imprisonment Without Parole. <https://secure.in.gov/ipdc/files/Michael-Daniels-Kernan.pdf>

▶ CURRENTLY SERVING A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE.

## DAVIS, FRANK R. # 27

OFF DEATH ROW SINCE 12-08-93  
DOB: 01-29-1953 DOC#: 1181 White Male

Marshall County Circuit Court Judge Michael D. Cook  
Venued from LaPorte County



**Trial Cause #:** 50C01-8307-CF-23 (Marshall County)  
5066-C (LaPorte County)

**Prosecutor:** Craig V. Braje

**Defense:** Gregory H. Hofer

**Date of Murder:** June 16 & 18, 1983

**Victim(s):** D.R. W / M / 14; J.L. W / M / 15 (No relationship to Davis)

**Method of Murder:** manual strangulation (D.R.); strangulation with wire (J.L.)

**Summary:** Charges arose from 3 separate incidents. On January 10, 15 year old J.S. was confronted by Davis at gunpoint in a cornfield in LaPorte on the way back to his home. Davis put a wire around his neck and performed oral sex on him. Davis later pistol-whipped him until he thought he was unconscious. J.S. recovered from the attack and later identified Davis. On June 16, 14 year old D.R. was confronted by Davis with a knife after he and Davis drank a beer provided by Davis. Davis tied a wire around his neck, performed oral sex on him, then strangled him to death with his hands. On June 18, two 15 year old boys, J.L. and E.F. were camping out when they came across Davis in the woods. Davis was smoking pot and shared it with the teenagers. Davis left while the boys returned to the campsite. Davis watched and waited until the boys went to sleep, then went into the tent, woke up J.L., and escorted him into the woods at knifepoint. Davis tied J.L. up with wire, then performed oral sex on him, then strangled him with the wire. Davis returned and got E.F., tied him up with wire, and performed oral sex on him. Davis then struck him in the head with the axe and left. Davis had used his own name and was identified by the survivors. He gave a complete confession.

**Trial:** Information for Murder filed, PC Hearing held (06-21-83); Amended Information for DP filed (07-13-83); Venued to Marshall County (07-13-83); Notice of Insanity Defense (08-29-83); Competency Hearing (11-01-83); Insanity Defense Withdrawn (01-09-84); Voir Dire (01-09-84, 01-10-84, 01-11-84); Jury Trial (01-12-84, 01-13-84); Plea Agreement Filed/Guilty Plea Entered (01-13-84); DP Sentencing Hearing (01-18-84, 01-19-84); Court Sentencing (01-25-84).

**Conviction:** Pled guilty to Murder (2 counts) and Attempted Murder (A Felony) pursuant to a Plea Agreement, which called for dismissal of CDC (A Felony) (4 counts) and Felony-Murder (2 counts), but allowed the State to seek a Death Sentence.

**Sentencing:** January 25, 1984 (Death Sentence, Death Sentence, 50 years, 50 years)

**Aggravating Circumstances:** b (1) Child Molesting  
b (3) Lying in Wait

**Mitigating Circumstances:** emotional pressure  
antisocial character disorder  
sexually abused as a prisoner in Boy's School

**Direct Appeal:** Davis v. State, 477 N.E.2d 889 (Ind. May 22, 1985) (484-S-142)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Hunter Opinion; Prentice, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: Gregory H. Hofer, LaPorte, Jere L. Humphrey, Plymouth

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Davis v. Indiana, 106 S.Ct. 546 (1985) (Cert. denied)

**PCR:** PCR Petition filed 02-11-86. Amended PCR filed 05-03-93, 08-18-93.  
State's Answer to PCR Petition filed 06-05-86.  
PCR Hearing 11-10-93, 11-12-93, 11-15-93, 11-17-93.  
Marshall Circuit Court Special Judge Marvin D. McLaughlin  
For Defendant: Eric Koselke, Ann M. Pfarr and Kenneth L. Bird, Deputy Public Defenders (Carpenter).  
For State: Thomas F. Wagner, DPA.

11-17-93 Parties file Joint Motion for Equitable Relief, accepted by Court, which vacates the death sentence, leaving intact the guilty pleas to Murder (2 Counts) and Attempted Murder (2 Counts), and the 50 year sentences for each count of Attempted Murder.

12-08-93 Following a new Sentencing Hearing, Davis was resentenced by Special Judge Marvin D. McLaughlin to consecutive terms of 60 years (Murder), 60 years (Murder), 50 years (Attempted Murder), and 50 years (Attempted Murder), for a total sentence of 220 years imprisonment.

Davis v. State, 675 N.E.2d 1097 (Ind. 1996) (50S00-9008-PD-539)  
(Appeal of PCR denial on conviction only)  
Affirmed 5-0; Shepard Opinion, Dickson, Sullivan, Selby, Boehm concur.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS OF IMPRISONMENT TOTALING 220 YEARS.

### **DAVIS, GREAGREE C. # 31 (Chijioke Bomani Ben-Yisrayl)**

OFF DEATH ROW SINCE 01-16-08  
DOB: 01-06-1962 DOC#: 13158 Black Male

Marion County Superior Court Judge Roy F. Jones

**Trial Cause #:** CR84-076E  
**Prosecutor:** David E. Cook, Brian F. Jennings  
**Defense:** Timothy L. Bookwalter

**Date of Murder:** April 2, 1984  
**Victim(s):** Debra A. Weaver W / F / 21 (Former roommate of acquaintance)

**Method of Murder:** stabbing with 2 knives 113 times (11 before death)

**Summary:** Davis was acquainted with victim's former roommate, and visited her residence many times. He had told the roommate of his sexual interest in her. He went to her unoccupied residence, broke and entered through a back window, removed the light bulbs, and waited. When the victim arrived, she called her brother and feared that an intruder may still be inside. When she hung up, Davis attacked her, tied her hands, and gagged her. Davis took her to a highway overpass, where he raped, sodomized, and stabbed her to death. The body was discovered and revealed chipped teeth, abrasions, multiple bruises on lips and gums, strangulation marks, seminal fluid in her vagina, and 113 stab wounds on the chest and abdomen. After initially claiming that he had only witnessed the crime, Davis confessed and took police to a creek where the knives were recovered. Serology from the semen showed Davis to be in the 1% of the general population with the same characteristics.



**Trial:** Information/PC for Murder and Death Penalty Filed (04-06-84); Death Sentence Request Filed (05-11-84); Jury Trial (09-24-84, 09-25-84, 09-26-84, 09-27-84, 09-28-84); Verdict (09-28-84); Court Sentencing (10-26-84).

**Conviction:** Murder, Burglary (B Felony), Confinement (B Felony), Rape (A Felony)  
Found Not Guilty of Criminal Deviate Conduct (A Felony)

**Sentencing:** October 26, 1984 (Death Sentence, 20 years, 20 years, 50 years)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Confinement  
b (1) Rape  
b (3) Lying in Wait

**Mitigating Circumstances:** no significant history of criminal conduct  
(although prior Burglary conviction and Delinquency finding)  
hung jury at DP Sentencing Hearing  
alcoholism  
confessed

Hung Jury on Death Sentence

**Direct Appeal:** Davis v. State, 598 N.E.2d 1041 (Ind. September 1, 1992) (50S00-9008-PD-539)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Debruler, Givan, Krahulik concur.  
For Defendant: Alex R. Voils, Jr., J. Murray Clark, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Davis v. Indiana, 114 S.Ct. 392 (1993) (Cert. denied)

**PCR:** 10-29-93 Defendant's Request to Refer to Him by Legal Name "Chijioke Bomani Ben-Yisrayl"  
PCR Petition filed 02-14-94. Amended PCR filed 08-17-95, 11-17-95.  
State's Answer to PCR Petition filed 03-09-94.  
PCR Hearing 01-16-96, 01-17-95, 01-18-95, 01-19-95, 01-22-95, 01-23-95, 01-24-95.  
Special Judge Cynthia S. Emkes  
For Defendant: Joanna Green, Steven Schutte.  
For State: Marc Lundy.  
05-31-96 PCR Petition granted as to death sentence, denied as to convictions.

Ben-Yisrayl v. State, 738 N.E.2d 253 (November 8, 2000) (49S00-9307-PD-826)  
(Appeal by State of the granting of PCR as to death penalty)  
(Appeal by Ben-Yisrayl of the denial of PCR as to convictions)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven H. Schutte, Joanna Green, Deputy Public Defender  
For State: James D. Dimitri, Deputy Attorney General (Modisett)  
Ben-Yisrayl v. Indiana, 122 S.Ct. 1178 (2002) (Cert. denied)

**On Remand:** On 06-27-03 Marion County Superior Court Judge Grant W. Hawkins granted a Motion to Dismiss Death Penalty, holding IC 35-50-2-9 unconstitutional on the grounds that Ring v. Arizona requires that aggravators outweigh mitigators "beyond a reasonable doubt," which our statute does not require.

State v. Ben-Yisrayl, 809 N.E.2d 309 (Ind. May 25, 2004) (49S00-0308-PD-391)  
(Interlocutory appeal by State, on transfer from the Indiana Court of Appeals, following dismissal of death penalty charges by Marion Superior Court Judge Grant W. Hawkins)  
Reversed 5-0; Opinion by Dickson; Shepard, Sullivan, Boehm, Rucker concur.  
(Rucker notes that Ring/Apprendi requires that weighing be “beyond a reasonable doubt,” but would not declare statute unconstitutional. He would simply construe the statute to implicitly require such a standard.) Remanded for reinstatement of the death penalty request.  
Ben-Yisrayl v. Indiana, 126 S.Ct. 659 (2005) (Cert. denied)

On January 16, 2008 the State withdrew the Request for Death Penalty. On January 22, 2008, Marion Superior Court #3 Judge Sheila A. Carlisle resentedenced Davis to consecutive terms of 60 years (Murder), 50 years (Rape), 20 years (Burglary), and 20 years (Confinement), for a total sentence of 150 years imprisonment.

Ben-Yisrayl v. State, 908 N.E.2d 1223 (Ind. App. July 10, 2009) (49A02-0806-CR-512)  
(Direct Appeal of 150 year sentence on remand, affirming the trial court’s sentences of 50 years (Rape), 20 Years (Confinement), and 20 years (Burglary), but reversing the trial court’s imposition of the “alternative” 60 year sentence for Murder at the original sentencing, and remanding for a new Blakely Sentencing Hearing for Murder)  
Reversed in part 3-0; Bradford Opinion; Friedlander, May Concur.  
For Defendant: Elizabeth A. Gabig, Marion County Public Defender.  
For State: Stephen R. Creason, Deputy Attorney General (Zoeller)

On remand, a new sentencing hearing in compliance with Blakely was held on February 16, 2010. The Court sentenced Davis to a 60 year sentence for Murder, consecutive to the 90 year sentences on the other charges, for a total executed sentence of 150 Years imprisonment.

Ben-Yisrayl v. State, 939 N.E.2d 130 (Ind. App. December 14, 2009) (49G03-8404-CF-5165)  
(Direct Appeal of 150 year sentence - Memorandum Decision, Not for Publication)  
Affirmed 3-0; Opinion by Brown; Darden and Bradford concur.  
For Defendant: Lisa M. Johnson, Brownsburg, IN.  
For State: Ellen H. Meilaender, Deputy Attorney General (Zoeller)  
Ben-Yisrayl v. State, 950 N.E.2d 1198 (Ind. 2011) (Transfer denied)

Ben-Yisrayl v. Wilson, 2015 U.S. Dist. LEXIS 124847 (S.D.Ind. September 18, 2015)  
United States District Court for the Southern District of Indiana, Indianapolis Division  
Judge Tanya Walton Pratt (Case No. 1:12-cv-661-TWP-MJD)  
Petition for Writ of Habeas Corpus and Certificate of Appealability denied.  
12-14-15 Motion to Alter Judgment, Motion for Reconsideration denied.  
For Defendant: Michael Ausbrook, Bloomington, IN.  
For State: Andrew A. Kobe, James Blaine Martin, Deputy Attorneys General (Zoeller).

Ben-Yisrayl v. Neal, 857 F.3d 745 (7th Cr. May 22, 2017) (No. 16-1013)  
Appeal from the United States District Court for the Southern District of Indiana, Indianapolis  
Denial of Habeas Corpus Affirmed 3-0.  
Opinion by: Sykes; Wood, Coleman concur.  
For Defendant: Michael Ausbrook, Bloomington, IN.  
For State: Andrew A. Kobe, James Blaine Martin, Deputy Attorneys General (Zoeller)

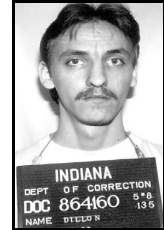
- CURRENTLY SERVING CONSECUTIVE TERMS OF IMPRISONMENT TOTALING 150 YEARS.

## **DILLON, RICHARD W. # 11**

OFF DEATH ROW SINCE 12-28-84

DOB: 12-12-1962 DOC#: 864160 White Male

Knox County Superior Court Judge Edward C. Theobald  
Venued from Pike County



**Trial Cause #:** 81-CR-10 (Pike), SCR-81-17 (Knox)

**Prosecutor:** Jerry J. McGaughey, Mark K. Sullivan, Dale P. Webster

**Defense:** Jimmy E. Fulcher

**Date of Murder:** March 8, 1981

**Victim(s):** William T. Hilborn W / M / 72; Mary H. Hilborn W / F / 65 (No relationship to Dillon)

**Method of Murder:** stabbing with knife

**Summary:** William and Mary Hilborn were found stabbed to death in their home in Petersburg. Dillon was identified by a Deputy Sheriff as near the property at the time of the murders. When questioned, Dillon said he was not in Petersburg, but was in Princeton at the home of a friend, Jay R. Thompson. The murder weapon, a knife, was later found at Thompson's car. Dillon later gave a complete confession admitting that he and Thompson had committed the Burglary and that he (Dillon) stabbed both victims. They gained entry by requesting to use the telephone. Dillon was armed with a buck knife and stabbed both Hilborns. Both men then forced Mrs. Hilborn, by holding a knife under her chin, to obtain money for them. Dillon then stabbed her again, and when she fell to the floor, cut her throat. Thompson then stabbed both victims with a folding knife to insure that both were dead. At Thompson's trial, a pathologist testified that the fatal wound to both Hilborns was made with a knife similar to the folding knife.

**Trial:** Information/PC for Murder filed (03-17-81); Amended Information for DP filed (03-23-81); Venued to Knox County (04-08-81); Appearance in Knox County (04-16-81); Voir Dire (07-13-81, 07-14-81, 07-15-81, 07-16-81); Jury Trial (07-20-81, 07-21-81, 07-22-81, 07-23-81, 07-24-81, 07-27-81, 07-28-81); Verdict (07-28-81); DP Trial (07-29-81); Verdict (07-29-81); Court Sentencing (08-21-81); Venued to Clark County after Remand (03-06-86).

**Conviction:** Felony-Murder (2 counts), Burglary (A Felony), Conspiracy to Commit Burglary (A Felony)

**Sentencing:** August 21, 1981 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (8) 2 murders

**Mitigating Circumstances:** no significant history of prior criminal conduct  
intoxication  
18 years old at time of murder

Companion Case to Thompson

**Direct Appeal:** Dillon v. State, 454 N.E.2d 845 (Ind. October 3, 1983) (282-S-67)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.  
For Defendant: Howard B. Lytton, Jr., Steven E. Ripstra, Jasper  
For State: Palmer K. Ward, Deputy Attorney General (Pearson)  
Dillon v. Indiana, 104 S.Ct. 1617 (1984) (Cert. denied)

**Habeas:** Dillon v. Duckworth, 751 F.2d 895 (7th Cir. December 28, 1984) (84-2208)  
(Appeal of Habeas denial by Judge Gene E. Brooks, U.S. District Court, Southern District of Indiana, Evansville Division)  
Writ Granted due to ineffective assistance of counsel - Counsel was appointed 4 months before trial; member of the bar only 2 1/2 years; wife filed for divorce, brother had motorcycle accident, and father had emergency heart surgery shortly before trial)  
Writ Granted 3-0; Judge Walter Cummings, Judge John L. Coffey, Judge Clement F. Haynsworth  
For Defendant: Steven E. Ripstra, Jasper  
For State: David A. Arthur, Deputy Attorney General (Pearson)  
Duckworth v. Dillon, 105 S.Ct. 2344 (1985) (Cert. denied)

**On Remand:** 03-06-86 Venued to Clark County (86-CR1-29)  
08-29-86 Dillon pled guilty to two counts of murder and was sentenced to concurrent 60 year terms of imprisonment on each count.  
For Defendant: J. Richard Kiefer, William G. Smock, Paul Levy  
For State: Jeffrey Biesterveld

- ▶ DILLON (AT 45 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON AUGUST 30, 2008, AFTER SERVING ± 27 YEARS IN CUSTODY. RECOMMITTED AFTER CONVICTION AND SENTENCE FOR POSSESSION OF MARIJUANA IN THE GIBSON COUNTY CIRCUIT COURT. (26C01-0906-FD-00051) ON OCTOBER 26, 2009. DISCHARGED ON SEPTEMBER 23, 2010.

## **DYE, WALTER L. # 89**

OFF DEATH ROW SINCE 06-29-01  
DOB: 10-02-64 DOC#: 987990 Black Male

Marion County Superior Court  
Judge Patricia J. Gifford

**Trial Cause #:** 49G04-9608-CF-112831



**Prosecutor:** Scott C. Newman, Barbara J. Trathen, Stephanie J. Schankerman  
**Defense:** John F. Crawford Jr., Carolyn W. Rader, Kimberly Devane

**Date of Murder:** July 22, 1996

**Victim(s):** Hannah Clay, B / F / 14 (wife's daughter); Celeste Jones, B / F / 7 (wife's granddaughter); Lawrence Cowherd, B / M / 2 (wife's grandson)

**Method of Murder:** Jones & Cowherd (beaten and strangled);  
Clay (beaten with pry bar, strangled, and stabbed)

**Summary:** Dye was married to Myrna Dye, who was the mother of 14 year old Hannah Clay. Following marital arguments, Myrna and Hannah moved out of the marital home. One week later while Myrna was at work, Hannah was babysitting at their new residence for her 7 year old niece (Celeste Jones) and her 2 year old nephew (Lawrence Cowherd). Dye went to the residence and brutally assaulted the children in revenge for Myrna leaving him. He had a history of violence against Myrna and had threatened Hannah. Hannah was found beaten to death with a pry bar, strangled and stabbed. The bodies of the two young children were found beaten and strangled, stuffed into garbage bags in a nearby alley.

**Trial:** Information/PC for Murder filed (08-06-96); Amended Information for DP filed (08-22-96); Voir Dire (09-02-97, 09-03-97; 09-04-97); Jury Trial (09-05-97, 09-06-97; 09-07-97, 09-08-97, 09-09-97; 09-10-97, 09-11-97, 09-12-97; 09-13-97, 09-15-97, 09-16-97; 09-17-97); Verdict (09-17-97); DP Trial (09-18-97); Verdict (09-18-97); Court Sentencing (01-20-98).

**Conviction:** Murder (3 counts)

**Sentencing:** January 20, 1998 (Death Sentence on murder of Celeste Jones; other convictions "merged")

**Aggravating Circumstances:** 3 murders

**Mitigating Circumstances:** Innocence

**Direct Appeal:** Dye v. State, 717 N.E.2d 5 (Ind. September 30, 1999) (49S00-9801-DP-55)

Conviction Affirmed 5-0      Affirmed 5-0

Boehm Opinion; Shepard, Dickson, Selby, Sullivan concur

For Defendant: Teresa D. Harper, Bloomington

For State: Janet Brown Mallett, Deputy Attorney General (Modisett)

Dye v. Indiana, 121 S.Ct. 379 (2000) (Cert. denied)

**PCR:** PCR Petition filed 09-15-00. Amended PCR filed 01-16-01, 03-15-01.

State's Answer to PCR Petition filed 10-16-00, 02-15-01.

PCR Hearing 05-14-01, 05-15-01, 05-16-01, 05-17-01, 05-21-01, 05-22-01.

Marion Superior Court Judge Patricia J. Gifford (49G04-9608-PC-112831)

For Defendant: Laura L. Volk, Kathleen Cleary, Barbara S. Blackman, Deputy Public Defenders (Carpenter)

For State: Thomas D. Perkins, Timothy W. Beam, Deputy Attorneys General, Barbara J. Trathen.

06-29-01 PCR Petition granted, vacating convictions and death sentence.

State v. Dye, 784 N.E.2d 469 (Ind. March 6, 2003) (49S00-0002-PD-112)

(State's appeal of granting of PCR on conviction and death sentence by Marion Superior Court Judge Patricia J. Gifford on grounds that juror failed to disclose information critical to defense - Affirmed.)

Conviction Reversed 5-0      DP Vacated 5-0

Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.

For Defendant: Laura L. Volk, Kathleen Cleary, Barbara S. Blackman, Deputy Public Defenders (Carpenter)

For State: Timothy W. Beam, Deputy Attorney General (S. Carter)

**On Remand:** On November 8, 2004, pursuant to a Plea Agreement, Dye pled guilty to Murder (3 Counts) and was sentenced to Life Without Parole.

▶ CURRENTLY SERVING A SENTENCE OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **EVANS, CHARLES G. # 47**

OFF DEATH ROW SINCE 09-08-92

DOB: 04-14-1959    DOC#: 865019    Black Male

Marion County Superior Court Judge John R. Barney, Jr.

**Trial Cause #:** 49G03-8510-CF-007318

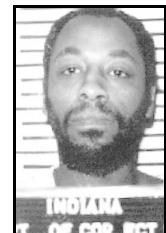
**Prosecutor:** Timothy M. Morrison, Stephen Goldsmith

**Defense:** David L. Martenet, Alex R. Voils, Jr.

**Date of Murder:** October 3, 1985

**Victim(s):** Darlene Hendrick W / F / 20 (Date, met Evans on night of murder)

**Method of Murder:** stabbing with knife 45 times



**Summary:** Evans met Darlene Hendrick, decided to purchase whiskey, and proceeded to an abandoned building. Once there, Evans pulled a knife and raped her. They then went to a Lounge for a drink, returned to the abandoned building and consumed more alcohol. Evans forced her to perform oral sex, raped her, then stabbed her 45 times, cut her hair, applied makeup to her face, and dragged her almost nude body outside. Evans then walked to a nearby phone booth, called police, and waited for them to arrive. Evans gave a complete confession before and during trial. (insanity defense)

**Trial:** Information/PC for Murder and Death Penalty Filed (10-03-85); Death Sentence Request Filed (01-24-86); Jury Trial (08-21-86, 08-22-86, 08-23-86); Verdict (08-23-86); DP Trial (08-23-86, 08-24-86, 08-25-86); DP Verdict (08-25-86); Court Sentencing (09-19-86).

**Conviction:** Murder, Felony-Murder, Rape (A Felony) (2 counts), Confinement (B Felony)

**Sentencing:** September 19, 1986 (Death Sentence, 50 years, 50 years, 20 years)

**Aggravating Circumstances:** b (1) Rape  
b (1) Criminal Deviate Conduct

**Mitigating Circumstances:** turned himself in and confessed  
intoxication  
anti-social, lonely and rejected childhood, psychopathic  
severe personality disorder; extreme emotional disturbance  
mother was alcoholic; father died when he was a teenager  
worked as male prostitute to support himself  
above average intellect

**Direct Appeal:** Evans v. State, 563 N.E.2d 1251 (Ind. December 7, 1990) (49S00-8704-CR-453)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Pivarnik, Dickson concur; Debruler, Shepard dissent.  
For Defendant: Theodore M. Sosin, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Evans v. State, 598 N.E.2d 516 (Ind. September 8, 1992) (49S00-8704-CR-453)  
(On Rehearing, DP Vacated 3-2 with instructions to impose 60 year sentence - Personality disorder should have been considered as mitigating; aggravators do not preponderate)  
Debruler Opinion; Shepard, Krahulik concur; Givan, Dickson dissent.  
For Defendant: Theodore M. Sosin, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** 12-08-92 Pursuant to Indiana Supreme Court Opinion, Evans was resentenced by Marion County Superior Court Judge John R. Barney to consecutive terms of 60 years (Murder), 50 years (Rape - A Felony), 50 years (Rape - A Felony), 20 years (Confinement - B Felony), for a total sentence of 180 years imprisonment.  
For Defendant: David L. Martenet, Indianapolis  
For State: Lawrence O. Sells

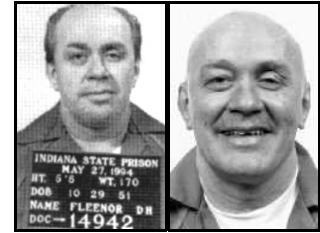
▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 180 YEARS IMPRISONMENT.

## **FLEENOR, D. H. # 25**

EXECUTED BY LETHAL INJECTION 12-09-99 1:37 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 10-29-1951 DOC#: 14942 White Male

Johnson County Circuit Court Judge Larry J. McKinney  
Venued from Jefferson County  
**Trial Cause #:** 1367 (Jefferson County), 8954 (Johnson County)



**Prosecutor:** Merritt K. Alcorn, Wilmer E. Goering II, Robert C. Shook  
**Defense:** Ted R. Todd, Larry D. Combs

**Date of Murder:** December 12, 1982

**Victim(s):** Nyla Jean Harlow W / F / 49 (Mother-In-Law); William J. Harlow W / M / 58 (Husband of Mother-In-Law)

**Method of Murder:** shooting with .22 handgun

**Summary:** Fleenor went to an evening church service attended by his estranged wife, Sandra Sedam, and her parents, Bill and Nyla Harlow. He stayed briefly, then left. When Sandra and her parents returned to their home, Fleenor appeared in the hallway and immediately shot Bill with a .22 he purchased earlier in the day. Fleenor ordered Sandra, her mother, and 3 grandchildren to sit on the couch. He allowed Nyla to go to her husband. As Nyla assisted Bill on the floor, Fleenor shot her in the head. He ordered Sandra and the kids to carry her body to the bedroom. He forced Sandra to drive to her brother's home to tell him they would be out of town for a few days, then returned to the Harlow home. Bill was still alive and asked about his wife. Fleenor said, "I can't let him suffer" and shot him dead. The next morning, Fleenor fled to Tennessee with Sandra and the children in tow.

**Trial:** Information for Murder filed/PC Hearing (12-20-82); Change of Venue Ordered (03-17-83); Voir Dire (11-07-83; 11-09-83, 11-10-83, 11-14-83; 11-15-83, 11-16-83,); Jury Trial (11-17-83; 11-21-83, 11-23-83, 11-28-83; 11-29-83, 11-30-83 12-01-83); Deliberations 3 hours, 55 minutes; Verdict (12-01-83); DP Trial (12-05-83, 12-06-83); Deliberations 8 hours, 5 minutes; Verdict (12-06-83); Court Sentencing (01-04-84).

**Conviction:** Murder, Murder, Burglary

**Sentencing:** January 4, 1984 (Death Sentence; no sentence entered for Burglary)

**Aggravating Circumstances:** b (1) Burglary  
b (3) Lying in Wait  
b (8) 2 murders

**Mitigating Circumstances:** history of alcohol abuse  
stepfather abused him in formative years  
low intelligence; IQ 80-90  
low tolerance for stress  
continuous depression  
turbulent childhood  
antisocial personality disorder  
reckless with poor judgment control

remorseful  
he could lead a useful and productive life in prison  
he was kind to children

**Direct Appeal:** Fleenor v. State, 514 N.E.2d 80 (Ind. October 13, 1987) (1184-S-458)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Louis E. Ransdell, Deputy Attorney General (Pearson)  
Fleenor v. Indiana, 109 S.Ct. 189 (1988) (Cert. denied)

**PCR:** 11-04-88 Defendant files Motion for Stay of Execution Pending PCR Petition.  
PCR Petition filed 01-30-89. Amended PCR filed 09-29-89, 04-03-90.  
State's Answer to PCR Petition filed 02-23-89, 10-19-89.  
PCR Hearing 01-16-90, 03-09-90, 05-10-90, 05-11-90, 10-10-90.  
Special Judge Mark Lloyd  
For Defendant: F. Thomas Schornhorst, Bloomington, Brent L. Westerfeld, Indianapolis  
For State: Merritt K. Alcorn  
02-12-91 PCR Petition denied.

Fleenor v. State, 622 N.E.2d 140 (Ind. 1993) (41S00-9106-PD-433)  
(Appeal of PCR denial by Special Judge Mark Lloyd)  
Conviction Affirmed 5-0 Affirmed 5-0  
DeBruler Opinion; Shepard, Givan, Dickson, Krahulik concur.  
For Defendant: F. Thomas Schornhorst, Bloomington, Brent L. Westerfeld, Indianapolis  
For State: Louis E. Ransdell, Deputy Attorney General (Pearson)  
Fleenor v. Indiana, 115 S.Ct. 507 (1994) (Cert. denied)

**Habeas:** Notice of Intent to file Petition for Writ of Habeas Corpus filed 04-28-94.  
Petition for Writ of Habeas Corpus filed 08-22-94 in U.S. District Court, Southern District of Indiana.  
D.H. Fleenor v. Ron Anderson, Superintendent (IP 94-C-0717-H/G)  
Judge David Hamilton  
For Defendant: Alan M. Freedman, Chicago, IL, Carol R. Heise, Evanston, IL  
For State: Randall Koester, Geoff Davis, Deputy Attorneys General (P. Carter)

02-13-95 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-25-95 Petitioner files Findings of Fact, Conclusions of Law for Writ of Habeas Corpus.  
02-02-98 Petition for Writ of Habeas Corpus denied.  
06-05-03 Certificate of Probable Cause for Appeal granted.

Fleenor v. Farley, 47 F.Supp.2d 1021 (S.D. Ind. February 2, 1998) (IP 94-717-C-H/G)  
(Petition for Habeas Writ denied by Judge David Hamilton)

Fleenor v. Anderson, 171 F.3d 1096 (7th. Cir. 1999) (98-1916)  
(Appeal of denial of Habeas Writ)  
Affirmed 2-1; Judge Richard A. Posner, Judge John L. Coffey ; Judge Kenneth F. Ripple dissents.  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
Fleenor v. Anderson, 120 S.Ct. 215 (October 4, 1999) (Cert. denied)  
Fleenor v. Anderson, 120 S.Ct. 211 (October 10, 1999) (Cert. denied)

Fleenor v. State, 718 N.E.2d 752 (Ind. October 25, 1999)  
(Order setting date for execution of death sentence)

Schornhorst v. Anderson, 77 F.Supp.2d 944 (S.D. Ind. December 7, 1999)

(Petition to stay execution on grounds of incompetence filed by former attorneys, denied by Judge David Hamilton)

Fleenor v. Anderson, 120 S.Ct. 611 (December 8, 1999)

(Stay of execution denied) (Cert. denied)

FLEENOR WAS EXECUTED BY LETHAL INJECTION ON 12-09-99 1:37 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 77TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 7TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **GAMES, JAMES # 29**

OFF DEATH ROW SINCE 08-31-95

DOB: 07-22-1964 DOC#: 13156 White Male

Marion County Superior Court Judge John W. Tranberg

**Trial Cause #:** 49G01-8307-CF-004134

**Prosecutor:** David E. Cook

**Defense:** Grant Hawkins



**Date of Murder:** July 14, 1983

**Victim(s):** Thomas Ferree W / M / 42 (Acquaintance of Games)

**Method of Murder:** stabbing and bludgeoning with knife, meat cleaver and fireplace poker.

**Summary:** Games and his 14 year old accomplice, Earl Tillberry, agreed upon a scheme to lure Thomas Ferree into taking them to his home, where they would tie him up, knock him out, and steal his stereo and car. Ferree was a homosexual who anticipated sexual favors from Games and Tillberry. Once at Ferree's home, he invited Tillberry upstairs to take a shower with him. Games told Tillberry to consent and to stab him on the stairs. Tillberry did so, and when Ferree fell, Games then attacked him, stabbing him with the same knife. Then with an assortment of knives, a meat cleaver, and fireplace poker provided by Tillberry, Games continued to stab and bludgeon Ferree. They took the victim's car and fled, Ferree died as a result of the multiple stab wounds. Tillberry was the star witness for the State at trial, pled guilty, and received a 55 year sentence.

**Trial:** Information/PC for Murder filed (07-18-83); Information for DP filed (10-11-83); Sentencing (04-05-84).

**Conviction:** Murder, Robbery (A Felony), Conspiracy to Commit Robbery (C Felony),  
Conspiracy to Commit Battery (C Felony)

**Sentencing:** April 5, 1984 (Death Sentence), 30 years, 5 years, 5 years.

**Aggravating Circumstances:** b(1) Robbery

**Mitigating Circumstances:** 18 years old at the time of the murder  
minimal prior criminal record  
paltry education  
unstable family life

consumed alcohol and marijuana on day of murder  
remorse over killings  
voluntarily surrendered to police  
alcohol and drug abuse as teenager  
father was abusive alcoholic prone to violence

**Direct Appeal:** Games v. State, 535 N.E.2d 530 (Ind. March 14, 1989) (185-S-7)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: George K. Shields, Indianapolis  
For State: Louis E. Ransdell, Deputy Attorney General (Pearson)  
Games v. Indiana, 110 S.Ct. 205 (1989) (Cert. denied)  
Games v. Indiana, 110 S.Ct. 523 (1989) (Reh. denied)

**PCR:** PCR Petition filed 10-11-90. Amended PCR filed 03-06-95, 03-29-95.  
State's Answer to PCR Petition filed 10-22-90.  
Hearing 03-27-95, 03-28-95, 03-29-95, 03-30-95, 04-03-95, 04-05-95.  
Special Judge James R. Detamore  
For Defendant: J. Michael Sauer, Marie Donnelly  
For State: John V. Commons, Frank A. Gleaves, Marc E. Lundy  
08-31-94 Defendant files Motion for Summary Judgment as to Death Sentence.  
09-05-95 PCR Petition granted as to death sentence, denied with respect to convictions.  
10-28-96 Court requires State to elect between new DP Phase or new Sentencing Hearing.

Games v. State, 684 N.E.2d 466 (Ind. July 22, 1997) (49S00-9002-PD-114)  
(Appeal of PCR denial by Special Judge James R. Detamore with respect to convictions; State did not appeal granting of PCR with respect to Death Sentence due to ineffective assistance of counsel)  
Affirmed 5-0, except that Conspiracy to Battery conviction vacated  
Remanded for new DP Sentencing Hearing.  
Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: Michael Sauer, Marie F. Donnelly, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Games v. State, 690 N.E.2d 211 (Ind. 1997) (49S00-9002-PD-114)  
(On Rehearing; Affirmed 5-0, Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur - granted solely to clarify proper appellate standard for review of ineffective assistance claims)  
For Defendant: Michael Sauer, Marie F. Donnelly, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Games v. Indiana, 119 S.Ct. 98 (1998) (Cert. denied)

**On Remand:** Marion County Superior Court Tonya Walton Pratt  
02-18-99 Plea Agreement filed. (Open plea, 60 to 118 years imprisonment)  
05-17-99, 05-18-99 Guilty Plea Hearing  
06-15-99 Defendant sentenced to 60 years for Murder, 50 years for Robbery (A Felony), and 8 years for Conspiracy to Commit Robbery (C Felony), with Murder and Robbery sentences to run consecutively for a total of 110 years imprisonment.  
For Defendant: Joseph M. Cleary, Robert Hill  
For State: Barbara J. Trathen, Marc E. Lundy

Games v. State, 743 N.E.2d 1132 (Ind. March 20, 2001) (49S00-9908-CR-447)  
(Direct appeal of sentencing - Affirmed)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 110 YEARS IMPRISONMENT.

## **GIBSON, WILLIAM CLYDE, III #107**

ON DEATH ROW SINCE 11-26-13  
DOB: 10-10-57 DOC#: 169605 White Male

Floyd County Superior Court #1 Judge Susan L. Orth  
Jurors Selected from Dearborn County

**Trial Cause #:** 22D01-1204-MR-000919  
**Prosecutor:** Keith A. Henderson, Steven L. Owen  
**Defense:** John Patrick Biggs, George A. Strieb, Andrew Adams

**Date of Murder:** April 18, 2012  
**Victim(s):** Christine Whitis W / F / 75 (Friend of Mother)

**Method of Murder:** Manual Strangulation



**Summary:** Gibson confessed to the murder of three women. 75 year old Christine Whitis was a close friend of Gibson's mother, who died in 2012. According to Gibson, she had even babysat him as a child. On April 18, 2012, Gibson called her, saying that he was still grieving over his mother's death and wanted to talk. Whitis came to the home. When she resisted Gibson's sexual advances, he strangled her with his hands. He removed her clothing, beat her, fondled her genitals, and penetrated her forcefully with his fist. He bit and chewed at her vaginal area causing abrasions. He then drug her to his attached garage and severed her breast, putting it in the minivan that she had driven to his home. It is unknown exactly at what point during this ordeal that she died. The following day, Gibson's sisters came to the home, discovered the body, and called police. Hours later, Gibson was arrested in the Whitis minivan in the parking lot at Walmart. The breast of Christine Whitis was found in the console. Following a jury trial, Gibson was found guilty as charged in less than 20 minutes. The jury recommended death and he was sentenced accordingly.

Based upon Gibson's confession, Investigators dug in the backyard of his home and discovered the body of 35 year old Stephanie Kirk in a shallow grave, clad only in a torn bra and vest. According to Gibson, in 2012 he and Stephanie Kirk had spent the evening drinking at local bars, taking pills and returned to his home, where they had sex. After an argument over pills, Gibson strangled her to death with his hands. He then drug the body into the garage and two days later buried her in his backyard. An autopsy revealed a broken back. At trial, Gibson unexpectedly pled guilty during jury selection, waived a jury for the penalty phase, and was sentenced to death.

Based upon Gibson's confession, he was also charged with the murder of 44 year old Karen Hodella, a Clarksville hairdresser whose body was recovered from the Ohio River in Clarksville in 2003. Gibson claimed to have met Hodella in a New Albany bar, and stabbed her to death in October 2002. Gibson entered a guilty plea to her Murder and was sentenced to 65 years imprisonment.

Gibson had 10 prior felony convictions which included Assault, Sexual Abuse, and Robbery. He gained some notoriety for showing up during pretrial hearings with a new tattoo on the back of his shaved head "Death Row X3," apparently obtained in the Department of Corrections, where he had been held for safekeeping. Gibson wanted everyone to know that he was facing 3 death sentences. Judge Orth ordered him to have no haircuts before trial.

**Trial:** Information/Affidavit filed (04-12-12), Competency Hearing (10-12-12), Insanity Defense Filed (07-31-13), Motion to Dismiss Hearing (09-06-13), Voir Dire (09-23-13, 09-24-13, 09-25-13, 09-26-13), Jury Trial (10-21-13, 10-22-13, 10-23-13, 10-24-13, 10-25-13), Deliberations (17 minutes), Verdict (10-25-13), DP Trial (10-28-13, 10-29-13), Deliberations, DP Verdict (10-29-13), Habitual Trial and Verdict (10-30-13), (Sentencing (11-26-13).

**Conviction:** Murder  
Habitual Offender (Trifurcated Trial)

**Sentencing:** November 26, 2013 (Death Sentence)

**Aggravating Circumstances:** b (1) Criminal Deviate Conduct  
b (1) Criminal Deviate Conduct  
b (10) Dismemberment  
b (9)(C) On Probation

**Mitigating Circumstances Raised:** Extreme Emotional Disturbance / Mental Illness / Bipolar Disorder  
Intoxication / Alcoholism / Drug and Alcohol Abuse  
Remorse / Confession  
Death of Mother  
Dysfunctional Childhood  
Friendly with Neighbors  
Good behavior in prior incarceration

**Direct Appeal:** Gibson v. State, 43 N.E.3d 231 (Ind. September 24, 2015) (22S00-1206-DP-359)  
Direct Appeal (Victim Christine Whitis)  
Floyd County Superior Court #1 (22D01-1204-MR-919).  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Massa Opinion; Rush, Dickson, Rucker, David concur.  
For Defendant: Steven E. Ripstra, Jasper, Indiana; Laura Paul, Indianapolis, Indiana.  
For State: Andrew A. Kobe, Henry A. Flores, Jr., Deputy Attorneys General (Zoeller)  
Gibson v. Indiana, 137 S. Ct. 54 (Oct. 3, 2016) (Cert. denied)

**PCR:** William Clyde Gibson, III v. State of Indiana  
Floyd County Superior Court #1, Judge Susan L. Orth  
PCR Evidentiary hearings consolidated by agreement:  
Case No. 22D01-1606-PC-4 (Victim Christine Whitis)  
Case No. 22D01-1701-PC-1 (Victim Stephanie Kirk)  
Case No. 22D01-1703-PC-4 Victim Karen Hodella)

Case No. 22D01-1606-PC-000004 (Victim Christine Whitis)  
01/20/17 Petition for Post-Conviction Relief Filed.  
01/27/17 Answer Filed.  
03/13/17 State's Motion to Answer Interrogatories, Request for Production filed.  
01/29/17 and 05/11/17 Amended Petitions for Post-Conviction Relief Filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 133 N.E.3d 673 (Ind. October 24, 2019)  
(22S00-1601-PD-00009, 22S00-1608-PD-00411)  
PCR Appeal from the Floyd County Superior Court  
(22D01-1606-PC-4 and 22D01-1701-PC-00001 consolidated PCR hearing and appeal).  
Judge Susan L. Orth. (Victims Christine Whitis and Stephanie Kirk)

(This matter comes before the Court upon Petitioner William Clyde Gibson, III's petitions for post-conviction relief as amended in Cause Numbers 22D01-1606-PC-4, 22D01-1701-PC-1, and 22D01-1703-PC-4. By agreement of the parties, the Court held a consolidated evidentiary hearing under all three causes commencing on July 17, 2017, and concluding on July 21, 2017.)

Denial of PCR; Conviction Affirmed 4-0      DP Affirmed 4-0.  
Massa Opinion; Rush, David, Goff concur. Slaughter not participating.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Steven Schutte, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Tyler G. Banks, Andrew A. Kobe, Kelly A. Loy, Denise A. Robinson, Deputy Attorneys General (Hill)

Gibson v. State, 2020 Ind. LEXIS 93 (Ind., Feb. 3, 2020) (Rehearing denied)  
Gibson v. State, 2020 Ind. LEXIS 94 (Ind., Feb. 3, 2020) (Rehearing denied)  
Gibson v. Indiana, 141 S. Ct. 553 (Oct. 13, 2020) (Cert. denied)  
Gibson v. Indiana, 141 S. Ct. 553 (Oct. 13, 2020) (Cert. denied)

**§ 1983:** Gibson v. Floyd County Jail, Floyd County Sheriff  
U.S. District Court for the Southern District of Indiana (Case 4:03-cv-00108-DFH-WGH)  
(Civil Rights lawsuit for damages against Floyd County Jail/Sheriff for inhumane, unsanitary, and overcrowded conditions, and failure to provide appropriate medications for his mental condition. Complaint Filed 05/23/03 - Summary Judgment and Dismissal with prejudice granted 08/16/04 by Judge David F. Hamilton for Defendants.)

**PCR:** Case No. 22D01-1703-PC-000004 (Victim Karen Hodella)  
Floyd County Superior Court #1 Judge Susan L. Orth.  
01/20/17 Petition for Post-Conviction Relief Filed.  
01/27/17 Answer Filed.  
03/13/17 State's Motion to Answer Interrogatories, Request for Production filed.  
01/29/17 and 05/11/17 Amended Petitions for Post-Conviction Relief Filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 107 N.E.3d 1115 (Ind. App. Unpub. July 16, 2018) (22A01-1711-PC-2528)  
(In case #22D01-1205-MR-001144 Gibson pled guilty pursuant to a Plea Agreement to the murder of KAREN HODELLA, and on 04-17-14 was sentenced to 65 years imprisonment. He then filed a PCR and appeals the denial of that petition by Floyd County Superior Court #1 Judge Susan L. Orth.)  
Conviction Affirmed 3-0, 65 yr sentence Affirmed.  
Opinion by Altice; Robb and Brown concur.  
For Defendant: Joanna L. Green, Laura L. Volk, Deidre R. Eltzroth, Lindsay Van Gorkom, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Hill)  
Gibson v. State, 137 N.E.3d 924 (Ind., Oct. 24, 2019) (Transfer denied)

- PENDING PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA.

## **GIBSON, WILLIAM CLYDE, III #108**

ON DEATH ROW SINCE 11-26-13

DOB: 10-10-57 DOC#: 169605 White Male

Floyd County Superior Court #1 Judge Susan L. Orth  
Jurors Selected from Vanderburg County

**Trial Cause #:** 2201-1205-MR-001145

**Prosecutor:** Keith A. Henderson, Steven L. Owen

**Defense:** John Patrick Biggs, Andrew Adams

**Date of Murder:** March 25, 2012

**Victim(s):** Stephanie Kirk W / F / 35 (Acquaintance)

**Method of Murder:** Manual Strangulation



**Summary:** Gibson confessed to the murder of three women. 75 year old Christine Whitis was a close friend of Gibson's mother, who died in 2012. According to Gibson, she had even babysat him as a child. On April 18, 2012, Gibson called her, saying that he was still grieving over his mother's death and wanted to talk. Whitis came to the home. When she resisted Gibson's sexual advances, he strangled her with his hands. He removed her clothing, beat her, fondled her genitals, and penetrated her forcefully with his fist. He bit and chewed at her vaginal area causing abrasions. He then drug her to his attached garage and severed her breast, putting it in the minivan that she had driven to his home. It is unknown exactly at what point during this ordeal that she died. The following day, Gibson's sisters came to the home, discovered the body, and called police. Hours later, Gibson was arrested in the Whitis minivan in the parking lot at Walmart. The breast of Christine Whitis was found in the console. Following a jury trial, Gibson was found guilty as charged in less than 20 minutes. The jury recommended death and he was sentenced accordingly.

Based upon Gibson's confession, Investigators dug in the backyard of his home and discovered the body of 35 year old Stephanie Kirk in a shallow grave, clad only in a torn bra and vest. According to Gibson, in 2012 he and Stephanie Kirk had spent the evening drinking at local bars, taking pills and returned to his home, where they had sex. After an argument over pills, Gibson strangled her to death with his hands. He then drug the body into the garage and two days later buried her in his backyard. An autopsy revealed a broken back. At trial, Gibson unexpectedly pled guilty during jury selection, waived a jury for the penalty phase, and was sentenced to death.

Based upon Gibson's confession, he was also charged with the murder of 44 year old Karen Hodella, a Clarksville hairdresser whose body was recovered from the Ohio River in Clarksville in 2003. Gibson claimed to have met Hodella in a New Albany bar, and stabbed her to death in October 2002. Gibson entered a guilty plea to her Murder and was sentenced to 65 years imprisonment.

Gibson had 10 prior felony convictions which included Assault, Sexual Abuse, and Robbery. He gained some notoriety for showing up during pretrial hearings with a new tattoo on the back of his shaved head "Death Row X3," apparently obtained in the Department of Corrections, where he had been held for safekeeping. Gibson wanted everyone to know that he was facing 3 death sentences. Judge Orth ordered him to have no haircuts before trial.

**Trial:** Information Filed (05-23-12), PC Affidavit Filed (05-24-12), Change of Venue Hearing (09-28-12), Amended Information Filed (04-07-14), Motions Hearing Held (05-21-14), Voir Dire in Vanderburgh County (06-02-14, 06-03-14), Plea Agreement Filed (06-03-14), Amended Information Filed (06-03-14), DP Trial (07-28-14, 07-29-14, 07-30-14, 07-31-14), Sentencing Briefs Filed (08-07-14), Amended Information Filed (08-13-14), Sentencing (08-15-14).

**Conviction:** Guilty Plea to Murder, during jury selection at trial; Waived jury / Open Sentencing to the Court.

**Sentencing:** August 15, 2014 (Death Sentence)

**Aggravating Circumstances:** b (1) Criminal Deviate Conduct  
b (1) Criminal Deviate Conduct  
b (7) Convicted of Another Murder (Whitis)  
b (9)(B) On Probation

**Mitigating Circumstances Raised:** Extreme Emotional Disturbance / Mental Illness / Bipolar Disorder  
Traumatic Brain Injury  
Intoxication / Alcoholism / Drug and Alcohol Abuse  
Remorse / Confession  
Death of Mother  
Dysfunctional Childhood  
Friendly with Neighbors  
Good behavior during prior incarceration

**Direct Appeal:** Gibson v. State, 51 N.E.3d 204 (Ind. April 12, 2016) (22S00-1206-DP-00360)  
Direct Appeal (Victim Stephanie Kirk)  
Floyd County Superior Court #1 (22D01-1205-MR-1145).  
Conviction Affirmed 5-0 DP Affirmed 5-0.  
Rush Opinion; Dickson, Rucker, David, Massa concur.  
For Defendant: Steven E. Ripstra, Jasper, Indiana; Laura Paul, Indianapolis, Indiana.  
For State: Andrew A. Kobe, Deputy Attorney General (Zoeller)  
Gibson v. State, 2016 Ind. LEXIS 479 (Ind. June 29, 2016) (Reh. denied)  
Gibson v. Indiana, 137 S. Ct. 1082 (Feb. 21, 2017) (Cert. denied).

**PCR:** Case No. 22D01-1606-PC-000004 (Victim Stephanie Kirk)  
Floyd County Superior Court #1 Judge Susan L. Orth.  
01/20/17 Petition for Post-Conviction Relief Filed.  
01/27/17 Answer Filed.  
03/13/17 State's Motion to Answer Interrogatories, Request for Production filed.  
05/12/17 Amended Petition for Post-Conviction Relief Filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 133 N.E.3d 673 (Ind. October 24, 2019)  
(22S00-1601-PD-00009, 22S00-1608-PD-00411)  
PCR Appeal from the Floyd County Superior Court  
(22D01-1606-PC-4 and 22D01-1701-PC-00001 consolidated PCR hearing and appeal).  
Judge Susan L. Orth. (Victims Christine Whitis and Stephanie Kirk)

(This matter comes before the Court upon Petitioner William Clyde Gibson, III's petitions for post-conviction relief as amended in Cause Numbers 22D01-1606-PC-4, 22D01-1701-PC-1, and 22D01-1703-PC-4. By agreement of the parties, the Court held a consolidated evidentiary hearing under all three causes commencing on July 17, 2017, and concluding on July 21, 2017.)

Denial of PCR; Conviction Affirmed 4-0 DP Affirmed 4-0.  
Massa Opinion; Rush, David, Goff concur. Slaughter not participating.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Steven Schutte, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Tyler G. Banks, Andrew A. Kobe, Kelly A. Loy, Denise A. Robinson, Deputy Attorneys General (Hill)

**PCR:** Case No. 22D01-1703-PC-000004 (Victim Karen Hodella)  
Floyd County Superior Court #1 Judge Susan L. Orth.  
03/31/17 Petition for Post-Conviction Relief Filed.  
05-12-17 Motion to Consolidate filed, Granted 06-06-17.  
05/12/17 Amended Petition for Post-Conviction Relief Filed.  
07/05-17 State's Answer to Amended Petition filed.  
07/17-21/17 PCR Evidentiary Hearing.  
08/30/17 Petitioner's Proposed Findings of Fact and Conclusions.  
09/11/17 Respondent's Proposed Findings of Fact and Conclusions filed.  
10/06/17 Findings of Fact, Conclusions and Order Entered denying PCR.  
For Defendant: Deidre R. Eltzroth, Joanna L. Green, Lindsay C. Van Gorkom, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Zoeller)

Gibson v. State, 107 N.E.3d 1115 (Ind. App. Unpub. July 16, 2018) (22A01-1711-PC-2528)  
(In case #22D01-1205-MR-001144 Gibson pled guilty pursuant to a Plea Agreement to the murder of KAREN HODELLA, and on 04-17-14 was sentenced to 65 years imprisonment. He then filed a PCR and appeals the denial of that petition by Floyd County Superior Court #1 Judge Susan L. Orth.)  
Conviction Affirmed 3-0, 65 yr sentence Affirmed.  
Opinion by Altice; Robb and Brown concur.  
For Defendant: Joanna L. Green, Laura L. Volk, Deidre R. Eltzroth, Lindsay Van Gorkom, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Hill)  
Gibson v. State, 137 N.E.3d 924 (Ind., Oct. 24, 2019) (Transfer denied)

- ▶ PENDING PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA.

## **HARRIS, JAMES ALLEN # 28**

OFF DEATH ROW SINCE 03-05-92  
DOB: 10-27-1954 DOC#: 9581 Black Male

Marion County Superior Court Judge John W. Tranberg

**Cause #:** 49G01-8307-CF-004233

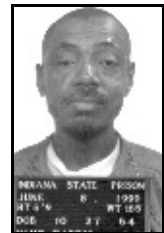
**Prosecutor:** Timothy M. Morrison, Michael T. Conway

**Defense:** L. Craig Turner

**Date of Murder:** March 28, 1983

**Victim(s):** Jane Brumblay W / F / 31 (No relationship to Harris)

**Method of Murder:** manual strangulation



**Summary:** Harris confronted Jane Brumblay as she was preparing to get into her car parked in the Glendale Shopping Mall. Brumblay was startled and threatened to report Harris, who promptly overpowered her, and forced her into her car. Harris removed her pantyhose and tied her hands, then drove to a movie theater lot and raped her more than once. Brumblay began to struggle and Harris choked her with her scarf until she was semi-conscious. He then placed the scarf in her mouth and drove to Broad Ripple Park. The victim had by this time swallowed part of the scarf and had stopped breathing. Harris placed her body in the trunk and abandoned the car. The pathologist testified that Brumblay died as a result of manual strangulation, not the scarf.

**Trial:** Information/PC for Murder and Death Penalty Filed (07-14-83); Death Sentence Request Filed (08-01-83); Guilty Plea (11-30-83); Plea Accepted (12-15-83); DP Sentencing Hearing (01-18-83, 01-19-83); Court Sentencing (02-10-84).

**Conviction:** Harris pled Guilty But Mentally Ill to Murder, Kidnapping, and Rape

**Sentencing:** February 10, 1984 (Death Sentence)

**Aggravating Circumstances:** b (1) Rape  
b (1) Kidnapping

**Mitigating Circumstances:** suffering from a psychiatric disorder which substantially disturbed his thinking, feeling, and behavior; extreme emotional disturbance

**Direct Appeal:** Harris v. State, 499 N.E.2d 723 (Ind. November 5, 1986) (784-S-270)

**Conviction Affirmed 5-0 DP Affirmed 4-1**

Pivarnik, Opinion; Givan, Shepard, Dickson concur; Debruler dissents.

For Defendant: Kenneth M. Stroud, Michael T. Conway, L. Craig Turner, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Harris v. Indiana, 107 S.Ct. 2490 (1987) (Cert. denied)

**PCR:** PCR Petition filed 10-03-90. Amended PCR filed 09-30-91.

State's Answer to PCR Petition filed 10-16-91.

PCR Hearing (02-24-92, 02-25-92, 02-26-92, 02-27-92, 02-28-92, 03-03-92, 03-04-92, 03-05-92)

Marion County Superior Court Judge Paula E. Lapossa

For Defendant: Kathleen Little, Lorinda Youngcourt, Rhonda Long-Sharp.

For State: John V. Commons, Frank A. Gleaves

03-05-92 Joint Petition to End Litigation While Insuring that Petitioner is Never Released From Prison

03-05-92 Defendant pled guilty to Murder, Kidnapping (A Felony), and Rape (A Felony), and is sentenced to consecutive terms of 60 years, 50 years, 50 years for a total of 160 years imprisonment.

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 160 YEARS IMPRISONMENT.

## **HARRISON, JAMES PATRICK # 70**

OFF DEATH ROW SINCE 01-22-04

DOB: 11-09-1949 DOC#: 913713 White Male

Posey County Circuit Court Judge James M. Redwine

**Trial Cause #:** 65CO1-9104-CF-00008

**Prosecutor:** Kimberley Kelley Mohr, Trent Van Haaften

**Defense:** Ronald Warrum, Thomas M. Swain

**Date of Murder:** January 17, 1989

**Victim(s):** Stacey Forsee W / F / 20 (Acquaintance from church);

Tia Forsee W / F / 3 and Jordan Hanmore, W / M / 21mo (Children of Stacey)

**Method of Murder:** stabbing w/ knife (Stacey); fire burns (Tia); smoke inhalation (Jordan)

**Summary:** Harrison met Stacey Forsee at church. An arson fire burned down the Forsee home containing the bodies of Stacey and her 2 children, Tia Forsee and Jordan Hanmore. Stacey had been stabbed to death and semen was found in her mouth. Evidence at trial showed that Harrison often



carried a hunting knife and was seen near the fire scene before fire trucks arrived; that the fire was started by a flammable liquid and Harrison had purchased kerosene several days before the murders; and that Harrison confessed to a fellow jail inmate. Charges were not filed until 2 years after the fire. Harrison was arrested and returned from Maryland. Harrison has prior convictions of Involuntary Manslaughter (1972) and Murder (1973) in Virginia.

**Trial:** Information/PC for Murder and DP filed (04-18-91); Amended Information filed (06-12-91, 10-04-91); Voir Dire (11-06-91); Jury Trial (11-06-91; 11-07-91, 11-08-91, 11-09-91; 11-11-91, 11-12-91); Deliberations over 3 days; Verdict (11-14-91); Habitual Sentencing Hearing (11-14-91); DP Trial (11-15-91); Verdict (11-15-91); Court Sentencing (12-14-91).

**Conviction:** Knowing Murder of Tia, Felony-Murder of Jordan, Arson, Habitual Offender  
Found Not Guilty of the Knowing Murder of Stacey

**Sentencing:** December 14, 1991 (Death Sentence (Tia) Death Sentence (Jordan))

**Aggravating Circumstances:** b (12) 2 victims less than 12 years old  
b (1) Arson (Jordan);  
b (7) 1973 Murder Conviction

**Mitigating Circumstances:** wounded in Vietnam  
suffered emotional, physical and sexual abuse as a child  
56 years old after remand  
evidence not overwhelming

**Direct Appeal:** Harrison v. State, 644 N.E.2d 1243 (Ind. January 4, 1995) (65S00-9105-DP-380)  
Conviction Affirmed 5-0 DP Remanded for more specific Sentencing Order 5-0  
Sullivan Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: William H. Bender, Poseyville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Harrison v. State, 659 N.E.2d 480 (Ind. 1995) (65S00-9105-DP-380)  
(Direct Appeal after remand and more specific sentencing order entered)  
DP Affirmed 5-0; Sullivan Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: William H. Bender, Poseyville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Harrison v. Indiana, 117 S.Ct. 307 (1996) (Cert. denied)

**PCR:** 05-08-96 Petitioner files Notice of Intent to File PCR Petition.  
PCR Petition filed 10-01-96. Amended PCR filed 11-01-96, 01-02-97, 02-07-97.  
State's Answer to PCR Petition filed 11-19-96, 01-16-97, 02-24-97.  
Hearing 03-03-97, 03-04-97, 03-05-97, 03-06-97.  
Posey Circuit Court Judge James M. Redwine  
For Defendant: Thomas C. Hinesley, Joanna Green, Robert E. Lancaster, Deputy Public Defenders.  
For State: Geoff Davis, Robert L. Collins, Deputy Attorneys General (P. Carter), Trent Van Haaften.  
05-29-97 PCR Petition denied.  
Harrison v. State, 707 N.E.2d 767 (Ind. 1999) (65S00-9605-PD-318)  
(Appeal of PCR denial by Judge James M. Redwine)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Thomas C. Hinesley, Joanna Green, Robert E. Lancaster, Deputy Public Defenders  
For State: Priscilla J. Fossum, Deputy Attorney General (Modisett)  
Harrison v. Indiana, 120 S.Ct. 1722 (2000) (Cert. denied)

**Habeas:** 02-17-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana. James P. Harrison v. Rondle Anderson, Superintendent (IP 99-C-0933-B/S)  
Judge Sarah Evans Barker  
For Defendant: Joseph M. Cleary, Indianapolis, IN  
For State: Priscilla J. Fossum, Deputy Attorney General (S. Carter)

07-27-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
11-17-00 Petitioner files Findings of Fact, Conclusions of Law for Writ of Habeas Corpus.  
10-08-02 Evidentiary Hearing granted on claim of judicial bias.  
01-22-04 Petition for Writ of Habeas Corpus granted as to conviction and sentence.  
02-12-04 Notice of Appeal filed by State.

Harrison v. Anderson, 300 F.Supp.2d 690 (S. D. Ind. January 22, 2004) (IP 99-C-0933-B/S)  
(Habeas granted as to conviction and death sentence by U.S. District Court for the Southern District of Indiana, Judge Sarah Evans Barker. Actual bias by trial judge Redwine was established, and different judge should have been named. "The State of Indiana shall set a new trial date within sixty (60) days of the date of this Entry at which time the State can retry its case against Harrison before an impartial judge.")

Harrison v. McBride, 428 F.3d 652 (7th Cir. October 27, 2005) (04-1398)  
(State's Appeal of granting Petition for Writ of Habeas Corpus)  
Affirmed 3-0. Opinion by Circuit Judge Kenneth F. Ripple.  
Judge Anne Claire Williams and Judge Joel M. Flaum concur.

**On Remand:** On May 5, 2008, Harrison pled guilty to Murder (Tia Forsee), Felony-Murder (Arson Causing death of Jordan Hanmore), and Habitual Offender pursuant to a fixed Plea Agreement and was sentenced in the Posey Circuit Court by Special Judge Carl A. Heldt to a 60+60+30 = 150 year term of imprisonment.

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 150 YEARS IMPRISONMENT.

## **HICKS, LARRY # 2**

OFF DEATH ROW SINCE 04-02-80  
DOB: 02-12-1958 DOC#: 13124 Black Male

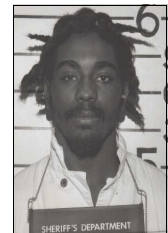
Lake County Superior Court Judge James C. Kimbrough

**Trial Cause #:** 3CR-49-378-195  
**Prosecutor:** Michael M. Greener / Marilyn E. Hrnjak  
**Defense:** J. Robert Vegter / Nile Stanton, Kevin McShane

**Date of Murder:** February 5, 1978  
**Method of Murder:** stabbing with knife  
**Victim(s):** Norton Miller B / M / 28; Stephen Crosby B / M / 26

**Summary:** Hicks attended a party at the apartment of a neighbor. Hicks was seen waving a knife in his hand while arguing with Norton Miller and Stephen Crosby. They were later found stabbed to death in an alley outside the apartments.

**Trial:** Indictment for Murder and DP filed (03-02-78); Voir Dire (08-14-78); Jury Trial (08-15-78, 08-16-78); Deliberations 6 hours, Verdict (08-16-78); DP Trial (08-17-78); Deliberations over 2 Days, Hung Jury (08-18-78); Court Sentencing (09-01-78); Defense Attorney Stanton enters Appearance (05-17-79); Motion to Correct Errors Granted (04-02-80); Voir Dire (11-10-80, 11-12-80); Jury Trial (11-13-80, 11-14-80, 11-17-80, 11-18-80 11-19-80, 11-20-80); Verdict (11-21-80 12:05 a.m.).



**Conviction:** Murder (2 counts); Hung Jury on Death Sentence  
**Sentencing:** September 1, 1978

**Aggravating Circumstances:** b (8) 2 murders

**Mitigating Circumstances:** 19 years old, lack of prior criminal record

**Direct Appeal:** None. Following his sentencing, Hicks filed a Motion to Correct Errors and a Motion for Competency Hearing. On April 2, 1980, trial Judge James Kimbrough, following the appointment of two psychiatrists, granted the motions and held that at the time of the defendant's trial, he was incompetent.

A new trial was held on November 13-20, 1980 with Nile Stanton and Kevin McShane representing Hicks, and Deputy Prosecutor Marilyn E. Hrnjak representing the State. Two eyewitnesses, who had identified Hicks in the first trial as menacing the victims with a knife in his hand, recanted their testimony in the second trial. Other evidence reinforcing Hicks' claim of actual innocence was also presented. Hicks was found Not Guilty of the charges. (See webpage of defense counsel Nile Stanton, "The Ordeal of Larry Hicks: How an Innocent Man was Almost Executed." According to Nile Stanton, Larry Hicks passed away on September 23, 2018.

## **HOLLIS, DAVID # 14**

OFF DEATH ROW SINCE SUICIDE 02-19-84  
DOB: 08-14-1960 DOC#: 13152 White Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 4CR-55-382-214

**Prosecutor:** Thomas W. Vanes

**Defense:** Herbert I. Shaps

**Date of Murder:** February 27, 1982

**Victim(s):** Debbie Hollis W / F / 18 (wife); Kim Mezei W / F / 18 (neighbor);  
Craig Mezei W / M / 2 (neighbor's son)

**Method of Murder:** strangulation (Debbie, Kim, Craig); stabbing with knife (Debbie)

**Summary:** Hollis went looking one night for his estranged wife, Debbie, and found her at an apartment in Hammond in the company of a neighbor, Kim Mezci, and her two year old son. Hollis repeatedly stabbed Debbie and Kim and strangled all three. The following day, Hollis went to the residence of an acquaintance, Donald K. White, in Griffith armed with a shotgun. When White told Hollis that the police suspected him of killing his wife, a neighbor, and a baby, Hollis replied that he did kill them, and he was sorry for killing the neighbor and child, but they just got in the way. Hollis then tied up White and his roommate, and forced White to perform oral sex.

**Trial:** Information/PC for Murder filed (03-01-82); Amended Information for DP filed (09-22-82); Insanity Defense filed (09-20-82); Guilty Plea (10-13-82); DP Trial (10-20-82, 10-21-82, 10-22-82, 10-28-82); Court Sentencing (11-12-82).

**Conviction:** Murder, Murder, Murder, Criminal Deviate Conduct (A Felony), Confinement (B Felony)  
Pled guilty without plea agreement.

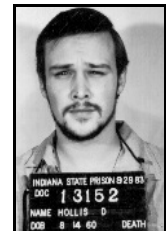
**Sentencing:** November 12, 1982 (Death Sentence, 30 years, 10 years, concurrent)

**Aggravating Circumstances:** b (8) 3 murders

**Mitigating Circumstances:** None

**Direct Appeal:** None

COMMITTED SUICIDE BY HANGING AT INDIANA STATE PRISON, MICHIGAN CITY ON FEBRUARY 19, 1984.



## HOLMES, ERIC D. # 78

ON DEATH ROW SINCE 03-26-93  
DOB: 08-23-1968 DOC#: 932132 Black Male

Marion County Superior Court  
Special Judge Cynthia S. Emkes

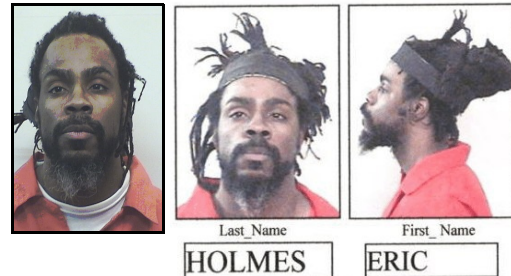
**Trial Cause #:** 49G05-8911-CF-131401

**Prosecutor:** David S. Milton

**Defense:** Robert F. Alden, Arnold P. Baratz

**Date of Murder:** November 16, 1989

**Victim(s):** Charles Ervin W / M / 30; Theresa Blosl W / F / 20  
(Supervisors of Holmes at work)



**Method of Murder:** stabbing with knife

**Summary:** Holmes was fired from his job at Shoney's Restaurant after getting into an argument with co-worker Amy Foshee. At closing on the day of his firing, Holmes waited in the parking lot with Michael Vance. Foshee left the restaurant with Charles Ervin, a manager, and Theresa Blosl, a manager. Ervin was carrying the till. Holmes and Vance trapped them in the foyer leaving the restaurant and attacked them, stabbing them multiple times, and grabbed the till. Ervin and Blosl died, but Foshee survived. Vance was tried separately, convicted, and sentenced to 190 years imprisonment.

**Trial:** Information/PC for Murder filed (11-17-89); Amended Information for DP filed (01-31-90); Competency Hearing (04-18-90); Motion for Speedy Trial (09-21-92); Voir Dire (11-04-92, 11-04-92, 11-05-92, 11-06-92, 11-07-92, 11-09-92, 11-10-92, 11-11-92, 11-12-92, 11-13-92, 11-14-92); Jury Trial (11-14-92; 11-16-92, 11-17-92, 11-18-92, 11-19-92, 11-20-92, 11-21-92, 11-23-92, 11-24-92, 11-27-92, 11-28-92); Verdict (11-28-92); DP Trial (11-29-92, 11-30-92, 12-01-92, 12-02-92); Deliberations over 2 days; Hung Jury/Mistrial (12-03-92); Court Sentencing (03-24-92, 03-25-92, 03-26-92).

**Conviction:** Murder (Ervin), Murder (Blosl), Attempted Murder (A Felony), Robbery (A Felony), Conspiracy to Commit Robbery (B Felony)

**Sentencing:** March 26, 1993 (Death Sentence, 60 years, 50 years, 50 years, 20 years, all consecutive)  
May 23, 1997 (8 years on Conspiracy to Commit Robbery, reduced to C Felony on appeal)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** 21 years old at time of murders  
accomplice did not receive death sentence  
no prior criminal record  
mother died when he was 7 years old  
suffered from child neglect and abuse as a child  
IQ of 79; has adjusted well to jail

Hung Jury on Death Sentence

**Direct Appeal:** Holmes v. State, 671 N.E.2d 841 (Ind. August 7, 1996) (49S00-9002-DP-00104)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
DeBruler Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Richard Kammen, James T. Flanigan, Susan D. Rayl, Arnold P. Baratz, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Holmes v. Indiana, 118 S.Ct. 137 (1997) (Cert. denied)

**PCR:** PCR Petition filed 09-25-97. Amended PCR filed 11-10-97, 03-18-98, 04-01-98, 04-20-98.  
State's Answer to PCR Petition filed.  
PCR Hearing 05-18-98, 05-19-98, 05-20-98.  
Marion County Superior Court Judge Tonya Walton Pratt  
For Defendant: Steven H. Schutte, Joanna Green, Kathleen Cleary, Linda K. Hughes,  
Deputy Public Defenders.  
For State: Michael A. Hurst, Greg Ulrich, Deputy Attorneys General (Modisett).  
07-28-98 PCR Petition granted as to Death Sentence only.

Holmes v. State, 728 N.E.2d 164 (Ind. May 19, 2000) (49S00-9808-PD-436)  
(Appeal by State of the granting of PCR as to death penalty - Reversed)  
(Appeal by Holmes of the denial of PCR as to convictions)  
Conviction Affirmed 5-0 DP Affirmed 5-0; PCR denied.  
Dickson Opinion, Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven H. Schutte, Joanna Green, Kathleen Cleary, Linda K. Hughes,  
Deputy Public Defenders (Carpenter)  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
Holmes v. Indiana, 121 S.Ct. 2220 (2001) (Cert. denied)

Holmes v. State, 820 N.E.2d 136 (Ind. January 7, 2005)  
n/k/a Koor An Nur of Mary Katie Brown.  
Shepard Opinion; Dickson, Boehm concur. Rucker, Sullivan dissent.  
(Holmes sought leave to file successive petition for state postconviction relief. Held: Denied; Even though hung jury on death sentence, neither change in statute nor Apprendi warranted relief from death sentence.)

**Habeas:** 09-22-00 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-29-01 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Eric D. Holmes v. Ron Anderson, Superintendent (IP 00-1477-C-D/F)  
Judge Larry J. McKinney  
For Defendant: Michael J. Benza, Cleveland, OH, Kathy Lea Stinton-Glen, Indianapolis  
For State: Michael A. Hurst, Thomas D. Perkins, Gary Damon Secrest, Stephen R. Creason,  
Deputy Attorneys General (S. Carter)

08-12-02 Amended Petition for Writ of Habeas Corpus filed.  
09-16-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-15-03 Motion for Stay pending competency evaluation.  
07-01-03 Petitioner files Traverse.  
07-16-04 Motion for Stay pending review by Indiana Supreme Court.  
09-02-04 Amended Petition for Writ of Habeas Corpus denied.  
01-18-05 Certificate of Appealability granted in part.

11-23-05 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Eric D. Holmes v. Ed Buss, Superintendent (1:05-CV-1763-LJM-WTL)  
Judge Larry J. McKinney  
For Defendant: Michael J. Benza, Cleveland, OH, Kathy Lea Stinton-Glen, Indianapolis  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (S. Carter)  
06-12-06 Order of Dismissal for Lack of Jurisdiction as Successive Petition entered.

08-10-05 Remanded to the District Court for the limited purpose of determining petitioner's current competence to proceed in this appeal. Because the referenced affidavits are now over a year old, we suggest that the district court solicit contemporary affidavits from counsel and consider obtaining the opinion of an expert. This court shall retain jurisdiction in this matter and briefing is stayed.

01-31-06 Psychiatric Reports filed with U.S. District Court.

06-20-06 Entry holding that Holmes is competent to proceed and assist his attorneys in the appellate phase of this habeas action.

Holmes v. Buss, 506 F.3d 576 (7th Cir. October 30, 2007) (04-3549, 06-2905)  
Remanded to District Court 3-0.

Court should have allowed cross examination of State's expert witness on the issue of competency. Opinion by Judge Richard A. Posner. Joined by Judge Joel M. Flaum , Judge Diane P. Wood.  
For Defendant: Michael J. Benza, Cleveland, OH, Kathy Lea Stinton-Glen, Zionsville, IN,  
For State: James B. Martin, Stephen R. Creason, Indiana Attorneys General (S. Carter)

Holmes v. Levenhagen, 600 F.3d 756 (7th Cir. April 2, 2010) (04-3549, 06-2905)

Appeal of competency finding by U.S. District Judge Larry J. McKinney.

Reversed 3-0. Opinion by Judge Richard A. Posner; Judge Joel M. Flaum and Judge Diane P. Wood concur. ("We reverse the judgment with instructions to suspend the habeas corpus proceeding unless and until the State provides substantial new evidence that Holmes' psychiatric illness has abated, or its symptoms sufficiently controlled, to justify resumption of the proceeding.")

For Defendant: Michael J. Benza, Chagrin Falls, OH, Kathy Lea Stinton-Glen, Indianapolis, IN

For State: Stephen R. Creason, James B. Martin, Deputy Attorneys General (Zoeller)

**Habeas:** Holmes v. Neal, 816 F.3d 949 (7th Cir. Ind. March 22, 2016)

United States Court of Appeals for the Seventh Circuit (Nos. 14-3359, 04-3549, 06-2905)

Appeals from the United States District Court for the Southern District of Indiana, Indianapolis (No. 1:00-cv-01477-SEB-DML) — Judge Sarah Evans Barker

(No. 1:05-cv-01763-LJM-WTL) — Judge Larry J. McKinney.

Convictions Affirmed 3-0 DP Affirmed 3-0 Opinion by Posner; Wood, Flaum concur.

(On remand the District Court granted the stay, thereby placing the habeas proceeding in limbo. Considering that he was convicted of the murders almost a quarter of a century ago and that if he fails to obtain relief in a hearing in the Indiana court system on his mental competency to be executed, and having thus exhausted his state remedies files a further petition for habeas corpus in the federal district court and loses and appeals once again to us it, will be the fourth time that we are called on to render a decision in this protracted litigation, we are dismayed at the prospect that looms before us of further and perhaps endless protraction of federal judicial review of Holmes's conviction and sentence. But we are obliged by section 2254(b)(1)(A) to proceed as just indicated. In conclusion, the rulings of the district court appealed from in appeals No. 14-3359 and No. 04-3549 are affirmed, and the appeal in No. 06-2905 is dismissed.)

For Defendant: (14-3359, 04-3549, 06-2905) )

Michael Benza, Chagrin Falls, OH; Kathy Lea Stinton-Glen, Indianapolis, IN.

For State: Steve Carter, Stephen R. Creason, James Blaine Martin, Deputy Attorneys General

Holmes v. Neal, 825 F.3d 347 (7th Cir. Ind., 2016) (Reh. denied)

Holmes v. Neal (U.S., Jan. 23, 2017) (Cert. denied)

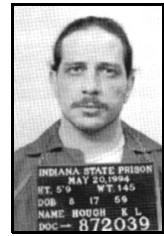
- STAY OF HABEAS PROCEEDINGS UNTIL STATE OF INDIANA CAN SHOW HOLMES HAS REGAINED COMPETENCY.

## HOUGH, KEVIN LEE # 52

EXECUTED BY LETHAL INJECTION 05-02-03 12:25 AM EST  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 08-17-1959 DOC#: 872039 White Male

Allen County Superior Court Special Judge Edward J. Meyers



**Trial Cause #:** CR-86-185

**Prosecutor:** Stephen M. Sims, Robert E. Love

**Defense:** Bruce R. Snyder, Bruce S. Cowan

**Date of Murder:** November 6, 1985

**Victim(s):** Theodore G. Bosler W / M / 49; Gene Eugene Rubrake W / M / 56 (Landlords of Hough's cousin)

**Method of Murder:** shooting with .45 handgun

**Summary:** Hough was upset with his cousin's landlords, Bosler and Rubrake. When his cousin failed to pay rent, his landlords took his cousin's property. Along with his brother, Duane Lapp, Hough went to their residence in Fort Wayne "to get the property back." They were invited inside and once downstairs, Hough pulled a .45 automatic pistol. When Rubrake swung at him, Hough shot him in the chest. Bosler dropped to the floor and Hough shot him in the back. Hough then shot Rubrake again in the face. Hough took a TV remote and a beer which he thought may have fingerprints and left. Lapp testified at trial as the State's star witness.

**Trial:** Information/PC for Murder filed (04-10-86); Amended Information for DP filed (05-21-86); Voir Dire in Marion County (05-11-87); Jury Trial in Allen County (05-12-87, 05-13-87, 05-14-87); Verdict (05-14-87); DP Trial (05-15-87); Verdict (05-15-87); Court Sentencing (06-11-87).

**Conviction:** Murder, Murder

**Sentencing:** June 11, 1987 (Death Sentence, Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (7) Prior murder conviction  
b (8) 2 murders

**Mitigating Circumstances:** dysfunctional childhood  
drug and alcohol abuse

**Direct Appeal:** Hough v. State, 560 N.E.2d 511 (Ind. October 4, 1990) (02S00-8712-CR-1179)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Shepard concur; Debruler, Dickson dissent.  
For Defendant: Bruce R. Snyder and Bruce S. Cowan, Fort Wayne  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Hough v. State, 560 N.E.2d 522 (Ind. 1990) (On Rehearing)

**PCR:** 05-06-92 Notice of Intent to File PCR Petition filed.  
06-21-93 PCR Petition filed.  
01-07-94 State's Answer to PCR Petition filed.  
Special Judge Edward J. Meyers  
For Defendant: Kevin L. Likes  
For State: Stephen M. Sims  
08-09-94 PCR Petition denied, Summary Judgment to State.

Hough v. State, 690 N.E.2d 267 (Ind. 1997) (02S00-9305-PD-497)  
(Appeal of PCR denial by Special Judge Edward J. Meyers, granting State's Summary Judgment)  
Affirmed 5-0; Selby Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Kevin L. Likes, Auburn, David L. Doughten, Cleveland  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Hough v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

**Habeas:** 05-13-98 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-11-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Kevin L. Hough v. Ron Anderson, Superintendent (3:98-CV-246-AS)  
Judge Allen Sharp  
For Defendant: John L. Stainthorp, Joey Mogul, People's Law Office, Chicago, IL  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)

05-04-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-21-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-22-99 Amended Petition for Writ of Habeas Corpus filed.  
10-14-99 Writ of Habeas Corpus denied.  
12-07-99 Certificate of Appealability granted in part.

Hough v. Anderson, 73 F.Supp.2d 981 (N.D. Ind. October 12, 1999) (3:98-CV-246-AS)  
(Petition for Habeas Writ denied by Judge Allen Sharp)

Hough v. Anderson, 272 F.3d 878 (7th Cir. November 20, 2001) (99-3968)  
(Appeal of denial of Habeas Writ by Judge Allen Sharp)  
Affirmed 3-0; Opinion by Judge Kenneth F. Ripple, Judge Diane P. Wood, Judge Terence T. Evans  
For Defendant: John L. Stainthorp, Joey Mogul, People's Law Office, Chicago, IL  
For State: Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)  
Hough v. Indiana, 123 S.Ct. 661 (December 2, 2002) (Cert. denied)  
Hough v. Indiana, 123 S.Ct. 1927 (May 1, 2003) (Application for stay denied)

HOUGH WAS EXECUTED BY LETHAL INJECTION ON 05-02-03 12:25 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 80TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 10TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **HUFFMAN, RICHARD D., JR. # 39**

OFF DEATH ROW SINCE 08-11-93  
DOB: 12-31-1960 DOC#: 853859 White Male

Marion County Superior Court Judge Thomas E. Alsip

**Trial Cause #:** 49G01-8406-CF-004843

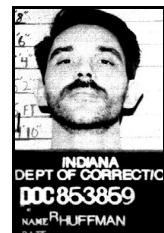
**Prosecutor:** David E. Cook, Robert P. Thomas

**Defense:** Gerald DeWester

**Date of Murder:** June 5, 1984

**Victim(s):** Kerry Golden W / M / 29 (Acquaintance of Huffman, met on night of murder)

**Method of Murder:** beating with tire iron; stomping; manual strangulation



**Summary:** Kerry Golden was introduced to Huffman while at the 50 Yard Line Bar in Indianapolis. They sat together and Golden displayed a large amount of money and marijuana on his person. They met Huffman's longtime friends, Herb Underwood and Rick Asbury and closed down the bar. They smoked some marijuana in the parking lot together and left in a car with Huffman driving, Underwood in the front, and Asbury with Golden in the back. The car was stopped in a remote area. Underwood got out and pulled Golden from the car. Huffman and Underwood told Golden to "give up the pot," then attacked him, both punching and kicking him. They stripped off his clothing and Underwood grabbed his penis and lifted him off the ground as Golden screamed. Underwood then took money from Golden's pants. Asbury got out and kicked Golden and gave his knife to Huffman when he asked. Huffman threatened to kill Golden if he told. Underwood stated that he had to kill him because he did not want to be identified and go to prison. Huffman got a tire iron from the trunk and both he and Underwood beat Golden. Underwood then told Asbury he had to hit Golden. Asbury "tapped" Golden twice with the tire iron. Asbury testified for the State at trial, pled guilty, and received a 25 year sentence for his role in the killing.

**Trial:** Information/PC for Murder Filed (06-06-84); Death Sentence Request Filed (10-16-84); Jury Trial (07-17-85 through 07-24-85); Verdict (07-24-85); DP Trial (07-25-85); DP Verdict (07-25-85); Court Sentencing (08-23-85).

**Conviction:** Murder, Felony-Murder, Robbery (A Felony), Conspiracy to Commit Murder (A Felony), Conspiracy to Commit Robbery (A Felony)

**Sentencing:** August 23, 1985 (Death Sentence - Murder and Felony-Murder merged)  
50 years, 50 years, 50 years consecutive

Joint Trial with Herbert Underwood

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** alcohol and marijuana intoxication on night of murder  
penalty disproportionate to other murder cases

**Direct Appeal:** Huffman v. State, 543 N.E.2d 360 (Ind. September 7, 1989) (49S00-8602-CR-207)  
Conviction Affirmed 3-2 DP Affirmed 3-2  
Givan Opinion; Shepard, Pivarnik concur; Debruler, Dickson dissent.  
For Defendant: Jill E. Greuling, Monica Foster, Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Huffman v. Indiana, 110 S.Ct. 3257 (1990) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition filed 08-21-90.  
PCR Petition filed 03-23-92.  
State's Answer to PCR Petition filed 05-29-92.  
Special Judge James E. Harris  
For Defendant: Monica Foster, Scott A. Weathers, Indianapolis  
For State: John V. Commons, Frank A. Gleaves  
09-03-92 Defendant files Motion for Summary Judgment.  
08-11-93 PCR Petition granted as to convictions and sentence, Summary Judgment to Defendant.

State v. Huffman, 643 N.E.2d 899 (Ind. December 7, 1994) (49S00-9312-PD-1320)  
(State's appeal of Special Judge James E. Harris granting PCR on convictions and sentence)  
Affirmed 4-1 and remanded for new trial due to jury instruction which shifted burden on intoxication.  
DeBruler Opinion; Givan, Dickson, Sullivan concur; Shepard dissents.  
For Defendant: Monica Foster, Scott A. Weathers, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

**On Remand:** 06-14-96 Plea Agreement filed.

Huffman pleads guilty to Murder and Conspiracy to Commit Robbery (A Felony).

10-31-96 Plea accepted. Huffman sentenced to concurrent terms of 60 years (Murder) and 30 years (Conspiracy to Commit Robbery - A Felony), for a total sentence of 60 years imprisonment. (30,959 days credit)

Marion County Superior Court Judge Paula E. Lapossa

For Defendant: Monica Foster, Richard Kammen, Indianapolis

For State: Barbara Crawford, Diane Moore, James Nave

Huffman v. State, 717 N.E.2d 571 (Ind. October 4, 1999) (49S00-9704-CR-260) (Affirmed)

HUFFMAN (AT 54 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON FEBRUARY 6, 2014, AFTER SERVING ± 29 YEARS IN CUSTODY.

## INGLE, JOHN E. # 90

OFF DEATH ROW SINCE 05-08-01

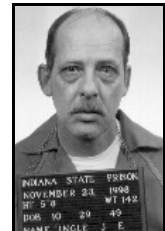
DOB: 10-29-49 DOC: #987991 White Male

Floyd County Superior Court Judge Richard G. Striegel

**Trial Cause #:** 22D01-0607-CF-183

**Prosecutor:** Stanley O. Faith, Susan L. Orth, Cynthia L. Winkler, Robert L. Collins

**Defense:** Michael J. McDaniel, Patrick Biggs, Steven E. Ripstra



**Date of Murder:** July 27, 1996

**Victim(s):** Debbie Chaffin Ingle W/F 41 (estranged wife)

**Method of Murder:** Shooting with handgun

**Summary:** Ingle and his wife Debbie had been married approximately twenty-five years. They married immediately after his release from federal prison when she was seventeen years of age. The marriage was one of repeated domestic violence. Debbie tried to leave on numerous occasions, but he physically intimidated her into remaining in the marriage. In July 1996, Debbie moved out of the house and made it clear to Ingle she would not return. Ingle stalked her for weeks using disguises and borrowed cars and kept her under constant surveillance. On the morning of the murder, Ingle donned a disguise, loaded a handgun, and walked up to Debbie where she worked as a waitress. His confessed plan was to take her out of the restaurant and physically force her to return as he had done on prior occasions. Debbie recognized him, screamed his name and instructed co-workers to call for police. Ingle responded by shooting her 7 times with a handgun and fled. Within minutes, Ingle was confronted by police on the street and shot a New Albany Police Officer three times, once in the back, and fled a second time before he was arrested. The officer was wearing a vest and survived with serious injuries. (Insanity Defense)

**Trial:** Information/PC for Murder filed (07-29-96); Motion for Speedy Trial (10-03-96); Amended Information for DP filed (02-03-04); Voir Dire in Dubois County (08-31-98, 09-01-98, 09-02-98, 09-03-98, 09-04-98, 09-08-98, 09-09-98, 09-10-98, 09-11-98); Jury Trial in Floyd County (09-21-98, 09-22-98, 09-23-98, 09-24-98, 09-25-98, 09-28-98, 09-29-98, 09-30-98, 10-01-98, 10-02-98, 10-05-98, 10-07-98, 10-08-98, 10-09-98, 10-12-98, 10-13-98, 10-14-98, 10-15-98); Verdict (10-15-98); DP Trial (10-16-98, 10-19-98, 10-20-98); Verdict (10-20-98); Court Sentencing (11-19-98, 11-23-98); Resentencing after Remand (06-20-01).

**Conviction:** Murder, Attempted Murder (A Felony), Attempted Kidnapping (A Felony)

**Sentencing:** November 23, 1998 (Death Sentence, 50 years, 50 years, consecutive)

**Aggravating Circumstances:** b (3) Lying in Wait  
b (1) Attempted Kidnapping

**Mitigating Circumstances:** Mental State (not rising to level of insanity)  
Intermittent Explosive Disorder

**Direct Appeal:** Ingle v. State, 746 N.E.2d 927 (Ind. May 8, 2001) (22S00-9611-DP-724)

Conviction Affirmed 5-0 DP Vacated 5-0

Sullivan Opinion; Shepard, Dickson, Boehm, and Rucker concur.

(Convictions for Murder and Attempted Murder affirmed, but conviction for Attempted Kidnapping reversed; Death sentenced vacated due to insufficient evidence to show aggravators - No evidence to show Ingle confined victim to secure act by a third party, therefore not a hostage and no Attempted Kidnapping; Although Ingle did watch, wait and conceal himself outside restaurant, this was day before murder. A disguise alone worn when entering restaurant was not enough to show lying in wait; Remanded for resentencing to a term of years.)

For Defendant: Michael J. McDaniel, New Albany

For State: Andrew L. Hedges, Deputy Attorney General (Modisett)

**On Remand:** Ingle resentenced by Floyd Superior Court Judge Richard G. Striegel on June 20, 2001 to consecutive terms of 65 years imprisonment for Murder and 50 years imprisonment for Attempted Murder (A Felony).

Ingle v. State, 766 N.E.2d 392 (Ind. 2002) (22A01-0109-CR-340)

(Appeal after remand and imposition of 115 years imprisonment - Affirmed)

ON NOVEMBER 24, 2009 (AT 59 YEARS OF AGE), INGLE DIED IN THE INDIANA DEPARTMENT OF CORRECTIONS SERVING A 115 YEAR SENTENCE. HE HAD SERVED ± 13 YEARS IN CUSTODY.

## **ISOM, KEVIN CHARLES # 105**

ON DEATH ROW SINCE 03-08-2013

DOB: 01-04-1966 DOC#: 108003 Black Male

Lake County Superior Court Judge Thomas Stefaniak, Jr.

**Trial Cause #:** 45G04-0708-MR-00008

**Prosecutor:** David Urbanski, Michelle Jatkiewicz

**Defense:** Herb Shaps, Casey McCloskey

**Date of Murder:** August 6, 2007

**Victim(s):** Cassandra Isom B / F / 40 (wife); Michael Moore B / M / 16 (stepson);

Ci'Andria Cole B / F / 13 (stepdaughter)

**Method of Murder:** shooting with shotgun and handgun

**Summary:** Isom was convicted of the murders of his wife of 12 years and her two teenage children from prior relationships in their apartment in Gary's Miller Beach neighborhood. The triple homicide was discovered when Gary police raided Isom's apartment after a standoff of several hours. All three victims had been shot at close range with a shotgun and with handguns. A neighbor of the family had alerted police to the sound of gunshots about 10:30 p.m. Isom was found on the floor of a bedroom with a revolver in his waistband and his wife and stepchildren shot dead. He told the police his wife was upset about his unemployment, and had mentioned leaving him a few days before the shootings. Though disputed by the defense, police also testified that Isom said, "I can't believe I killed my family."



**Trial:** Information for Murder/PC Affidavit filed (08-08-07); Request for DP filed (01-17-08); Individual Voir Dire 11-26-12 to 12-18-12); Jury Trial (01-07-13 to 01-12-13, 01-14-13 to 01-19-13, 01-21-13 to 01-26-13, 01-28-13 to 02-02-13, 02-04-05, 02-05-13); Verdict (02-05-13); DP Trial (02-06-13, 02-07-13, 02-08-13); Verdict (02-08-13); Court Sentencing (03-08-13).

**Conviction:** Murder, Murder, Murder, Criminal Recklessness (Class D Felony) (3 Counts)

**Sentencing:** March 8, 2013 (3 Consecutive Death Sentences; 3 Consecutive Terms of 18 Months)

**Aggravating Circumstances:** b (8) 3 Murders

**Mitigating Circumstances:** extreme emotional disturbance  
mental illness  
raised by women without male role model  
raised in Chicago gang-ridden housing project  
lost job one month before murders  
post-traumatic stress syndrome  
dissociative amnesia  
significant limitations in cognitive development

**Direct Appeal:** Isom v. State, 31 N.E.3d 469 (Ind. May 20, 2015) (45S00-0803-DP-125)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Rucker Opinion; Rush, Dickson, David and Massa concur.  
For Defendant: Mark A. Bates, Office of the Public Defender, Crown Point, Indiana.  
For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)  
Isom v. State, 2015 Ind. LEXIS 673 (Ind., July 28, 2015) (Rehearing denied).  
Isom v. Indiana, 136 S.Ct. 1161 (2016) (Cert. denied).

**PCR:** Notice of Intent to File PCR Petition filed 08-28-15.  
PCR Petition, unsigned by Defendant, filed 01-12-16.  
Dismissal of PCR for lack of signature 05-04-16.  
On appeal, Indiana Supreme Court Orders Petition filed as of 01-03-17. (45S00-1508-PD-508)  
Evidentiary Hearing held 03-12-18. Amendment to PCR Petition allowed. Exhibits allowed.  
PCR Petition denied 06-08-18.

Isom v. State, 170 N.E.3d 623 (Ind. June 30, 2021) (45S00-1508-PD-508)  
(Appeal of PCR denial by Lake County Superior Court (45G04-1701-PC-1)  
Judge Samuel L. Capps, Magistrate Natalie Bokota  
Conviction Affirmed 5-0 DP Affirmed 5-0.  
Slaughter Opinion; Rush, David, Massa, Goff concur.  
For Defendant: Steven Schutte, Kathleen Cleary, Meggan Smith, Deputy Public Defenders(Karozos)  
For State: Andrew A. Kobe, Tyler G. Banks, Deputy Attorneys General (Rokita)

**Habeas:** Kevin Isom v. Ron Neal, Warden (#: 2:21-cv-00231-HAB)  
U.S. District Court Northern District of Indiana, Judge Holly A. Brady  
For Petitioner: Shawn Nolan, Federal Community Defender  
For State: Caroline G Templeton, Kelly A Loy, Deputy Attorneys General  
10/25/2021 Petition for Writ of Habeas Corpus filed

Isom v. Neal, (N.D. Ind. December 2, 2021) (2:21-CV-231-HAB)  
(District Court CERTIFIES the following questions to the Indiana Supreme Court: "Is a petition for post-conviction relief, tendered to a trial court without the verification required by Post-Conviction Rule 1, Sections 2 and 3, properly filed?)

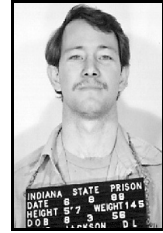
- PENDING PETITION FOR WRIT OF HABEAS CORPUS IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF INDIANA. (2:21-CV-231-HAB)

## JACKSON, DONALD LEE, JR. # 54

OFF DEATH ROW SINCE 08-19-92

DOB: 08-03-1956 DOC#: 881974 White Male

Franklin County Circuit Court Judge Eugene A. Stewart  
Venued from Dearborn County



**Trial Cause #:** 9766 (Dearborn County) 24CO1-8704-CF-072 (Franklin County)

**Prosecutor:** James D. Humphrey

**Defense:** Terrance W. Richmond, Ronald Richmer

**Date of Murder:** October 9, 1986

**Victim(s):** Michelle Seagraves W / F / 22 (No relationship to Jackson)

**Method of Murder:** shooting .41 handgun; strangulation with a strap

**Summary:** Michelle Seagraves was kidnapped as she was getting into her car in an apartment complex parking lot in Columbus, Ohio. Witnesses identified Stuart Kennedy as driving Seagraves' Ford Grenada while holding a woman down in the seat. Other witnesses identified a Corvette following the Ford Grenada from Columbus to Moores Hill, Indiana. The license plate of the Corvette showed it registered to Jackson. On the same day, the Peoples National Bank in Moores Hill was robbed by 2 men matching the description of Jackson and Kennedy. The Ford Grenada was identified as the getaway car. Jackson was arrested at his home in Columbus, Ohio as he was getting into the Corvette. Officers recovered \$5,000 in cash, a .45 handgun, and a submachine gun from the car. Jackson gave a complete confession, directing Officers to the body of Seagraves. An autopsy showed she had been strangled with a strap still on her neck, and shot once in the back of the neck through her head. Jackson also directed Officers to the bloody clothing worn by Kennedy and Jackson discarded in a dumpster.

**Trial:** Information for Murder filed (12-04-86); Agreement for Change of Venue to Franklin County (04-06-87); Voir Dire/Jury Trial (04-25-88, 04-26-88, 04-27-88, 04-28-88, 04-29-88, 05-02-88, 05-04-88, 05-05-88, 05-06-88, 05-09-88, 05-10-88, 05-11-88, 05-12-88, 05-13-88, 05-16-88, 05-17-88); Verdict (05-17-88); DP Trial (05-18-88, 05-19-88); Verdict (05-19-88); Court Sentencing (06-07-88); Resentencing after Remand (01-25-93).

**Conviction:** Murder, Felony-Murder(Robbery), Felony-Murder(Kidnapping), Robbery (A Felony), Kidnapping (A Felony)

**Sentencing:** June 7, 1988 (Murder: Death Sentence,

Robbery: 50 years, Kidnapping: 50 years consecutive

Judge Overrides Jury Recommendation against DP

Companion Case to Kennedy

**Aggravating Circumstances:** b (1) Robbery, b (1) Kidnapping

**Mitigating Circumstances:** uncertainty as to triggerman

**Direct Appeal:** Jackson v. State, 597 N.E.2d 950 (Ind. August 19, 1992) (24S00-8811-CR-906)

Conviction Affirmed 5-0 DP Vacated 3-2

Shepard Opinion; Debruler, Krahulik concur; Givan, Dickson dissent.

(remanded to impose term of years; Judge findings overruling jury recommendation fails to meet Martinez test, due to uncertainty as to who was triggerman)

For Defendant: Terrance W. Richmond, Milan

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Jackson v. Indiana, 113 S.Ct. 1424 (1993) (Cert. denied)

**On Remand:** On January 25, 1993, in compliance with Indiana Supreme Court Opinion setting aside death sentence and mandating a term of years, Franklin County Circuit Court Judge Eugene A. Stewart sentenced Jackson to consecutive terms of 60 years (Murder), 50 years (Robbery - Class A Felony), and 50 years (Kidnapping - Class A Felony), for a total sentence of 160 years imprisonment.

**Direct Appeal:** Jackson v. State, 625 N.E.2d 1219 (1993) (24S00-9306-CR-597)  
(Appeal after remand and 160 year sentence imposed - Affirmed)

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 160 YEARS IMPRISONMENT.

## **JAMES, VINCENT (a/k/a Victor James) # 67**

OFF DEATH ROW SINCE 04-29-93  
DOB: 12-13-1960 DOC#: 911826 Black Male

Porter County Superior Court Judge Thomas W. Webber, Sr.  
Venued from LaPorte County

**Trial Cause #:** 46D01-8912-CF-118 (LaPorte), 64DO2-9002-CF-30 (Porter)

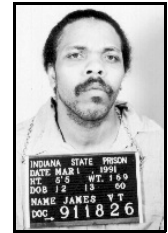
**Prosecutor:** William F. Herrbach

**Defense:** Donald W. Pagos, William Janes

**Date of Murder:** December 15, 1989

**Victim(s):** Gayle Taylor W / F / 35 (No relationship to James)

**Method of Murder:** shooting with handgun



**Trial:** Information/PC for Murder filed (12-21-89); Change of Venue to Porter County (02-02-90); Amended Habitual Information (10-01-90); Voir Dire/Jury Trial (09-24-90, 09-25-90, 09-26-90, 09-27-90, 09-28-90, 09-29-90, 09-30-90, 10-01-90, 10-02-90); Verdict (10-01-90); DP Trial (10-02-90); Verdict (10-02-90); Court Sentencing (02-28-91).

**Summary:** James entered an Insurance agency in Michigan City intending to rob. He instructed Gayle Taylor, an employee, to give him her ring, and she complied. He moved Taylor to a back room where she was shot once in the head with a handgun. James was identified going into the Agency. Upon his arrest, James attempted to swallow a ring, later identified as Taylor's engagement ring. James then gave a full confession, but said that when he took Taylor to the back room, an argument ensued and the gun went off accidentally. An ISP blood splatter expert testified that Taylor's head was 1 foot from the floor when shot, implying that she was shot while on the ground, not accidentally during a scuffle.

**Conviction:** Felony-Murder, Habitual Offender

**Sentencing:** February 28, 1991 (Death Sentence, 30 year enhancement of sentence for Murder and Habitual Offender "if Death Penalty is overturned")

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** James v. State, 613 N.E.2d 15 (Ind. April 29, 1993) (64S00-9012-DP-01050)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Kraulik Opinion; Shepard, Debruler, Givan, Dickson concur.

(Remanded with instructions for either a new Death Sentence Hearing or imposition of a term of years - Defendant denied blood spatter expert when State's expert's testimony critical to show intentional murder)

For Defendant: Donald W. Pagos, William Janes, Michigan City

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

**On Remand:** 11-22-93 State files Motion to Withdraw Pursuit of Death Penalty.

11-29-93 James resented to consecutive terms of 60 years (Murder) and 30 years (Habitual Offender), for a total sentence of 90 years imprisonment.

James v. State, 643 N.E.2d 321 (Ind. 1994) (64S00-9404-CR-310)

(Appeal after remand and defendant resented to 90 years imprisonment - Affirmed)

► CURRENTLY SERVING CONSECUTIVE SENTENCES TOTALING 90 YEARS IMPRISONMENT.

## **JOHNSON, GREGORY SCOTT # 44**

EXECUTED BY LETHAL INJECTION 05-25-05 12:28 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 02-18-1965 DOC#: 863293 White Male

Madison County Superior Court  
Judge Thomas Newman, Jr.

**Trial Cause #:** 3SCR-85-71

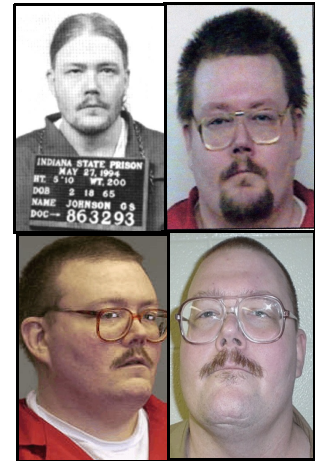
**Prosecutor:** William F. Lawler, Jr.

**Defense:** Gary Miracle

**Date of Murder:** June 23, 1985

**Victim(s):** Ruby Hutslar W / F / 82 (No relationship to Johnson)

**Method of Murder:** stomping with feet; beating with broom handle



**Summary:** A newspaper delivery boy noticed the home of 82 year old Ruby Hutslar on fire and roused a neighbor to call police. He returned but could not enter the home due to the fire and smoke. Firemen were able to put out the fire in about a half hour. Ruby Hutslar was found 5 feet from the front door with broken bones on her nose and cheek and 20 fractured ribs. Her larynx and spine were also fractured. An autopsy revealed that she died as a result of these injuries and not fire or smoke inhalation. A dispatch was sent out that Johnson was a suspect in several fires in the area. Johnson was seen by Officers watching the firemen fight the fire and was arrested for Public Intoxication. In custody, Johnson initially denied any involvement, but admitted setting 4 recent fires in the area. During a later interrogation, Johnson was asked if by killing Hutslar he was trying to join his friend, Mark Wisehart, on death row. Johnson became emotional and gave a full confession. (Johnson had testified as a prosecution witness against his friend Mark Wisehart charged with capital murder) Johnson stated that he had entered the home by breaking a front window with a broom and immediately confronted 90 pound Hutslar in her night clothes. Hutslar slumped to the floor, breathing heavily. Johnson said he stepped on her as he moved around the house. He took a watch and silver dollars, found matches, started the fire and fled.

**Trial:** Information/PC for Murder and Death Penalty Filed (06-27-85); Jury Trial (05-12-86, 05-13-86, 05-14-86, 05-15-86, 05-16-86); Verdict (05-16-86); DP Trial (05-19-86, 05-20-86); DP Verdict (05-20-86); Court Sentencing (06-19-86).

**Conviction:** Felony-Murder (Burglary), Arson (B Felony)

**Sentencing:** June 19, 1986 (Death Sentence, 10 years imprisonment)

**Aggravating Circumstances:** b(1) Burglary

**Mitigating Circumstances:** alcoholism, intoxication; got along well in jail  
20 years old at the time of the crime  
graduated from high school at Indiana Boys School  
served 9 months in National Guard / 2 months in Army

**Direct Appeal:** Johnson v. State, 584 N.E.2d 1092 (Ind. January 27, 1992) (48S00-8611-CR-992)  
Conviction Affirmed 4-0 DP Affirmed 4-0  
Debruler Opinion; Shepard, Dickson, Krahulik concur. Givan Not Participating  
For Defendant: William Byer, Jr., Anderson  
For State: Gary Damon Secrest, Deputy Attorney General (Pearson)  
Johnson v. Indiana, 113 S.Ct. 155 (1992) (Cert. denied)

**PCR:** PCR Petition filed 12-01-93. Amended PCR filed 06-21-94.  
State's Answer to PCR Petition filed.  
03-31-95 Indiana Supreme Court issues "no more continuances" Order.  
PCR Hearing 05-04-95.  
Special Judge Richard D. Culver  
For Defendant: Linda M. Wagoner, Indianapolis, Michelle Fennessy, Fort Wayne  
07-19-95 PCR Petition denied.

Johnson v. State, 693 N.E.2d 941 (Ind. 1998) (48S00-9305-PD-00498)  
(Appeal of PCR denial by Special Judge Richard D. Culver)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Linda M. Wagoner, Indianapolis, Michelle Fennessy, Fort Wayne  
For State: Geoff Davis, Deputy Attorney General (P. Carter)

Johnson v. State, 827 N.E.2d 547 (Ind. May 16, 2005) (48S00-0505-SD-192).  
(Johnson sought leave to file successive petition for state postconviction relief. Held: Denied.)  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.

**Habeas:** 07-16-98 Notice of Intent to file Petition for Writ of Habeas Corpus filed.  
06-29-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Gregory Scott Johnson v. Cecil Davis, Superintendent (IP 98-963-C-Y/G)  
Judge Richard L. Young  
For Defendant: Michelle F. Kraus, Stanley C. Campbell, Fort Wayne  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
04-15-02 Amended Petition for Writ of Habeas Corpus filed.  
01-10-03 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
10-28-03 Entry dismissing Petition as untimely.  
02-02-04 Certificate of Appealability denied.

Johnson v. McBride, 381 F.3d 587 (7th Cir. August 20, 2004) (04-1354).  
(Appeal of Habeas Denial; Affirmed 3-0)  
For Defendant: Stanley L. Campbell, Michelle F. Kraus, Ft. Wayne  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Frank H. Easterbrook Opinion; William J. Bauer, Daniel A. Manion concur.  
Johnson v. McBride, 125 S.Ct. 1649 (March 21, 2005) (Cert. denied)

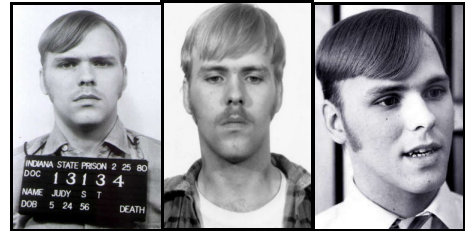
JOHNSON WAS EXECUTED BY LETHAL INJECTION ON 05-25-05 12:28 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 84TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 14TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## JUDY, STEVEN TIMOTHY # 4

EXECUTED BY ELECTRIC CHAIR 03-09-81 AT 12:12 CST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 05-24-1956 DOC#: 13134 White Male

Morgan County Superior Court Special Judge Jeffrey V. Boles



**Trial Cause #:** 79 S 61

**Prosecutor:** G. Thomas Gray, Stephen A. Oliver

**Defense:** Steven L. Harris

**Date of Murder:** April 28, 1979

**Victim(s):** Terry Chasteen W / F / 21 and her 3 children: Misty Zollers W / F / 5;  
Stephen Chasteen W / M / 4; Mark Chasteen W / M / 2 (No relationship to Judy)

**Method of Murder:** strangulation with strips of cloth (Terry Chasteen);  
asphyxia due to drowning (children)

**Summary:** Hunters discovered Terry Chasteen's body in White Lick Creek, near State Road 67 and Mooresville in Morgan County. A police search of the creek led to the discovery of the bodies of 3 small children, aged 2, 4 and 5. Terry Chasteen was found naked, with her hands and feet bound with strips of material torn from her clothing, and her head covered with her slacks. She had been gagged and strangled with other strips of cloth. The evidence established that Terry Chasteen had been raped and that she died of strangulation, while the children died of asphyxia due to drowning. At trial, Judy presented an insanity defense and testified at length concerning his commission of the rape and murders. Judy stated that he was driving on Interstate 465 in Marion County when he passed Terry Chasteen's car. He testified that he motioned for her to pull over to the shoulder of the road, indicating that something was wrong with the rear of her car. The two vehicles pulled to the shoulder and stopped, and Judy purported to assist the victims. In the process, he removed the coil wire, thereby rendering Terry Chasteen's car inoperable. When her car would not start, Judy offered her and the children a ride, and she accepted. Judy then drove the victims to the location of the killings and pulled his truck off the road. He testified that he directed them on foot toward the creek, and that he sent the children down the path ahead of Terry and him. Judy testified that he then raped Terry Chasteen and bound her hands and feet and gagged her. When Terry cried out, the children ran back up the path to them. Judy stated that the children stood around him and yelled. At that point, he strangled Terry Chasteen and threw her body into the creek. Judy testified that he then threw each of the children as far as he could into the water. He stated that he remembered seeing one of the children standing in the creek. Judy returned to his truck after attempting to eradicate his footprints. He then drove away. Judy's version of the events very substantially corroborated the evidence presented by the State. At the death phase of the trial, Judy ordered his attorneys not to present any evidence of mitigating circumstances. Judy stated to the jury in open court at the sentencing hearing that he would advise them to give him the death sentence, because he had no doubt that he would kill again if he had an opportunity, and some of the people he might kill in the future might be members of the jury. A similar comment was directed to the trial judge. (Insanity defense)

**Trial:** Information for Murder filed (05-01-79); Probable Cause Hearing (05-03-79); Competency Hearing (07-09-79); Amended "Indictment" (01-07-80); Voir Dire/Jury Trial (01-07-80, 01-08-80, 01-09-80, 01-10-80, 01-11-80, 01-12-80, 01-14-80, 01-15-80, 01-16-80, 01-17-80, 01-18-80, 01-19-80, 01-21-80, 01-22-80, 01-23-80, 01-24-80, 01-25-80, 01-28-80, 01-29-80, 01-30-80, 01-31-80, 02-01-80, 02-02-80); Verdict (02-02-80); DP Trial (02-02-80); Verdict (02-02-80); Court Sentencing (02-25-80).

**Conviction:** Murder (Misty), Murder (Stephen), Murder (Mark), Felony-Murder (Terry)

**Sentencing:** February 25, 1980 (Death Sentence)

**Aggravating Circumstances:** b (1) Rape  
b (8) 4 murders

**Mitigating Circumstances:** None

**Direct Appeal:** Judy v. State, 416 N.E.2d 95 (Ind. January 30, 1981) (580-S-128)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Pivarnik Opinion; Givan, Hunter, Prentice concur; Debruler dissents.  
For Defendant: Kenneth M. Stroud, Indianapolis, Stephen L. Harris, Mooresville  
For State: Michael Gene Worden, Charles D. Rodgers, Deputy Attorneys General (Pearson)

JUDY WAIVED ALL APPEALS AND WAS EXECUTED BY ELECTRIC CHAIR ON 03-09-81 AT 12:12 CST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 71ST CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 1ST SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **KENNEDY, STUART S. # 53 & # 72**

OFF DEATH ROW SINCE 09-16-93  
DOB: 12-20-1960 DOC#: 881972 White Male

Decatur County Circuit Court Judge John A. Westhafer  
Venued from Dearborn County

**Trial Cause #:** 9767 (Dearborn County), 16CO1-8704-CF-045 (Decatur County)

**Prosecutor:** James D. Humphrey, Mike Miller

**Defense:** J. Richard Kiefer, Kevin P. McGoff

**Date of Murder:** October 9, 1986

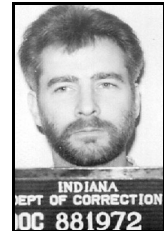
**Victim(s):** Michelle Seagraves W / F / 22 (No relationship to Kennedy)

**Method of Murder:** shooting with .41 handgun; strangulation with a strap.

**Summary:** Michelle Seagraves was kidnapped as she was getting into her car in an apartment complex parking lot in Columbus, Ohio. Witnesses identified Stuart Kennedy as driving Seagraves' Ford Grenada while holding a woman down in the seat. Other witnesses identified a Corvette following the Ford Grenada from Columbus to Moores Hill, Indiana. The license plate of the Corvette showed it registered to Jackson. On the same day, the Peoples National Bank in Moores Hill was robbed by 2 men matching the description of Jackson and Kennedy. The Ford Grenada was identified as the getaway car. Jackson was arrested at his home in Columbus, Ohio as he was getting into the Corvette. Officers recovered \$5000 in cash, a .45 handgun, and a submachine gun from the car. Jackson gave a complete confession, directing Officers to the body of Seagraves. An autopsy showed she had been strangled with a strap still on her neck, and shot once in the back of the neck through her head. Jackson also directed Officers to the bloody clothing worn by Kennedy and Jackson discarded in a dumpster.

**Trial:** Information/PC for Murder filed (12-04-86); Change of Venue to Decatur County (04-06-87); Voir Dire (01-12-88, 01-13-88, 01-14-88, 01-15-88, 01-18-88, 01-19-88, 01-20-88, 01-21-88); Jury Trial (01-21-88, 01-22-88, 01-25-88, 01-26-88, 01-27-88, 01-28-88, 01-29-88, 02-01-88, 02-02-88, 02-03-88, 02-04-88, 02-05-88); Verdict (02-05-88); DP Trial (02-08-88, 02-09-88); Verdict (02-09-88); Court Sentencing (03-21-88); Resentencing After Remand (04-20-95).

**Conviction:** Murder, Felony-Murder, Kidnapping (A Felony), Robbery (C Felony)



**Sentencing:** March 21, 1988 (Death Sentence, 50 years, 8 years, consecutive)

Judge Overrides Jury Recommendation against DP  
Companion Case to Jackson

**Aggravating Circumstances:** b (1) Kidnapping  
b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Kennedy v. State, 578 N.E.2d 633 (Ind. September 19, 1991) (16S00-8808-CR-785)  
Conviction Affirmed 4-1 DP Vacated 4-1  
(Remanded for a “new sentencing determination”; Judge findings overruling jury recommendation fails to meet Martinez test)  
Krahulik Opinion; Shepard, Dickson concur; Debruler dissents against conviction; Givan dissents for DP.  
For Defendant: J. Richard Kiefer, Kevin P. McGoff, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Kennedy v. Indiana, 112 S.Ct. 1299 (1992) (Cert. denied)

**On Remand:** On April 28, 1992 Decatur County Circuit Court Judge John A. Westhafer again sentenced Kennedy to death, again overriding the jury recommendation against death, without a hearing in compliance with Indiana Supreme Court Opinion setting aside death sentence and mandating a “new sentencing determination.”

**Direct Appeal:** Kennedy v. State, 620 N.E.2d 17 (Ind. September 16, 1993) (16C01-8704-CF-45)  
DP Vacated 3-2 with instructions to impose a term of years.  
(Judge findings overruling recommendation again fails to meet Martinez test)  
Krahulik Opinion; Debruler, Dickson concur; Givan, Shepard dissent.  
(Shepard cites argument of Deputy AG Thad Perry in dissent)  
For Defendant: Richard Kiefer, Kevin P. McGoff, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Kennedy v. State, 644 N.E.2d 854 (Ind. 1994) (16S00-9208-DP-651) (Reh. denied 3-2)  
Debruler, Dickson, Sullivan; Shepard, Givan dissent to uphold death sentence)

**On Remand:** On April 20, 1995, in compliance with Indiana Supreme Court Opinion setting aside death sentence and mandating a “new sentencing determination,” Decatur County Circuit Court Judge John A. Westhafer resentenced Kennedy to consecutive terms of 60 years (Murder), 50 years (Kidnapping - A Felony), and 8 years (Robbery - C Felony), for a total sentence of 118 years imprisonment.

Kennedy v. State, 674 N.E.2d 966 (Ind. 1996) (16S00-9508-CR-960)  
(Appeal after remand and sentence of 118 years imposed - Affirmed)

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 118 YEARS IMPRISONMENT.

## KUBSCH, WAYNE D. # 94 & # 101

OFF DEATH ROW SINCE 02-11-19  
DOB: 10-31-67 DOC#: 108000 White Male

St. Joseph County Superior Court  
Judge Jerome Frese

**Trial Cause #:** 71D02-9812-CF-00592

**Prosecutor:** Scott H. Duerring, Joel V. Williams

**Defense:** James F. Korpel, Neil Wiseman

**Date of Murder:** September 18, 1998

**Victim(s):** Beth Kubsch W / F / 31 (wife);  
Rick Milewski W / M / 35 (Beth's Ex-Husband);  
Aaron Milewski W / M / 10 (Son of Beth & Rick)



**Method of Murder:** stabbing, shooting with handgun

**Summary:** September 18, 1998 was the 31st birthday of the defendant's wife Elizabeth Kubsch. It was also the day she was found dead by her 13 year old son under the stairs in the basement of the home she shared with the defendant. She had been stabbed numerous times, and was hogtied with duct tape. Also discovered in the basement were the bodies of Elizabeth's former husband, Rick Milewski, and their 10 year old son from that marriage, Aaron Milewski. Aaron had been stabbed 21 times and shot once in the mouth. Rick had been stabbed in the heart and shot twice in the head. Kubsch claimed to have worked all day, then went straight to pick up his other son in Michigan. However, cell phone records put him in the vicinity of the murder at the time of the murders. Duct tape from Elizabeth was matched to a wrapper in his vehicle. A receipt that was received by Elizabeth two hours before the murder was also found in his vehicle. He was overheard bragging about the murders at a local restaurant. He was over \$400,000 in debt and 2 months before the murders had taken out a life insurance policy on the life of Elizabeth for \$575,000.

**Trial:** Information/PC for Murder filed (12-22-98); Amended Information for DP filed (04-07-99); Voir Dire (05-15-00, 05-22-00, 05-23-00, 05-24-00, 05-25-00, 05-26-00, 05-30-00, 05-31-00); Jury Trial (06-01-00, 06-02-00, 06-03-00, 06-05-00, 06-06-00, 06-07-00, 06-08-00, 06-09-00, 06-10-00, 06-12-00, 06-13-00, 06-14-00, 06-15-00); Deliberations 10 hours, 22 minutes; Verdict (06-15-00); DP Trial (06-16-00); Deliberations 1 hour, 30 minutes; Verdict (06-16-00); Court Sentencing (08-28-00).

**Conviction:** Murder (3 counts)

**Sentencing:** August 28, 2000 (Death Sentence)

**Aggravating Circumstances:** b (12) Victim less than 12 years of age  
b (8) 3 Murders

**Mitigating Circumstances Raised:** No significant criminal history  
Neglect by parents, poor and deprived childhood  
Poor family (male) role models, Seeing parental violence  
Defendant's "good character"  
Absent parents, Multiple parent figures, Disorganized chaotic families  
Substance abuse in family  
Residual doubt  
Even if incarcerated for the rest of his life,  
the defendant's family would benefit from their relationship.

**Direct Appeal:** Kubsch v. State, 784 N.E.2d 905 (Ind. March 14, 2003) (71S00-9904-DP-239)  
Conviction Reversed 5-0 DP Vacated 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
(In violation of Doyle v. Ohio, the State presented videotaped interrogation where Kubsch asserted right to remain silent.)  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
Amicus Curiae: Kenneth J. Falk, Indiana Civil Liberties Union Marshall L. Dayan,  
NC Commission on Social Action of Reform Judaism  
For State: James B. Martin, Deputy Attorney General (S. Carter)

**On Remand:** Following a new jury trial, on March 19, 2005 Kubsch was again found guilty of 3 counts of Murder. After the verdict, Kubsch fired his lawyers, who remained only as standby counsel for the abbreviated sentencing hearing. On March 21, 2005 the jury recommended a death sentence. On April 18, 2005, St. Joseph County Superior Court Judge William H. Albright sentenced Kubsch to death in accordance with the jury verdict.  
For State: Deputy Prosecutors Scott H. Duerring, Frank E. Schaffer.  
For Defendant: Philip R. Skodinski, Brian J. May.

Retrial: Jury Panel Present to Complete Questionnaires (02-07-05, 02-08-05); Small Group Voir Dire (02-23-05, 02-24-05, 02-25-05, 02-28-05, 03-01-05, 03-02-05); Regular Voir Dire (03-03-05); Trial (03-04-05, 03-05-05, 03-07-05, 03-08-05, 03-09-05, 03-10-05, 03-11-05, 03-12-05, 03-14-05, State Rests, 03-15-05, 03-16-05, 03-17-05, 03-18-05, Defendant Rests, (03-19-05); Deliberations and Verdict (03-19-05); DP Trial (03-21-05); Deliberations and Verdict (03-21-05); Court Sentencing (04-18-05).

The case against Kubsch was entirely circumstantial. There was no eyewitness, no DNA evidence, no fingerprint testimony, indeed no forensic evidence at all that linked Kubsch to the murders. There was, however, moderately strong evidence of motive and opportunity. But most damning to Kubsch was a series of lies, inexplicable omissions, and inconsistencies in what Kubsch told the police and later testified on the witness stand, and these statements — in conjunction with a few pieces of circumstantial evidence — are what almost assuredly got Kubsch convicted.

At sentencing, Kubsch fired his lawyers and proceeded pro se. He told the jury that if they thought he did the heinous crimes for which he was convicted — and they obviously did since that was the verdict they just reached — then he deserved the death penalty. Since there was no evidence presented to contradict the State's request for the death sentence, that is precisely what the jury recommended, and that is what the judge imposed in April of 2005.

**Direct Appeal:** Kubsch v. State, 866 N.E.2d 726 (Ind. May 22, 2007) (71S00-0507-DP-333)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Eric Koselke, Brent L. Westerfeld, Indianapolis  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Kubsch v. Indiana, 128 S.Ct. 2501 (May 27, 2008) (Cert. denied)

**PCR:** PCR denied January 7, 2009 by St. Joseph Superior Court Judge Jane Woodward Miller.

Kubsch v. State, 934 N.E.2d 1138 (Ind. October 05, 2010) (71S00-0708-PD-335)  
(Appeal of denial of postconviction relief)  
Conviction Affirmed 5-0, DP Affirmed 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan, Boehm, concur.  
For Defendant: Steven H. Shutte, Laura L. Volk, Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (Zoeller)

**Habeas:** 01-27-11 Notice of Intent to file Petition for Writ of Habeas Corpus filed.  
04-27-11 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Wayne Kubsch v. Superintendent (3:11-cv-00042-PPS)  
Chief United States District Judge Philip P. Simon  
For Defendant: Joseph M. Cleary, Indianapolis, Marie F. Donnelly, Chicago, IL  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)  
09-14-11 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-29-12 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.  
08-21-12 Oral Arguments heard.  
09-14-11 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-29-12 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.  
08-21-12 Oral Arguments heard.  
Kubsch v. Superintendent, Ind. State Prison, (N.D.Ind. December 2, 2013) (3:11CV42-PPS)  
United States District Court for the Northern District of Indiana, South Bend Division  
Chief United States District Judge Philip P. Simon  
(Kubsch has not shown that any constitutional error had a substantial and injurious influence in determining the jury's verdicts. Writ of Habeas Corpus denied.)  
For Defendant: Joseph M Cleary, Indianapolis, IN; Marie F Donnelly, Chicago, IL.  
For State: James B Martin, Stephen R Creason, Deputy Attorneys General (Zoeller)

03-24-14 Petitioner's Motion to Alter and Amend Judgment is denied. Fed.R.Civ.P. 59(e)  
Neal v. Kubsch (U.S., May 22, 2017) (Cert.denied)

Kubsch v. Neal, 800 F.3d 783 (7th Cir. Ind., Aug. 12, 2015) (No. 14-1898)  
Appeal from the United States District Court for the Northern District of Indiana, South Bend  
(No. 3:11-cv-42-PPS)  
Conviction Affirmed 2-1 DP Affirmed 2-1 Opinion by Hamilton; Tinder concurs; Wood Dissents.  
(Kubsch's three principal arguments on appeal are that his conviction and sentence are unconstitutional because (a) the Indiana trial court excluded evidence of a witness's exculpatory but hearsay statement to police, (b) he was denied effective assistance of counsel in seeking admission of the witness's hearsay statement, and (c) his waiver of counsel and choice to represent himself at the sentencing phase of trial were not knowing and voluntary. We reject all three claims. Accordingly, we affirm the denial of relief as to both Kubsch's convictions and the death sentence.)  
(Wood, Chief Judge, dissenting. My colleagues are prepared to send Wayne Kubsch to his death on the basis of a trial at which the jury never heard critical evidence that, if believed, would have shown that Kubsch was not the man responsible for the horrible murders of his wife Beth, her son, Aaron Milewski, and her ex-husband, Rick Milewski. I am not. They concede that the evidence against Kubsch was entirely circumstantial. While there is nothing wrong with circumstantial evidence, it is impossible to have any confidence in a verdict rendered by a jury that heard only part of the story.)  
For Defendant: Alan Michael Freedman, Marie F Donnelly, Evanston, IL.  
For State: James B Martin, Stephen R Creason, Deputy Attorneys General (Zoeller)

Kubsch v. Neal, 838 F.3d 845 (7th Cir. September 23, 2016) (No. 14-1898) (*En banc*)  
Denial of Habeas Writ Reversed and Remanded 6-3.  
Opinion by: Wood; Posner, Flaum,, Kanne, Rovner, Williams Concur.  
Hamilton, Easterbrook and Sykes, Dissent.  
(We thus conclude that the Indiana Supreme Court's conclusion that Chambers did not require the admission of this critical evidence was either contrary to, or an unreasonable application of the Chambers line of Supreme Court precedent. We therefore Reverse the judgment of the district court and Remand for issuance of the writ of habeas corpus, unless the state within 120 days takes steps to give Kubsch a new trial)  
For Defendant: Alan Michael Freedman, Marie F Donnelly, Evanston, IL.  
For State: James B. Martin, Andrew A. Kobe, Stephen R. Creason, Deputy Attorneys General  
Neal v. Kubsch, 2017 U.S. LEXIS 3345 (U.S., May 22, 2017) (Cert. denied) (Zoeller)

**On Remand:** On September 10, 2018 the State withdrew its request for a death sentence, instead seeking only Life Without Parole. On February 11, 2019, the day jury selection was set to begin for his third trial, Kubsch pled guilty to Count I: Murder (Beth Kubsch) and Count III: Murder (Rick Milewski) pursuant to a Plea Agreement which called for a sentence of Life Without Parole. Count II: Murder (Aaron Milewski) was dismissed. On March 8, 2019 he was sentenced to two consecutive terms of Life Without Parole in accordance with the Plea Agreement by St. Joseph County Superior Court Judge Jane Woodward Miller, with 7,381 days credit for time served. (71D01-9812-CF-00592)

For State: Christopher Fronk, Eric Tamashasky, St. Joseph County Deputy Prosecutors.  
For Defendant: Mark Lenyo, Thomas Keller.

- ▶ CURRENTLY SERVING TWO TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **LAMBERT, MICHAEL ALLEN # 71**

EXECUTED BY LETHAL INJECTION 06-15-07 AT 12:29 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 10-21-1970 DOC#: 922001 White Male

Delaware County Superior Court  
Judge Robert L. Barnet, Jr.

**Trial Cause #:** 18D01-9101-CF-02

**Prosecutor:** Richard W. Reed, J. A. Cummins, Jeffrey L. Arnold

**Defense:** Ronald E. McShurley, Mark D. Maynard

**Date of Murder:** December 28, 1990

**Victim(s):** Gregg Winters W / M / 31 (Muncie Police Officer - No relationship to Lambert)

**Method of Murder:** shooting with .25 handgun

**Summary:** Muncie Police Officers were dispatched to a traffic accident and observed an abandoned utility truck. The truck was towed and Lambert was found nearby crawling under a vehicle. Lambert had spent most of the night getting drunk and after telling officers he was trying to sleep, was arrested by Officer Kirk Mace for Public Intoxication. He was patted down and placed into the back of a police car driven by Officer Gregg Winters for transport to jail. A few minutes later, the police vehicle was observed sliding off the road into a ditch. Lambert was still handcuffed in the backseat and Officer Winters had been shot 5 times in the back of the head and neck. A .25 handgun was found laying on the floorboard. It was later learned that Lambert had stolen the .25 pistol from his employer. A demonstration/re-enactment video was introduced into evidence showing the manner in which a gun could be retrieved and fired while handcuffed. A statement by the defendant was admitted despite his 0.18 BAC.

**Trial:** Information/PC for Murder and DP filed (01-09-91); Voir Dire (11-04-91, 11-06-91, 11-07-91, 11-08-91, 11-11-91, 11-12-91, 11-13-91); Jury Trial (11-13-91, 11-14-91, 11-15-91, 11-16-91); Deliberations over 2 days; Verdict (11-16-91); DP Trial (11-18-91); Verdict (11-18-91); Court Sentencing (01-17-92).

**Conviction:** Murder

**Sentencing:** January 17, 1992 (Death Sentence)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer



**Mitigating Circumstances:** 20 years old and intoxicated at the time of the murder  
lack of guidance in upbringing  
positive signs of rehabilitation

**Also Serving Time For:** Burglary, sentenced to 8 years imprisonment on 08-31-92. (Delaware)  
Battery, sentenced to 8 years imprisonment on 11-07-97. (LaPorte)

**Direct Appeal:** Lambert v. State, 643 N.E.2d 349 (Ind. December 6, 1994) (18S00-9107-DP-544)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Shepard, Dickson concur; Debruler, Sullivan dissent.  
(Case was remanded back to the trial court before this opinion to allow for correct application of intoxication as mitigating circumstance)  
For Defendant: Mark D. Maynard, Anderson, Ronald E. McShurley, Muncie  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Lambert v. State, 675 N.E.2d 1060 (Ind. December 31, 1996) (18S00-9107-DP-544)  
(On Rehearing, DP Affirmed 4-1 despite error in admitting victim impact evidence)  
Selby Opinion; Shepard, Dickson, Sullivan concur; Boehm dissents.  
Lambert v. Indiana, 117 S.Ct. 2417 (1997) (Cert. denied)  
Lambert v. Indiana, 118 S.Ct. 7 (1997) (Reh. denied)

**PCR:** Notice of Intent to File PCR Petition filed 02-04-97.  
PCR Petition filed 10-01-97. Amended PCR Petition filed 03-25-98.  
State's Answer to PCR Petition filed 11-14-97, 04-15-98.  
PCR Hearing 06-08-98, 06-09-98.  
Delaware Superior Court Judge Robert L. Barnet, Jr.  
For Defendant: Thomas C. Hinesley, Scott B. Rudolf, Kathleen Cleary,  
Deputy Public Defenders (Carpenter)  
For State: Geoffrey Davis, James Dimitri, Deputy Attorneys General, Richard W. Reed  
07-10-98 PCR Petition denied.

Lambert v. State, 743 N.E.2d 719 (Ind. March 5, 2001) (18S00-9702-PD-96)  
(Appeal of PCR denial by Delaware Superior Court Judge Robert L. Barnet, Jr.)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Thomas C. Hinesley, Kathleen Cleary, Deputy Public Defenders (Carpenter)  
For State: Priscilla J. Fossum, Deputy Attorney General (Modisett)  
Lambert v. Indiana, 122 S.Ct. 1082 (2002) (Cert. denied)

Lambert v. State, 825 N.E.2d 1261 (Ind. Apr 28, 2005) (18S00-0412-SD-503).  
(Lambert sought leave to file successive petition for state PCR. Held: Denied; Indiana Supreme Court, on direct appeal, had appellate authority to independently reweigh the proper aggravating and mitigating circumstances, as remedy for improper victim impact evidence admitted during trial.)  
Shepard Opinion; Dickson, Sullivan concur. Rucker, Boehm dissent.  
Lambert v. State, 867 N.E.2d 134 (Ind. May 21, 2007) (18S00-0412-SD-503)  
(Lambert sought leave to file successive petition for state postconviction relief. Held: Denied 3-2)  
Shepard, Dickson, Sullivan concur; Boehm, Rucker dissent.  
Lambert v. Indiana, 127 S.Ct. 7970 (2007) (Cert. denied)

**Habeas:** 06-19-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
Petition for Writ of Habeas Corpus filed 11-13-01 in U.S. District Court, Southern District of Indiana.  
Michael Allen Lambert v. Ron Anderson, Superintendent (IP 01-C- 864-M/S)  
Judge Larry J. McKinney  
For Defendant: Alan M. Freedman, Evanston, IL, Thomas A. Durkin  
For State: Michael A. Hurst, Stephen R. Creason, Deputy Attorneys General (S. Carter)

03-12-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
07-15-02 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-07-02 Writ of Habeas Corpus denied.  
01-31-03 Certificate of Appealability granted.

Lambert v. McBride, 365 F.3d 557 (7th Cir. April 7, 2004) (03-1015)  
(Appeal of denial of Habeas Writ by U.S. District Court for the Southern District of Indiana)  
Affirmed 3-0 (Ring does not apply retroactively)  
Circuit Judge Terence T. Evans, Judge Kenneth F. Ripple, Judge Michael S. Kanne.  
For Defendant: Alan M. Freedman, Evanston, IL, Laurence E. Komp, Ballwin, MO  
For State: Stephen R. Creason Deputy Attorney General (S. Carter)  
Lambert v. McBride, 125 S.Ct. 669 (December 6, 2004) (Cert. denied)

05-12-05 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Michael Allen Lambert v. Cecil Davis, Superintendent (1:05-CV-00708-LJM-VSS)  
Judge Larry J. McKinney  
05-31-05 Petition for Writ of Habeas Corpus dismissed for lack of jurisdiction; Stay denied.  
For Defendant: Alan M. Freedman, Carol R. Heise, Evanston, IL, Laurence E. Kemp, Baldwin, MO  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

06-17-05 Stay of Execution ordered by 7th Circuit U.S. Court of Appeals for scheduled 06-22-05 execution date. "In due course, the court will issue an order addressing whether a certificate of appealability should be issued.

Davis v. Lambert, 125 S.Ct. 2954 (2005) (Application to vacate stay denied)

Lambert v. Davis, 449 F.3d 774 (7th Cir. May 31, 2006) (05-2610)  
Appeal of dismissal of Successive Petition for Habeas Relief.  
(Whether Lambert was entitled to benefit of "Saylor" rule is a matter of state, not federal, law)  
Affirmed 2-1; Opinion by Circuit Judge Terence T. Evans.  
Judge Michael S. Kanne concurs; Judge Kenneth F. Ripple dissents.  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Evanston, IL  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Lambert v. Buss, 127 S.Ct. 1814 (2007) (Cert. denied)  
Lambert v. Buss, 127 S.Ct. 2158 (2007) (Reh. denied)

Lambert v. Buss, 489 F.3d 779 (7th Cir. June 12, 2007) (03-1015, 05-2610)  
(Stay / Mandate Recall denied; )  
Per Curiam Opinion. (Judge Kenneth F. Ripple, Judge Michael S. Kanne , Judge Terrance T. Evans)  
For Defendant: Alan M. Freedman, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

Lambert v. Buss, 498 F.3d 446 (7th Cir. June 14, 2007) (07-2378)  
(Challenge to lethal injection method of execution; Stay / Injunction denied since no showing that inmate would suffer unnecessary pain)  
Per Curiam Opinion. (Judge Kenneth F. Ripple, Judge Michael S. Kanne , Judge Terrance T. Evans)  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Evanston, IL  
For State: Stephen R. Creason, Deputy Attorney General (S.Carter)

LAMBERT WAS EXECUTED BY LETHAL INJECTION 06-15-07 AT 12:29 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 89TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 19TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## LANDRESS, CINDY LOU # 61

OFF DEATH ROW SINCE 10-15-92

DOB: 01-20-1958 DOC#: 893767 White Female

Lake County Superior Court Judge Richard J. Conroy

**Trial Cause #:** 45G03-8805-CF-00118

**Prosecutor:** John J. Burke

**Defense:** Kevin B. Relphorde, Albert E. Marshall, Jr.

**Date of Murder:** April 23, 1988

**Victim(s):** Leonard Fowler W / M / 46 (Live-In boyfriend of Landress)

**Method of Murder:** stabbing with knives

**Summary:** Landress lived with her boyfriend, Leonard Fowler. They were joined one morning by Landress' friend, William Lewellen. All three sat around the kitchen table talking and drinking. Lewellen suddenly threatened Fowler with a knife and forced him to the floor. Landress retrieved an extension cord and Lewellen tied Fowler up and took his wallet, giving it to Landress. While they were removing the money, Landress told Lewellen that Fowler had escaped and was in the bedroom loading his shotgun. Lewellen ran to the bedroom and began stabbing Fowler. Landress got a knife from the kitchen and returned to the bedroom where she says she attempted only to break up the fight. Landress received a deep cut to her hand and dropped the knife. Landress then got the keys from Fowler's pocket and they fled in his car. They were apprehended in California two weeks later. The day before the murder, Landress had displayed a large buck knife and Lewellen had displayed a smaller butterfly knife. Both had expressed a desire to go "rolling." (knocking someone out and robbing them). Most all of the above details came from the testimony of Landress and Lewellen.

**Trial:** Information filed/PC Hearing for Murder (05-04-88); Amended Information for DP filed (12-13-88); Voir Dire (05-15-89); Jury Trial (05-16-89, 05-17-89, 05-18-89, 05-19-89); Verdict (05-19-89); DP Trial (05-20-89); Deliberations 4 hours, 15 minutes; Verdict (05-20-89); Court Sentencing (06-26-89).

**Conviction:** Felony-Murder (Robbery)

**Sentencing:** June 26, 1989 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Landress v. State, 600 N.E.2d 938 (Ind. October 15, 1992) (45S00-8911-CR-837)

Conviction Affirmed 5-0 DP Vacated 4-1

(Intent to kill of one Defendant cannot be imputed to accomplice)

Krahulik Opinion; Shepard, Debruler, Dickson concur; Givan dissents.

For Defendant: James F. Stanton, Crown Point

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**On Remand:** On March 18, 1993, in compliance with Indiana Supreme Court Opinion setting aside death sentence and "remanded for imposition of a new sentence," Lake County Superior Court Judge Richard J. Conroy resentenced Landress to 60 years imprisonment for Murder

Landress v. State, 638 N.E.2d 787 (Ind. August 18, 1994) (45S00-9311-CR-1285)

(Appeal after remand and sentence of 60 years imposed; Affirmed)

Lewellen was sentenced to 60 years imprisonment and was discharged from IDOC on 12/28/17.

- ▶ LANDRESS (AT 58 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON MAY 1, 2016, AFTER SERVING ± 28 YEARS IN CUSTODY.



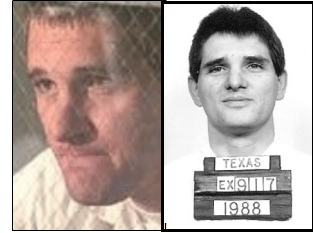
## **LOCKHART, MICHAEL LEE # 62**

EXECUTED 12-09-97 6:24 PM BY STATE OF TEXAS  
DOB: 09-30-1960 DOC#: 892136 White Male

Lake County Superior Court Judge James E. Letsinger  
**Trial Cause #:** 45GO2-8806-CF-00134

**Prosecutor:** Thomas W. Vanes, Joan Kuoros

**Defense:** Robert L. Lewis, Willie Harris, Darnail Lyles



**Date of Murder:** October 13, 1987

**Victim(s):** Windy Gallagher W / F / 16 (No relationship to Lockhart)

**Method of Murder:** stabbing with large knife 21 times

**Summary:** The body of 16 year old Windy Gallagher was found by her sister in the bedroom of their home in Griffith, Indiana. She was nude from the waist down with her hands tied behind her back, and her bra pushed up above her breasts. She was stabbed with a large knife 4 times in the neck and 17 times in the abdomen. There was a large pool of blood and her intestines were hanging out. Missing from her room was a photo of Windy and a small purse. Fingerprints in the room were identified as Lockhart's. The day before in Chicago, a woman was robbed of her purse at knifepoint. She identified Lockhart as her attacker. She was fortunate to recover her purse 3 days later. Inside it, she found the small purse belonging to Windy Gallagher. In January 1988, a 14 year old girl was raped and stabbed to death in Florida. Lockhart was identified by witnesses and DNA as the murderer. Because of striking similarities, evidence of this crime was admitted at trial. Lockhart's crime spree ended in Texas, where he murdered a police officer in Beaumont. He was convicted of Capital Murder in Texas in October 1988. This crime and conviction was kept from the jury until the penalty phase of the trial. Following the trial, Lockhart was returned and held on Texas Death Row until his execution there on 12-09-97.

**Trial:** Information filed/PC Hearing for Murder (06-17-88); Amended Information for DP filed (02-02-89); Competency Hearing (04-05-89); Voir Dire (06-12-89, 06-13-89, 06-14-89); Jury Trial (06-14-89, 06-15-89, 06-16-89, 06-17-89, 06-19-89, 06-23-89); Verdict (06-23-89); DPTrial (06-23-89, 06-24-89, 06-25-89, 06-26-89); Verdict (06-26-89); Court Sentencing (07-19-89).

**Conviction:** Murder

**Sentencing:** July 19, 1989 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (7) Convicted of another murder in Texas

**Mitigating Circumstances:** None

**Direct Appeal:** Lockhart v. State, 609 N.E.2d 1093 (Ind. March 8, 1993) (45S00-8911-CR-851)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Daniel L. Bella, Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 01-06-94; State's Answer to PCR Petition filed 03-03-94.  
PCR Hearing 01-27-95.  
Lake County Magistrate T. Edward Page  
For Defendant: Juliet Yackel, Steven Schutte, Thomas Essex  
For State: Natalie Bokota, Susan Collins, Cynthia Taylor  
02-28-96 PCR Petition denied.

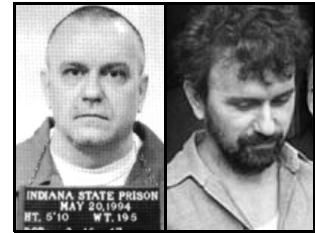
LOCKHART WAS EXECUTED BY LETHAL INJECTION ON 12-09-97 AT 6:24 PM BY THE STATE OF TEXAS.

## **LOWERY, JIM # 5 & # 17**

EXECUTED BY LETHAL INJECTION 06-27-01 12:29 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 03-16-1947 DOC#: 18667 White Male

Boone County Superior Court Judge Paul H. Johnson, Jr.  
Venued from Tippecanoe County



**Trial Cause #:** S459191 (Tippecanoe County)  
S6751C (Boone County)  
CCRV882-92 (Hendricks County)  
32C01-8208-CF-000092 (Hendricks County)

**Prosecutor:** John H. Meyers, IV, John W. Barce  
**Defense:** Lawrence D. Giddings, Donald R. Peyton

**Date of Murder:** September 30, 1979

**Victim(s):** Mark Thompson W / M / 80; Gertrude Thompson W / F / 80 (Former employers)

**Method of Murder:** shooting with .32 handgun

**Summary:** Mark and Gertrude Thompson were 80 years of age, in declining health, and needed assistance in caring for themselves and their property. Both were found shot to death in their country home in West Point, Indiana. The Thompsons has earlier employed Lowery and his wife as caretakers. The Thompsons, dissatisfied with the Lowerys, asked them to leave. Lowery and his friend Jim Bennett discussed committing robbery and Lowery told Bennett he knew where he could get some money. On September 30, Bennett picked Lowery up and followed Lowery's directions. Lowery told Bennett they were going to the Thompson's residence to force him to write a check for \$9,000, then to kill and bury both Thompsons. Janet Brown, housekeeper and caretaker for the Thompsons, was sitting in her trailer adjacent to the Thompson's garage when Lowery, armed with a pistol and sawed-off shotgun, kicked the door open and entered. After some conversation, Lowery forced her to take him into the Thompson's residence. Lowery took Brown into the kitchen where Mark Thompson was standing. He told Thompson he was being held up and then shot him in the stomach. Lowery then went to another room, forced Mrs. Thompson into the kitchen and shot her in the head. He also shot Brown, but Brown had her hand over her head when Lowery fired at her, causing injury to her hand and her head, but not fatally wounding her. A burglar alarm began ringing and Lowery became excited. He went back to and shot Mr. Thompson in the head before fleeing the scene. Lowery admitted the killings during penalty phase testimony. Bennett pled guilty by agreement, received a 40 year sentence, and testified against Lowery at his first trial. When he refused to testify at the second trial, his previous testimony was admitted.

**Trial:** Information/PC for Murder and DP filed (10-16-79); Agreed Change of Venue to Boone County (12-04-79); Voir Dire (06-09-80, 06-10-80); Jury Trial (06-11-80, 06-12-80, 06-16-80, 06-17-80); Verdict (06-18-80); DP Trial (06-19-80); Verdict (06-19-80); Court Sentencing (07-11-80).

**Conviction:** Murder, Murder, Attempted Murder (A Felony)

**Sentencing:** July 11, 1980 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no parental love  
mental commitment as a teenager

**Direct Appeal:** Lowery v. State, 434 N.E.2d 868 (Ind. May 5, 1982) (1280-S-448)  
Conviction Reversed 3-2 DP Vacated 3-2 (Failure to sequester)  
Debruler Opinion; Hunter, Prentice concur; Givan, Pivarnik dissent.  
For Defendant: Lawrence D. Giddings, Lebanon  
For State: Michael Gene Worden, Deputy Attorney General (Pearson)

Lowery v. State, 471 N.E.2d 258 (Ind. 1984) (184-S-11)  
(Regarding attorney fees for public defenders at DP trial)

**On Remand:** On remand, the trial was venued to Hendricks County and Lowery was again convicted of Murder, Murder, Attempted Murder (A Felony) and sentenced to death and 50 years imprisonment by Hendricks County Circuit Court Judge Jeffrey V. Boles on 01-07-83.

[Voir Dire/Jury Trial (11-30-82 to 12-08-82); Deliberations 2 hours; Verdict (12-08-82); DP Trial (12-09-82, 12-10-82); Deliberations 2 hours, 15 minutes; Verdict (12-10-82); Court Sentencing (01-07-83).]

Special Judge Judge Jeffrey V. Boles  
For Defendant: Lawrence D. Giddings, Lewis  
For State: John H. Meyers, IV, Richard J. Rudman

**Direct Appeal:** Lowery v. State, 478 N.E.2d 1214 (Ind. June 4, 1985) (483-S-116)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Pivarnik Opinion; Givan, Hunter, Prentice concur; Debruler dissents.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Michael Gene Worden, Deputy Attorney General (Pearson)  
Lowery v. Indiana, 106 S.Ct. 1500 (1986) (Cert. denied)

**PCR:** PCR Petition filed 07-18-86. Amended PCR filed 03-03-87, 05-02-88, 03-30-89.  
State's Answer to PCR Petition filed 04-03-87.  
PCR Hearing 12-13-88, 12-14-88, 12-15-88, 12-16-88, 12-19-88.  
Special Judge Thomas K. Milligan  
For Defendant: Monica Foster, Brent L. Westerfield  
For State: Daniel A. Lane, Timothy L. Kern, Jerry Bean  
10-22-90 PCR Petition denied.

Lowery v. State, 640 N.E.2d 1031 (Ind. 1994) (32S00-9008-PD-542)  
(Appeal of PCR denial by Special Judge Thomas Milligan)  
Affirmed 5-0, except Attempted Murder conviction reversed.  
Debruler Opinion; Shepard, Dickson, Givan, Sullivan concur.  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Lowery v. Indiana, 116 S.Ct. 525 (1995) (Cert. denied)

**Habeas:** 06-19-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-05-96 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Jim Lowery v. Rondle Anderson, Superintendent (IP 96-71-C-H/G) (Judge David Hamilton)  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Robert L. Collins, Stephen R. Creason, Deputy Attorneys General (Modisett)  
04-04-96 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-19-96 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-06-99 Writ of Habeas Corpus denied.  
12-21-99 Certificate of Appealability granted.

Lowery v. Anderson, 69 F.Supp.2d 1078 (S.D. Ind. July 6, 1999) (IP 96-71-C-H/G)  
(Petition for Habeas Writ denied by Judge David Hamilton)  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Robert L. Collins, Deputy Attorney General (Modisett)

Lowery v. Anderson, 225 F.3d 833 (7th Cir. August 29, 2000) (99-3227)  
(Affirming the denial of Writ of Habeas Corpus 3-0.  
Opinion by Judge William J. Bauer; Judge Joel M. Flaum, Judge Daniel A. Manion concur.  
For Defendant: Brent L. Westerfeld, Monica Foster, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Lowery v. Anderson, 121 S.Ct. 1488 (April 2, 2001) (Cert. denied)

**Clemency:** Lowery v. Anderson, 138 F.Supp.2d 1128 (S.D. Ind. April 13, 2001) (IP 96-0071-C H/G)  
(Order of Judge Hamilton granting the Motion for Appointment of Counsel for state clemency proceedings; Monica Foster and Brent L. Westerfield appointed; "the Court anticipates that a maximum of approximately 80 hours of attorney work may be 'reasonably necessary' in the clemency proceedings.")  
For Defendant: Monica Foster, Brent L. Westerfield, Indianapolis  
For State: Robert L. Collins, Deputy Attorney General (Modisett)

**Stay:** Lowery v. Indiana, 121 S.Ct. 2580 (2001) (Application for stay denied)

LOWERY WAS EXECUTED BY LETHAL INJECTION ON 06-27-01 12:29 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 79TH CONVICTED MURDER EXECUTED IN INDIANA SINCE 1900, AND THE 9TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **LOWERY, TERRY LEE (a/k/a Terry Lee Spencer) # 41**

OFF DEATH ROW SINCE 06-16-94  
DOB: 07-04-1961 DOC#: 855781 White Male

Allen County Superior Court Judge Alfred W. Moellering

**Trial Cause #:** CR-85-298

**Prosecutor:** Stephen M. Sims Michael J. McAlexander

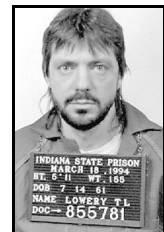
**Defense:** Barrie C. Tremper, Charles F. Leonard

**Date of Murder:** May 19, 1985

**Victim(s):** Tricia L. Woods W / F / 13 (Girlfriend of Lowery's friend)

**Method of Murder:** beating with wooden board

**Summary:** Lowery and his 14 year old friend. Johnnie Winners, drove to a wooded area along with Winners' 13 year old girlfriend, Tricia Woods. Lowery asked Woods to have sex with him, and when she refused, Lowery hit her in the head with a 2 X 4 piece of wood. Lowery then got on top of her and had sex. Lowery instructed Winners to go back to the car. 10-15 minutes later, Lowery also returned to the car with blood on his hands, admitting that he had killed Woods. These facts were testified to by Winners at trial. Lowery's pretrial statement differed significantly, claiming that it was Winners who forced sex with Woods. Lowery stated that he hit Woods in the back of the head with the 2 X 4, then Winners hit her in the face, caving it in. Lowery stated that Winners then put a stick in her vagina and kicked it. The body was discovered 30 days after her death. A stick was found between her legs and death was caused by the blows with the wooden boards.



**Trial:** Information/PC for Murder filed (06-26-85); Amended Information for DP filed (06-28-85); Voir Dire (11-19-85); Jury Trial (11-20-85, 11-21-98); Deliberations 6 hours, 20 minutes; Verdict (11-21-85); DP Trial (11-22-85); Deliberation 5 hours, 45 minutes; Verdict (11-22-85); Court Sentencing (12-19-85).

**Conviction:** Murder, Aiding Murder, Felony-Murder, Battery (C Felony)

**Sentencing:** December 19, 1985  
(Death Sentence for Murder; Aiding Murder, Felony-Murder, and Battery (C Felony) merged)

**Aggravating Circumstances:** b (1) Rape  
b (1) Child Molesting  
b (1) Criminal Deviate Conduct

**Mitigating Circumstances:** mental illness  
no significant prior criminal history  
23 years old and married at the time of the murder  
extreme emotional disturbance  
disproportionate treatment of accomplice  
turbulent childhood

**Direct Appeal:** Lowery v. State, 547 N.E.2d 1046 (Ind. December 8, 1989) (02S00-8606-CR-591)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Dickson Opinion; Shepard, Givan, Pivarnik concur; Debruler dissents.  
For Defendant: Barrie C. Tremper, Charles F. Leonard, Fort Wayne Public Defenders  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Lowery v. Indiana, 111 S.Ct. 217 (1990) (Cert. denied)

**PCR:** PCR Petition filed 04-19-92. Amended PCR filed 07-16-93.  
State's Answer to PCR Petition filed 08-13-92, 09-14-93.  
03-18-93 Defendant advises of name change to "Terry Lee Spencer."  
Allen County Superior Court Judge Alfred W. Moellering  
For Defendant: Judith G. Menadue, Kevin L. Likes  
For State: Fran C. Gull, David H. McClamrock  
06-14-94 Agreed disposition entered, resentenced to 60 years imprisonment.

- ▶ LOWERY (AT 50 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON MAY 25, 2012, AFTER SERVING ± 27 YEARS IN CUSTODY.

## MARTINEZ-CHAVEZ, ELADIO # 36

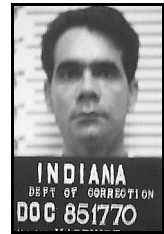
OFF DEATH ROW SINCE 03-01-89  
DOB: 08-04-1951 DOC#: 851770 Hispanic Male

Lake County Superior Court Judge James E. Letsinger

**Trial Cause #:** 2CR-199-1184-811

**Prosecutor:** John F. Crawford, Jr.

**Defense:** Robert L. Lewis



**Date of Murder:** October 11, 1984

**Victim(s):** Francisco Alarcon H / M / 82 (Acquaintance)

**Method of Murder:** stabbing with a knife 15 times

**Summary:** The body of 82 year old Francisco Alarcon was found in the bathroom of his home, stabbed 15 times. A trail of blood was noted from the living room to the bathroom. The evidence showed that Everett Amiotte drove Martinez Chavez and Reynaldo Rondon to a place near Alarcon's home on the night of the murder. As Amiotte stayed in the car, Martinez Chavez and Rondon walked around the corner and returned 20 minutes later. Both men were overheard earlier planning to rob Alarcon. The next day, Rondon gave his girlfriend 2 knives and told her to hide them. A search of Rondon's residence recovered blood-stained money and jewelry.

**Trial:** Information/PC for Murder and DP filed (11-13-84); Amiotte Guilty Plea (04-02-85); Amiotte Sentencing (05-21-85); Voir Dire (04-15-85); Jury Trial (04-16-85, 04-17-85, 04-18-85, 04-19-85); Verdict (04-18-85); DP Trial (04-20-85); Verdict (04-20-85); Court Sentencing (05-15-85).

**Conviction:** Murder, Felony-Murder

**Sentencing:** May 15, 1985 Death Sentence (Martinez); Death Sentence (Rondon)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

Judge Overrides Jury Recommendation against DP

Joint Trial with Reynaldo Rondon. Jury recommended a death sentence for Rondon, and did not recommend a death sentence for Martinez-Chavez. Amiotte pled guilty before trial to Assisting a Criminal (C Felony) and was sentenced after trial to 7 years imprisonment. The death sentence of Rondon was later vacated on appeal and he was resentenced to 55 years imprisonment on remand.

**Direct Appeal:** Martinez-Chavez v. State, 534 N.E.2d 731 (Ind. March 1, 1989) (1085-S-426)

Conviction Affirmed 5-0

DP Vacated 4-1 with Instructions to impose a term of years.

(Judge Findings insufficient to override jury recommendation against DP)

Shepard Opinion; Debruler, Givan, Dickson concur; Pivarnik dissents.

For Defendant: M.E. Tuke, Hector L. Flores, Deputy Public Defenders (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Martinez-Chavez v. State, 539 N.E.2d 4 (Ind. 1989) (Reh. denied)

**On Remand:** On July 12, 1989 Lake County Superior Court Judge James E. Letsinger resentenced Martinez-Chavez to 60 years imprisonment for Felony-Murder in compliance with Indiana Supreme Court Opinion setting aside death sentence and remanding "for sentencing to a term of years on the felony murder conviction."

- ▶ MARTINEZ-CHAVEZ (AT 58 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON APRIL 30, 2010, AFTER SERVING ± 25 YEARS IN CUSTODY.

## MATHENEY, ALAN LEHMAN # 65

EXECUTED BY LETHAL INJECTION 09-27-05 AT 12:27 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 11-06-1950 DOC#: 875922 White Male

Lake County Superior Court Judge James E. Letsinger  
Venued from St. Joseph County

**Trial Cause #:** 71D05-8903-CF-000181 (St. Joseph)  
45G02-9001-CF-00022 (Lake County)

**Prosecutor:** John D. Krisor

**Defense:** Scott L. King

**Date of Murder:** March 4, 1989

**Victim(s):** Lisa Bianco W / F / 34 (Ex-wife of Matheney)

**Method of Murder:** beating with shotgun

**Summary:** Matheney was convicted and sent to prison in 1987 for Battery and Confinement of his ex-wife, Lisa Bianco. While in prison, Matheney had repeatedly expressed a desire to kill Bianco, and attempted to solicit others to do so. After serving almost 2 years, he was given an 8-hour furlough from Pendleton, where he was an inmate. Although the pass authorized a trip to Indianapolis, Matheney headed straight for St. Joseph County. Once there, he parked the car in a lot two doors down from his ex-wife's house, then broke in through the back door. Bianco ran from the home, pursued by Matheney through the neighborhood. When he caught her, he beat her with a shotgun that broke into pieces. He then got into his car and drove away. Bianco died as a result of this blunt force trauma. (insanity defense) (This case generated massive amounts of publicity and led to legislation requiring DOC to notify victims of any release from prison)

**Trial:** Information/PC for Murder Filed (03-07-89); Death Sentence Request Filed (03-20-89); State Motion for Change of Venue (03-20-89); Jury Trial (04-02-90, 04-03-90, 04-04-90, 04-05-90, 04-06-90, 04-09-90, 04-10-90, 04-11-90); Verdict (04-11-90); DP Trial (04-12-90); DP Verdict (04-12-90); Court Sentencing (05-11-90).

**Conviction:** Murder, Burglary (B Felony)

**Sentencing:** May 11, 1990 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (3) Lying in wait

**Mitigating Circumstances:** turned himself in  
extreme mental and emotional disturbance  
helpful, useful, generous and kind  
mental disease (schizophreniform disorder)

**Direct Appeal:** Matheney v. State, 583 N.E.2d 1202 (Ind. January 9, 1992) (45S00-9002-DP-116)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Shepard, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Scott L. King, Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Matheney v. Indiana, 112 S.Ct. 2320 (1992) (Cert. denied)



**PCR:** PCR Petition filed 11-25-92. Amended PCR filed 09-09-94, 10-26-94.  
State's Answer to PCR Petition filed 12-08-92, 10-11-94.  
PCR Hearing 10-11-94.  
Special Judge Richard J. Conroy  
For Defendant: J. Jeffreys Merryman, Jr., Steven H. Schutte, Deputy Public Defenders (Carpenter)  
For State: Michael G. Gotsch  
04-10-95 PCR Petition denied.

Matheney v. State, 688 N.E.2d 883 (Ind. 1997) (45S00-9207-PD-584)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: J. Jeffreys Merryman, Jr., Steven H. Schutte, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Matheney v. Indiana, 119 S.Ct. 1046 (1999) (Cert. denied)

Matheney v. State, 833 N.E.2d 454 (Ind. August 29, 2005) (45S00-0506-SD-271)  
Motion for leave to file successive Petition for Postconviction Relief. Motion denied.  
("Mentally ill" persons not on same footing as mentally retarded)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

Matheney v. State, 834 N.E.2d 658 (Ind. September 23, 2005) (45S00-0509-SD-425)  
Motion for leave to file second successive Petition for Postconviction Relief. Motion denied.  
(Not entitled to appointment of counsel on second successive petition, Post-Conviction DNA testing not material, Ineffective Assistance and Prosecutorial Misconduct claims were procedurally barred)  
Shepard, Sullivan, Dickson, Boehm, Rucker concur.

**Habeas:** 04-14-98 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
07-11-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
08-17-98 Amended Petition for Writ of Habeas Corpus filed  
Alan L. Matheney v. Ron Anderson, Superintendent (3:98-CV-00183-AS)  
Judge Allen Sharp  
For Defendant: Marie F. Donnelly, Alan M. Freedman, Chicago, IL  
For State: Andrew L. Hedges, Michael A. Hurst, Deputy Attorneys General (Modisett)

03-29-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-08-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-30-99 Writ of Habeas Corpus denied.  
10-25-99 Certificate of Appealability granted in part.  
Matheney v. Anderson, 60 F.Supp.2d 846 (N.D. Ind. July 30, 1999) (3:98-CV-183-AS)  
(Petition for Habeas Writ denied by Judge Allen Sharp)

Matheney v. Anderson, 253 F.3d 1025 (7th Cir. June 18, 2001) (99-3657)  
(Appeal of habeas denial; Affirmed 2-1, but remanded to U.S. District Court for evidentiary hearing on issue of competency at trial)  
Circuit Judge Michael S. Kanne, Judge John L. Coffey; Judge Ilana Diamond Rovner dissents.  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Chicago, IL  
For State: Michael R. McLaughlin, Deputy Attorney General (Freeman-Wilson)  
Anderson v. Matheney, 122 S.Ct. 1635 (2002) (Cert. denied).

Matheney v. Anderson, 377 F.3d 740 (7th Cir. July 29, 2004) (03-1739).  
(After remand to U.S. District Court for evidentiary hearing on issue of competency at trial, and denial of habeas)  
Affirmed 3-0; . Michael S. Kanne Opinion; William J. Bauer, Ilana Diamond Rovner concur.  
For Defendant: Alan M. Freedman, Carol R. Heise, Evanston, IL

For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General (S. Carter)  
Matheney v. Davis, 125 S.Ct. 2252 (May 16, 2005) (Cert. denied)

MATHENEY WAS EXECUTED BY LETHAL INJECTION 09-28-05 AT 12:27 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 86TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 16TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

### **MCCOLLUM, PHILLIP # 33**

OFF DEATH ROW SINCE 04-29-99  
DOB: 06-19-1965 DOC#: 850552 Black Male

Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-227-1283-898

**Prosecutor:** Thomas L. Jackson, Kathleen M. O'Halloran

**Defense:** Cornell Collins, Daniel L. Toomey, Hamilton Carmouche

**Date of Murder:** November 28, 1983

**Victim(s):** Hal Fuller B / M / 65; Margaret Fuller B / F / 63 (Acquaintances of Townsend)

**Method of Murder:** stabbing with a steak knife 10 times (Hal) and 9 times (Margaret)

**Summary:** The bodies of Hal and Margaret Fuller were discovered in their home with multiple stab wounds. Mr. Fuller's open wallet was found at his feet and a serrated steak knife with blood was found in the driveway. The Fuller's car was found abandoned two days later. The girlfriends of Phillip McCollum and Johnny Townsend gave statements that they had driven in a similar car with McCollum and Townsend, that they had picked up a radio to sell, and that Townsend had a cut hand. Bloody clothing was later recovered from their residence. Both Townsend and McCollum gave remarkably similar statements to police. They said they went to the Fuller home and talked for awhile. When Mr. Fuller started to use the phone, Townsend stabbed him in the back. McCollum then started stabbing Mrs. Fuller, who cried out "Please don't kill me." McCollum told her to shut up and kept on stabbing her. When Townsend asked for help with Mr. Fuller, he stabbed him in the chest to finish him off. They found no money, but took a radio, stole the Fullers' car, and fled.

**Conviction:** Murder, Felony-Murder

**Sentencing:** March 8, 1985 Death Sentence (McCollum); Death Sentence (Townsend)

**Aggravating Circumstances:** b (1) Robbery, b (8) 2 murders

**Mitigating Circumstances:** 18 years old and single at the time of the murder  
no prior criminal record

Joint Trial and Direct Appeal (Both McCollum and Townsend Received DP)

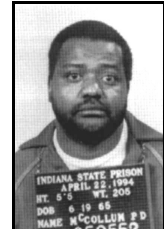
**Direct Appeal:** Townsend v. State, 533 N.E.2d 1215 (Ind. February 14, 1989) (885-S-339)

Conviction Affirmed 5-0 DP Affirmed 5-0

Pivarnik Opinion; Shepard, Debruler, Givan, Dickson concur.

For Defendant: James F. Stanton, Merrillville

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)



Townsend v. Indiana, 110 S.Ct. 1327 (1990) (Cert. denied)  
McCollum v. Indiana, 110 S.Ct. 2633 (1990) (Cert. denied)  
McCollum v. Indiana, 111 S.Ct. 9 (1990) (Reh. denied)

**PCR:** 11-13-90 Townsend PCR filed; Denied by Special Judge Richard J. Conroy 04-10-95.  
07-08-91 McCollum PCR filed; Denied by Special Judge Richard J. Conroy 04-10-95.  
(While appeal pending, on 04-29-99 parties entered into agreement. Judge Richard W. Maroc modified sentence of both McCollum and Townsend to 60 years consecutive on each count, for a total sentence of 120 years imprisonment.)

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## **MCMANUS, PAUL MICHAEL # 96**

OFF DEATH ROW SINCE 08-06-2015  
DOB: 07-14-72 DOC#: White Male

Vanderburgh County Circuit Court Judge Carl A. Heldt

**Trial Cause #:** 82C-01012-CF-00192

**Prosecutor:** Stanley M. Levco, Steven A. Hunt

**Defense:** Glenn A. Grampp, Mitchell Rothman

**Date of Murder:** February 26, 2001

**Victim(s):** Melissa McManus W / F / 29 (wife);  
Lindsey McManus W / F / 8 (daughter);  
Shelby McManus W / F / 23 months (daughter)



**Method of Murder:** shooting with .38 handgun

**Summary:** McManus was separated from his wife, Melissa. His two daughters, Lindsay (8) and Shelby (23 months) lived with Melissa. Shelby was born with severe birth defects. Divorce papers were served on him at his mother's house on the day of the murders. McManus took a taxi to his wife's residence and shot her once in the leg and 3 times in the head, killing her. He then shot 8 year old Lindsey 3 times in the head, then shot Shelby once in the head. He then drove to the Henderson bridge between Indiana and Kentucky and climbed to the very top (the equivalent of 11 stories). Despite the best efforts of law enforcement to talk him down, he jumped into the Ohio River. Miraculously, he was rescued from the water with only minor back injuries. An insanity defense was unsuccessfully presented at trial. McManus had told acquaintances the weekend before the murders to "watch the papers," because he was going to "do something big."

**Trial:** Information/PC for Murder filed (02-27-01); Amended Information for DP filed (03-20-01); Voir Dire (04-24-02, 04-25-02); Jury Trial (04-29-02, 04-30-02, 05-01-02, 05-09-02, 05-09-02); Verdict (05-09-02); DP Trial (05-10-02); Verdict (05-10-02); Court Sentencing (06-05-02).

**Conviction:** Murder, Murder, Murder

**Sentencing:** June 5, 2002 Death Sentence

**Aggravating Circumstances:** b (8) 3 murders  
b (12) two victims less than 12 years of age

**Mitigating Circumstances:** Lack of prior criminal history  
Depression and mental abnormalities  
Irresistible impulse

**Direct Appeal:** McManus v. State, 814 N.E.2d 253 (Ind. August 31, 2004) (82S00-0104-DP-188)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Timothy R. Dodd, John P. Brinson, Evansville  
For State: Scott A. Kreider, Deputy Attorney General (S. Carter)  
McManus v. Indiana, 126 S.Ct. 53 (2005) (Cert. denied)

**PCR:** 02-28-05 Notice of Intent to File PCR filed.  
PCR Petition filed 08-22-05; Amended Petition filed 01-06-06.  
For Defendant: Steven H. Shutte, JoAnna McFadden, Deputy Public Defenders (Carpenter)  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
05-10-06 Senior Judge William J. Brune grants Petition for Postconviction Relief as to death sentence, holding that McManus meets the statutory requirements of mental retardation, and imposes a sentence of Life Without Parole.

State v. McManus, 868 N.E.2d 778 (Ind. June 27, 2007) (82S00-0503-PD-78)  
(State's Appeal of granting of PCR as to death sentence by Special Judge William J. Brune)  
Reversed; Conviction Affirmed 5-0 DP Affirmed 3-2  
Shepard Opinion; Dickson, Sullivan concur; Boehm, Rucker dissent, maintaining that the determination of mental retardation by the PCR Court should have been given greater deference.  
For Defendant: Steven H. Schutte, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: Andrew A. Kobe, James B. Martin, Deputy Attorneys General (S. Carter)  
McManus v. Indiana, 128 S.Ct. 1739 (2008) (Cert. denied)

**Habeas:** 11-19-07 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-18-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, S.D. Indiana.  
Paul M. McManus v. Ed Buss, Superintendent (1:07-CV-01483-DFH-JMS)  
05-30-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas.  
10-31-08 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
01-08-09 Pay Vouchers for Joseph M. Cleary (\$14,824) and Marie F. Donnelly (\$25,160).

McManus v. Wilson, 2011 WL 1257969 (S.D. Ind. March 31, 2011) (1:07-CV-1483-TWP-MJD)  
Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
Petition for Writ of Habeas Corpus denied.  
For Defendant: Mary F. Donnelly, Chicago, IL and Joseph Martin Cleary, Indianapolis, IN  
For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

McManus v. Wilson, 2012 WL 4755354 (S.D. Ind. October 4, 2012) (1:07-CV-1483-TWP-MJD)  
Southern District of Indiana, U.S. District Judge Tanya Walton Pratt  
(Certificate of Appealability granted as to Atkins claim and denied as to all others)

McManus v. Neal, 779 F.3d 634 (7th Cir. February 17, 2015) (No. 12-2001)  
Appeal from the United States District Court for the Southern District of Indiana  
Reversed and remanded 3-0; Opinion By: Sykes; Wood and Flaum concur.  
(The state court unreasonably applied federal due process principles in addressing the defendant's competency to stand trial, since the defendant's panic attacks at trial required emergency medical treatment and the psychotropic medications used to treat them - Versed, Morphine, Xanax, and Lortab - raised bona fide doubts about the defendant's competency. The powerful effect of the medications alone created substantial doubt about McManus's mental fitness for trial, but the judge never ordered a competency evaluation. Accordingly, we reverse and remand to the district

court with instructions to grant the writ unless Indiana gives notice of its intent to retry McManus within a reasonable time to be set by the district court.)

For Defendant: Marie F. Donnelly and Alan Michael Freedman, Evanston, IL.

For State: Kelly A. Miklos, Deputy Attorney General (Zoeller)

Paul M. McManus v. Ed Buss, Superintendent (1:07-CV-01483-DFH-JMS)

U.S. District Court, Southern District of Indiana, U.S. District Judge Tanya Walton Pratt

04/15/2015 In conformity with the appellate mandate in No. 12-2001 issued on March 11, 2015, the Court now enters Final Judgment in favor of the petitioner, Paul M. McManus, and against the respondent. The petition for a writ of habeas corpus is granted. The State of Indiana shall vacate any and all criminal penalties stemming from No. 82C01-0102-CF- 192 in the Vanderburgh Circuit Court and release Paul M. McManus from its custody pursuant to that conviction unless the State of Indiana gives notice within 180 days of its intent to retry Paul M. McManus.

10/09/2015 Notice of State's Intention of Retry and Subsequent Conviction of McManus filed.

**On Remand:** By plea agreement, McManus entered a plea of guilty to Count I (Murder), Count II (Murder), and Count III (Murder), and admitted the charged Aggravating Circumstances. The evidence of the previous trial on April 14, 2002 was incorporated by agreement. On August 6, 2015 Vanderburgh Circuit Court Judge David D. Keily sentenced McManus to Life Without Parole on each of 3 Counts of Murder. Credit for time served 3/6/2001 to 8/6/2015.

► CURRENTLY SERVING THREE TERMS OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **MILLER, PERRY S. # 68**

OFF DEATH ROW SINCE 06-29-01

DOB: 10-14-1947 DOC#: 911827 White Male

Porter County Superior Court Judge Roger V. Bradford

**Trial Cause #:** 64DO1-9011-CF-181

**Prosecutor:** James H. Douglas, Gwenn R. Rinkenberger

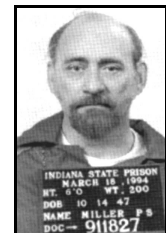
**Defense:** Ronald V. Aungst, Robert S. Kentner

**Date of Murder:** November 14, 1990

**Victim(s):** Christel Helmchen W / F / 19 (No relationship to Miller)

**Method of Murder:** shooting with shotgun

**Summary:** At 1:30 a.m. Valporaiso Police discovered that Christel Helmchen, the attendant at the White Hen Pantry on Calumet Avenue was missing. A few hours later, her body was found near Highway #6 with evidence of sexual assault and severe injuries to her pubic area and anal canal. The cause of death was a shotgun wound to the head. Helmchen's checkbook was later found in Miller's driveway. Miller's stepson, Rodney Wood, had lived with Miller at that address for 3 months, and during that time committed numerous burglaries and thefts. Wood and his friend, William Harmon, were arrested in Kentucky in a stolen car that contained clothing belonging to Helmchen. Wood entered into a plea agreement whereby the State would not pursue a Death Sentence in exchange for a statement. In the statement, Wood admitted that he, Miller, and Harmon had discussed robbing the White Hen, and that Harmon told them he had found a remote place to take the clerk where they could rape her and kill her. Miller drove Wood and Harmon to the White Hen and waited in the car while Wood and Harmon went inside, robbed the clerk at gunpoint, and escorted her to her car. Wood drove Helmchen's car and Miller followed to Highway #6. Harmon gagged and tied her and she was then dragged to a construction site. Miller fondled her, threw her to the



floor and ordered Wood to have sex with her, which he did. Miller instructed Wood and Harmon to tie her upright to a wall and Miller beat her with his fists. Harmon struck her with the shotgun. Miller then beat her with a 2 X 4 and stuck her with an ice pick in the thigh and breast. Upon Miller's direction, Wood and Harmon retrieved a tire iron and inserted it into her rectum while Miller watched. Miller and Wood then walked to the car. Harmon followed Helmchen out, put the shotgun to the back of her head and fired. An ISP hair examiner identified pubic hairs from Miller on the body of the victim.

Miller had previously been sentenced to Life Imprisonment for Kidnapping in Hamilton County on 10-08-69. (SC9-032 / 29D01-6905-CF-000032)

**Trial:** Information/PC for Murder and DP filed (11-19-90); Motion for Early Trial (12-18-90); Amended Information filed (02-22-91); Voir Dire (04-01-91, 04-02-91, 04-03-91, 04-04-91, 04-05-91); Jury Trial (04-08-91, 04-09-91, 04-10-91, 04-11-91, 04-12-91, 04-13-91, 04-15-91, 04-16-91, 04-17-91); Verdict (04-17-91); DP Trial (04-18-91); Verdict (04-18-91); Court Sentencing (05-20-91).

**Conviction:** Murder, Felony-Murder (3 counts), Confinement (B Felony), Rape (A Felony), CDC (A Felony), Robbery (A Felony), Conspiracy to Commit Murder (A Felony)

**Sentencing:** May 20, 1991 (Death Sentence, 20 years, 50 years, 50 years, 50 years, 50 years imprisonment)

**Aggravating Circumstances:** b (1) Rape, b (1) Criminal Deviate Conduct, b (1) Robbery  
b (9) On parole

**Mitigating Circumstances:** behaved well as a prisoner for 19 years  
kind and helpful to roommate and child  
during childhood did not display sadistic tendencies  
sensitive and caring individual  
stepdaughter allowed him to babysit

**Direct Appeal:** Miller v. State, 623 N.E.2d 403 (Ind. October 26, 1993) (64S00-9012-DP-817)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Shepard, Debruler, Krahulik concur; Dickson dissents.  
For Defendant: John E. Martin, Valparaiso  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 03-17-95. Amended PCR filed 02-14-96.  
State's Answer to PCR Petition filed 04-17-95, 03-12-96.  
PCR Hearing by affidavit and deposition.  
Special Judge Raymond D. Kickbush  
For Defendant: Ann M. Pfarr, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: James H. Douglas, Gwenn R. Rinkenberger.  
07-22-96 PCR Petition denied.

Miller v. State, 702 N.E.2d 1053 (Ind. 1998) (64S00-9408-PD-00742)  
(Appeal of PCR denial by Special Judge Raymond D. Kickbush)  
Conviction Affirmed 5-0, DP Affirmed 5-0; Sullivan Opinion; Shepherd, Dickson, Selby, Boehm concur.  
For Defendant: Ann M. Pfarr, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

**Habeas:** 05-07-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-17-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Perry Steven Miller v. Rondle Anderson, Superintendent (3:99-CV-00258-AS)  
Judge Allen Sharp

For Defendant: Eric Koselke, Brent L. Westerfeld, Indianapolis  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
12-07-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-06-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
06-19-00 Writ of Habeas Corpus denied.  
08-21-00 Attorney Payment Voucher for Brent L. Westerfeld for \$29,053.75  
08-21-00 Attorney Payment Voucher for Eric Koselke for \$22,600.00  
09-07-00 Certificate of Appealability granted in part.

Miller v. Anderson, 255 F.3d 455 (7th Cir. June 29, 2001) (00-2979)  
(Appeal of denial of Habeas Writ by Judge Allen Sharp) Reversed 3-0  
Opinion by Circuit Judge Richard A. Posner, Judge Frank H. Easterbrook, Judge Kenneth F. Ripple.  
(Habeas Granted as to conviction and sentence on grounds of ineffective assistance of trial counsel for failure to call as witnesses hair and DNA experts, and in calling psychologist which allowed impeachment by Miller's prior convictions. State ordered to retry or release Miller within 120 days.)  
For Defendant: Eric Koselke, Brent L. Westerfeld, Indianapolis  
For State: James B. Martin, Deputy Attorney General (S. Carter)

Miller v. Anderson, 268 F.3d 485 (7th Cir. September 28, 2001) (00-2979)  
(Based upon Joint Motion: "This court's order directing the district court to issue a conditional writ of habeas corpus and the award of costs are vacated and the petition for rehearing is DISMISSED.")  
Opinion by Circuit Judge Richard A. Posner, Judge Frank H. Easterbrook, Judge Kenneth F. Ripple.

**On Remand:** On August 7, 2001, Miller entered a guilty plea to the charges pursuant to a Plea Agreement calling for a 138 year sentence, and was sentenced by Porter County Superior Court Judge Roger V. Bradford to consecutive terms of 60 years (Murder), 50 years (Conspiracy to Murder), 20 years (Confinement), and 8 years (Robbery).

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 138 YEARS IMPRISONMENT.

## **MINNICK, WILLIAM A. # 13 & # 40**

OFF DEATH ROW SINCE 08-22-00  
DOB: 08-21-1963 DOC#: 13150 White Male

Clay County Circuit Court Judge Ernest E. Yelton  
Venued from Putnam County



**Trial Cause #:** CR-81-104 (Putnam County)  
CR-81-86 (Clay County)  
C-85-CR-39 (Lawrence County)

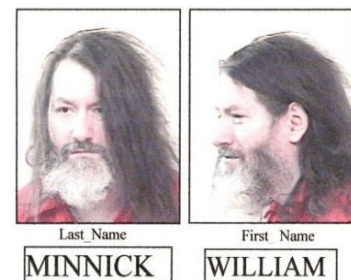
**Prosecutor:** Delbert H. Brewer, Fritz D. Modesitt

**Defense:** Woodrow S. Nasser

**Date of Murder:** October 26, 1981

**Victim(s):** Martha Payne W / F / 24 (Acquaintance of Minnick)

**Method of Murder:** stabbing with knife



**Summary:** James D. Payne returned to his home in Greencastle and found the body of his wife, Martha, on the bedroom floor. She had been raped, anally sodomized, and stabbed in the shoulder/back area, which caused her death. There were also ligature marks on her neck, and burns on her ankles indicating an attempt at electrocution. Among other things, a jugful of coins was taken. Minnick's car was observed in the area near the time of death. When confronted, Minnick admitted being

at the victim's home earlier in the day, but only to ask if she needed work done. A more incriminating statement made later was admitted at the first trial in violation of Edwards / Miranda, and was the basis for reversal on appeal. A hair on an electrical wire recovered from Minnick's car matched those of the victim. Minnick was found in possession of coins and broken glass. His girlfriend testified that Minnick told her that "Ace" killed the woman, but he raped her.

**Trial:** Information/PC for Murder filed (10-27-81); Amended Information for DP filed (10-29-81, 01-05-82); Venued to Clay County (12-81); Voir Dire (04-22-82, 04-23-82, 04-26-82, 04-28-82); Jury Trial (04-28-82, 04-29-82, 04-30-82, 05-03-82, 05-05-82, 05-06-82, 05-07-82, 05-10-82, 05-11-82, 05-12-82, 05-13-82, 05-14-82, 05-17-82, 05-19-82, 05-20-82, 05-21-82, 05-22-82); Verdict (05-22-82); DP Trial (05-24-82); Verdict (05-24-82); Court Sentencing (06-10-82).

**Conviction:** Murder, Rape (A Felony), Robbery (A Felony); Directed verdict of Not Guilty on CDC  
**Sentencing:** June 10, 1982 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (1) Rape

**Mitigating Circumstances:** 18 years old at the time of the murder

**Direct Appeal:** Minnick v. State, 467 N.E.2d 754 (Ind. September 7, 1984) (1282-S-467)  
Conviction Reversed 5-0 DP Vacated 5-0 with Instructions for new trial  
(Confession improperly admitted in violation of Edwards / Miranda)  
Givan Opinion; Debruler, Prentice, Pivarnik, Hunter concur.  
For Defendant: Woodrow S. Nasser, Terre Haute  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Indiana v. Minnick, 105 S.Ct. 3512 (1985) (Cert. denied)

**On Remand:** Venued to Lawrence County (07-15-85); Voir Dire (09-04-85, 09-05-85, 09-06-85); Jury Trial (09-06-85, 09-06-85, 09-09-85, 09-10-85, 09-11-85, 09-12-85, 09-13-85, 09-16-85, 09-17-85, 09-18-85); Verdict (08-18-85); DP Trial (09-19-85); Verdict (09-19-85); Court Sentencing (10-16-85).

On remand, trial was venued to Lawrence County and Minnick was again convicted of Murder, Rape (A Felony), and Robbery (A Felony) and sentenced to death on 10-16-85 by Lawrence County Circuit Court Judge Linda Chezem, despite a jury recommendation against death. No sentence was entered on Rape (A Felony) or Robbery (A Felony).  
Judge Overrides Jury Recommendation against DP  
For Defendant: Woodrow S. Nasser, Terre Haute  
For State: Delbert H. Brewer

**Direct Appeal:** Minnick v. State, 544 N.E.2d 471 (Ind. October 2, 1989) (47S00-8603-CR-314)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Shepard, Pivarnik concur; Debruler, Dickson dissent.  
For Defendant: Woodrow S. Nasser, Terre Haute Public Defender  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**PCR:** 12-31-90 Petition for Enlargement of Time to File PCR Petition  
11-15-91 Pro se Petition to Terminate Post Conviction.  
PCR Petition filed 06-03-92. Amended PCR filed 07-29-94, 03-01-95.  
State's Answer to PCR Petition filed 06-08-92, 08-24-94.  
PCR Hearing 11-21-94.  
Judge Richard D. McIntyre  
For Defendant: Lorinda Meier Youngcourt  
For State: Robert J. Lowe  
06-13-95 PCR Petition denied.

Minnick v. State, 698 N.E.2d 745 (Ind. 1998) (47S00-9008-PD-497)  
(Appeal of PCR denial by Judge Richard D. McIntyre) Affirmed 4-1  
Dickson Opinion; Shepard, Selby, Boehm concur. Sullivan dissents.  
For Defendant: Lorinda Meier Youngcourt, Kevin P. McGoff, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Minnick v. State, 705 N.E.2d 179 (Ind. 1999) (Reh. denied 4-1)  
Minnick v. Indiana, 120 S.Ct. 501 (1999) (Cert. denied)

07-28-04 The Indiana Supreme Court remanded William Minnick's case back to the Lawrence Circuit Court, authorizing the filing of a successive post-conviction relief petition, to consider arguments for resentencing in light of Saylor v. State. The post-conviction court was directed to first determine competency.

09-14-04 Successive Petition for PCR filed.

10-12-04 State's Answer filed.

12-01-04 PCR granted by Lawrence Circuit Court Judge Richard D. McIntyre, Sr.

(Judge originally sentenced Minnick to death over the recommendation of the jury against imposition of death penalty. Under Saylor v. State the death sentence was "inappropriate," since under current statute, Judge must sentence in accordance with jury verdict. The parties agreed that Minnick was not competent at this time.)

Following the Indiana Department of Mental Health's certification of competency, on August 23, 2011 Minnick was resentenced by Lawrence County Circuit Court Judge Andrea McCord to 60 years (Murder), 50 years (Robbery), and 50 years (Rape) to run consecutively for a total sentence of 160 years imprisonment.

Minnick v. State, 965 N.E.2d 124 (Ind. April 3, 2012) (47A05-1108-CR-448)

Direct Appeal of 160 year sentence.

Affirmed in part 3-0. Opinion by Bradford. Vadik and Crone concur.

(Robbery (A Felony) and Murder sentences constitute Double Jeopardy. Robbery (A Felony) reduced to Robbery (B Felony) and 50 year sentence reduced to 20 years, for a total sentence of 130 years imprisonment. Otherwise affirmed)

**Habeas:** 03-16-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

09-08-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

William A. Minnick v. Ron Anderson, Superintendent (3:99-CV-00157-RLM)

Judge Robert L. Miller, Jr.

For Defendant: Alan M. Freedman, Thomas A. Durkin, Chicago, IL, Monica Foster, Indianapolis,

Donald C. Swanson, Michelle F. Kraus, Ft. Wayne

For State: Stephen R. Creason, Thomas D. Perkins, Deputy Attorneys General (S. Carter)

12-03-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

03-16-00 Oral Argument held in Lafayette, Indiana

08-22-00 Order conditionally granting Petition for Writ of Habeas Corpus.

Minnick v. Anderson, 151 F.Supp.2d 1015 (N.D. Ind. August 22, 2000) (3:99-CV-00157-RLM)

(Granting Habeas Writ as to death sentence only, conditioned upon resentencing to "imprisonment during his natural life without parole." - Imposition of death sentence in the face of a contrary jury recommendation violated equal protection clause)

For Defendant: Donald C. Swanson, Michelle F. Kraus, Ft. Wayne

For State: Michael A. Hurst, Michael R. McLaughlin, Deputy Attorneys General (S. Carter)

03-25-02, 03-26-02, 04-10-02 Sanity Hearing as Ordered by 7th Circuit U.S. Court of Appeals.

04-24-02 Guardian Ad Litem appointed for Minnick

07-01-02 7th Circuit U.S. Court of Appeals relieves lawyers of authority to represent Minnick

08-25-04 Petitioner's Motion to Stay Proceedings granted (to pursue state PCR)

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 138 YEARS IMPRISONMENT.

## MOORE, RICHARD D. # 7 & # 92

DIED OF NATURAL CAUSES ON DEATH ROW 12-24-06  
DOB: 06-05-1931 DOC#: 13140 Black Male

Hamilton County Superior Court Judge Jerry M. Barr  
Venued from Marion County

**Trial Cause #:** CR79-369A (Marion County)  
2SCR-80-005 (Hamilton County)  
06D02-9904-CF-176 (Boone County)

**Prosecutor:** J. Gregory Garrison, John D. Tinder, Stephen Goldsmith

**Defense:** Wilmer E. Goering, II

**Date of Murder:** November 6, 1979

**Victim(s):** Rhonda L. Caldwell B / F / 27 (Ex-wife);  
John H. Caldwell B / M / 54 (Ex-Father-In-Law);  
Gerald F. Griffin W / M / 29 (Indianapolis Police Officer - No relationship to Moore)

**Method of Murder:** shooting with shotgun

**Summary:** Moore was divorced from his second wife, Rhonda Caldwell, 8 days before murdering her. Moore went to the home of her parents on 36th Street in Indianapolis and talked to Rhonda in the carport for awhile. Rhonda began to cry and headed back in the house. As she did, she shouted at her parents to "get inside, lock the doors, Richard's got a gun." Moore was armed with a shotgun and when it was all over he had shot John Caldwell to death in the living room, shot Rhonda to death in the kitchen, and seriously injured Ruth Caldwell with shots to her right arm and buttocks. A responding Indianapolis Police Officer in full uniform, Gerald Griffin was dead just outside, Moore having shot him with the shotgun through the garage/patio doorway. Another Officer, Cicero Mukes was also in full uniform and shot while getting out of his marked patrol car.

**Trial:** Information/PC for Murder and Death Sentence filed (11-07-79); Petition to Allow Marriage (01-07-90); Guilty Plea (08-25-80); DP Trial (10-22-80, 10-23-80, 10-24-80); Court Sentencing (10-24-80).

**Conviction:** Pled Guilty to Murder, Murder, Murder with no Plea Agreement; State dismissed Attempted Murder (A Felony) (3 counts) and Confinement (B Felony) (3 counts) upon the Court's acceptance of the guilty pleas.

**Sentencing:** October 24, 1980 (Death Sentence)

Guilty Plea

**Aggravating Circumstances:** b (6) Victim was law enforcement officer  
b (8) 3 murders

**Mitigating Circumstances:** improvements made in his life as he overcame alcoholism  
religious activities while in jail  
opinion evidence that he is not likely to repeat crimes  
extreme emotional disturbance  
good works  
no significant prior criminal record



**Direct Appeal:** Moore v. State, 479 N.E.2d 1264 (Ind. June 26, 1985) (1082-S-400)  
Conviction Affirmed 4-0 DP Affirmed 3-1  
Pivarnik Opinion; Givan, Prentice concur; Debruler dissents. Hunter did not participate  
For Defendant: Kenneth M. Stroud, Indianapolis, John Proffitt, Noblesville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Moore v. Indiana, 106 S.Ct. 583 (1985) (Cert. denied)

**PCR:** PCR Petition filed 02-13-86. Amended PCR filed 11-25-86.  
State's Answer to PCR Petition filed 03-11-86, 12-09-86.  
11-30-90 Motion for Default Judgment to Defendant denied.  
11-24-93 Motion for Summary Judgment to Defendant denied.  
PCR Hearing 05-16-94, 05-17-94, 05-18-94, 05-19-94, 05-20-94, 01-06-95.  
Special Judge Thomas Newman, Jr.  
For Defendant: Joanna Green, Thomas C. Hinesley, Deputy Public Defenders (Carpenter)  
For State: John V. Commons  
05-15-95 PCR Petition granted as to conviction and sentence.  
(Appealed by the State on conviction only)

State v. Moore, 678 N.E.2d 1258 (Ind. April 23, 1997) (29S00-9008-PD-543)  
(State's appeal on granting of PCR on conviction only by Special Judge Thomas Newman)  
Reversed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
(Guilty Plea reinstated and remanded for new sentencing hearing.)  
For Defendant: Thomas C. Hinesley, Joanna Green, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Moore v. Indiana, 118 S.Ct. 1528 (1998) (Cert. denied)

**On Remand:** Stipulation to Change Venue to Boone County (04-01-99);  
DP Trial (11-30-99, 12-01-99, 12-02-99, 12-03-99, 01-13-00).  
On remand, venued to Boone County by agreement. Following a new sentencing hearing,  
Special Judge James R. Detamore sentenced Moore to death on 01-13-00.  
For Defendant: Eric K. Koselke, Lorinda Meier Youngcourt  
For State: John V. Commons, Sheila Carlisle

**Direct Appeal:** Moore v. State, 771 N.E.2d 46 (Ind. June 26, 2002) (06S00-0006-PD-389)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Boehm, Sullivan, Rucker concur.  
For Defendant: Lorinda Youngcourt, Indianapolis, Janice L. Stevens, Marion Public Defender  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)  
Moore v. Indiana, 123 S.Ct. 1931 (May 5, 2003) (Cert. denied)

**Habeas:** 06-04-03 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
03-29-04 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Richard Moore v. Daniel McBride, Superintendent (1:03-CV-00828-LJM-WTL)  
Judge Larry J. McKinney  
For Defendant: Alan M. Freedman, Chicago, IL, Laurence E. Komp, Ballwin, MO  
For State: Stephen R. Creason, Scott Alan Kreider, Deputy Attorneys General (S. Carter)

07-30-04 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
10-28-04 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
04-29-04 Attorney Payment Vouchers for Alan M. Freedman for \$10,437.50, \$12,250.00  
04-29-04 Attorney Payment Vouchers for Laurence E. Komp for \$5,375.00, \$11,975.00

WHILE AWAITING DECISION BY U.S. DISTRICT COURT ON PETITION FOR WRIT OF HABEAS CORPUS,  
MOORE DIED OF NATURAL CAUSES ON DEATH ROW AT INDIANA STATE PRISON, MICHIGAN CITY,  
INDIANA ON 12-24-06. HE WAS 75 YEARS OLD AT THE TIME OF HIS DEATH, HAVING SERVED ± 27  
YEARS IN CUSTODY.

## OVERSTREET, MICHAEL DEAN # 93

ON DEATH ROW SINCE 07-31-00  
DOB: 11-18-1966 DOC#: 993801 White Male

Johnson County Superior Court  
Judge Cynthia S. Emkes



**Trial Cause #:** 41D02-9711-CF-00158

**Prosecutor:** Lance D. Hamner, Bradley D. Cooper, Tina L. Mann

**Defense:** Jeffrey A. Baldwin, Peter D. Nugent

**Date of Murder:** September 27, 1997

**Victim(s):** Kelly Eckart W / F / 18 (No relationship to Overstreet)

**Method of Murder:** ligature strangulation with shoestring and overalls strap



**Summary:** Kelly Eckart was an 18 year old freshman attending Franklin College, working her way through school with a part-time job at Walmart. On September 27, 1997 she left work, met briefly with her boyfriend and drove towards her home in Shelby County. That was the last time she was seen alive. The next morning, her car was found abandoned in a rural area, with its lights on and keys in the ignition. Four days later, the partially nude body of Kelly Eckart was found in a ravine in Brown County. She had been strangled with her own shoe string and a strap cut from the suspenders of her overalls. She had also been shot once in the forehead. Semen was discovered on the victim which was later matched through DNA analysis as having been contributed by Overstreet. The defendant's brother first contacted the police and admitted that the defendant called him on the 27th, he had met him at a hotel, drove his van, and transported him and a girl to a remote wooded area where he dropped them off. The Defendant returned later and moved the body to Brown County. Fibers found on the victim's body matched those from the defendant's van, which he had spent several hours cleaning before the victim's body was found. An eyewitness identified the defendant near the dump site on the day the body was recovered.

**Trial:** Information/PC for Murder filed (11-10-97); Amended Information for DP filed (04-15-98, 04-11-00); Voir Dire in Clark County (04-24-00, 04-25-00, 04-26-00, 04-27-00); Jury Trial in Johnson County (05-01-00, 05-02-00, 05-03-00, 05-04-00, 05-05-00, 05-08-00, 05-09-00, 05-10-00, 05-11-00, 05-12-00); Deliberations 10 hours, 43 minutes; Verdict (05-13-00); DP Trial (05-15-00, 05-16-00, 05-17-00, 05-18-00); Deliberations 2 hours, 15 minutes; Verdict (05-18-00); Court Sentencing (06-20-00, 07-31-00).

**Conviction:** Murder, Rape (B Felony), Confinement (B Felony)

**Sentencing:** July 31, 2000 (Death Sentence, 20 years, 20 years consecutive)

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** Deprived and abusive childhood  
Schizotypal Personality Disorder / Psychological deterioration  
Hallucination as a child, including "demons"  
Mother failed to seek mental help for him  
3 months in Marines before discharge for mental illness  
He loves his children and nieces who idolize him  
Has only a misdemeanor criminal history  
Model prisoner since his incarceration

**Direct Appeal:** Overstreet v. State, 783 N.E.2d 1140 (Ind. February 24, 2003) (41S00-9804-DP-217)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Boehm, Rucker concur.  
For Defendant: Teresa D. Harper, Bloomington, Jeffrey Baldwin, Indianapolis  
For State: Timothy W. Beam, Deputy Attorney General (S. Carter)  
Overstreet v. Indiana, 124 S.Ct. 1145 (January 20, 2004) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition filed 06-12-03.  
12-03-04 PCR denied by Johnson County Superior Court Judge Cynthia S. Emkes.  
For Defendant: Kathleen Cleary, Thomas C. Hinesley, Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (S. Carter)

Overstreet v. State, 877 N.E.2d 144 (Ind. November 27, 2007) 41S00-0306-PD-249.  
(Appeal of PCR denial by Johnson Superior Court Judge Cynthia S. Emkes.  
Affirmed 5-0; Opinion by Rucker. Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Steven H. Schutte, Thomas C. Hinesley, Kathleen Cleary,  
Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Overstreet v. Indiana, 129 S.Ct. 458 (Oct. 20, 2008) (Cert. Denied)

Overstreet v. State, 910 N.E.2d 272 (Ind. App. July 17, 2009) (41A05-0902-CV-060)  
(Memorandum Decision - Not for Publication)  
Appeal of denial of Motion for Return of Property by Johnson Superior Court Judge Cynthia S. Emkes  
Cause#: 41D02-9711-CF-159  
For Defendant: Pro-se  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Affirmed 3-0; Mathias Opinion; Riley, Kirsch concur.  
(No need to return property, even though not introduced as evidence, since case still pending on Habeas and no "final disposition" reached)

**Habeas:** 05-09-08 Notice of Intent to File Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
08-11-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
Michael Dean Overstreet v. Superintendent (3:08-CV-00226-PPS)  
Judge Philip P. Simon  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, MO  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
01-28-09 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-15-09 Traverse filed by Petitioner in support of Writ of Habeas Corpus.  
03-04-11 Petition for Writ of Habeas Corpus denied.

Overstreet v. Superintendent, 2011 WL 836800 (N.D. Ind. March 04, 2011) (3:08-CV-226 PS)  
U.S. District Judge Philip P. Simon, Northern District of Indiana, denied the Petition for Writ of Habeas Corpus, rejecting claims of ineffective assistance of counsel.  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, MO.  
For State: James B. Martin, Deputy Attorney General (Zoeller)

Overstreet v. Superintendent, 686 F.3d 404 (7th Cir. July 11, 2012) (11-2276)  
Appeal of denial of Habeas Writ by U.S. District Court, Northern District Judge Philip P. Simon.  
Conviction Affirmed 2-1 DP Affirmed 2-1  
Opinion by Judge Frank H. Easterbrook; Judge William J. Bauer concurs. Judge Diane P. Wood dissents on IAC grounds for failure to present evidence of schizophrenia.  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, MO.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Overstreet v. Wilson, 133 S. Ct. 2735 (May 28, 2013) Cert. denied).

**PCR:** Overstreet v. State, 993 N.E.2d 179 (Ind. September 3, 2013) (41S00-1305-SD-397)  
On Petition for Permission to File Successive PCR.  
Johnson Superior Court (41D02-9711-CR-00158, 41D02-0401-PC-00001).  
(Asserting that his mental illness renders him "incompetent to be executed")  
Order granted 5-0.  
Rucker Opinion; Dickson, David, Massa, and Rush concur.  
No attorneys recognized.

Michael Dean Overstreet vs State of Indiana (41D02-1306-PC-000009)  
06/27/13 Petition for Post Conviction Relief filed.  
07/30/13 State of Indiana files Motion to Dismiss Unauthorized Successive Petition for PCR.  
09/03/13 Indiana Supreme Court authorizes Successive PCR Petition.  
09/10/13 "New" Petition for Post Conviction Relief filed.  
10/23/13 State's Answer to Successive Petition for Post Conviction Relief filed.  
03/13/14 Sup.Ct. Order Appointing Special Judge, Jane Woodward Miller, St. Joseph Superior Court.  
07/30/14 Response to State's Motion for In-Court Waiver and Request for Prohibition on Future Attempt to Conduct Adversarial Interviews of a Represented, Mentally Ill Man Without an Expert Chosen by Overstreet's Attorneys Being Present is filed with the court.  
07/30/14 Respondent files Emergency Verified Motion for Order to Release Psychological Testing Data and to Cooperate with State's Experts with proposed orders. Petitioner, by counsel, files Response to State's Motion to Exclude Testimony from Expert Theologian who may offer Rebuttal Testimony that Michael Dean Overstreet Delusional thoughts are not Religious Beliefs.  
For Defendant: Steven H. Schutte, Kathleen Cleary, Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Kelly Miklos, Deputy Attorneys General (Zoeller)

On November 20, 2014 Special Judge and St. Joseph Superior Court Judge Jane Woodward Miller ruled Overstreet is not competent to be executed, in a 137-page decision. Indiana Attorney General Zoeller declined to pursue an appeal of the decision.

**Other:** In re Cooper, 78 N.E.3d 1098 (Ind. March 24, 2017) (41S00-1509-DI-520)  
In the Matter of: Bradley D. Cooper, Johnson County Prosecuting Attorney  
(Cooper statements to media after Special Judge Miller granted PCR included commentary that was false, misleading, and inflammatory in nature. The statement attacked Judge Miller's qualifications or integrity and was made with reckless disregard as to its truth or falsity. The Court imposes a public reprimand.)  
Opinion by Rucker. All Justices concur. 5-0

► CURRENTLY ADJUDGED NOT COMPETENT TO BE EXECUTED.

## **PATTON, KEITH LAMONT # 30**

OFF DEATH ROW SINCE 12-30-87  
DOB: 07-24-1966 DOC#: 13157 Black Male

Marion County Superior Court Judge Thomas E. Alsip

**Trial Cause #:** CR83-232D, CR84-050D

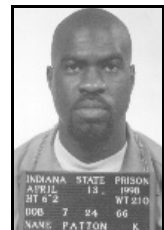
**Prosecutor:** David E. Cook

**Defense:** Arnold P. Baratz

**Date of Murder:** October 21, 1983

**Victim(s):** Michael Pack B / M / 19 (No relationship to Patton)

**Method of Murder:** shooting with shotgun



**Summary:** Patton and Leroy Johnson discussed plans to commit a robbery. They drank some beer, armed themselves with shotguns, and went to Washington Park in Indianapolis. Patton approached the driver's side of a parked car, while Johnson went to the passenger side. Michael Pack sat in the driver's seat, with Dietra Maxey and her young daughter in the passenger seat. Patton shot out the driver side window and ordered Michael Pack out of the car. Instead, Pack attempted to start the car. Johnson shot out the rear tire, and Patton's second shot killed Pack. Patton and Johnson took Maxey to a wooded area and raped her, then went through her pockets for money. Patton admitted that he knowingly killed Pack at the guilty plea hearing, but at the sentencing hearing denied that he knew anyone was in the car.

**Trial:** Information/PC for Murder and Death Penalty Filed (10-28-83); Death Sentence Request Filed (12-02-83); Guilty Plea (06-01-84); Court Sentencing (07-20-84).

**Conviction:** Pled Guilty to Murder, Rape (A Felony), Attempted Murder (A Felony), Criminal Confinement, Criminal Deviate Conduct (3 counts), Dealing in Sawed Off Shotgun (C Felony).

**Sentencing:** July 20, 1984 (Death Sentence, 30 years, 30 years, 10 years, 30 years, 30 years, 30 years, 2 years, all sentences to run consecutively).

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** None

Guilty Plea

**Direct Appeal:** Patton v. State, 517 N.E.2d 374 (Ind. December 30, 1987) (1284-S-488)

Conviction Reversed 5-0 DP Vacated 5-0

(Appeal of Murder and Rape convictions and sentences only - Equivocation and later refusal of Defendant at Guilty Plea/Sentencing Hearing to admit he "knowingly" killed requires setting aside guilty plea for Murder. Remanded for trial on Murder and for sentencing on Rape (A Felony)

Shepard Opinion; Debruler, Givan, Dickson, Pivarnik concur.

For Defendant: L. Craig Turner, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**On Remand:** Voir Dire (03-12-90, 03-13-90, 03-14-90, 03-15-90); Jury Trial (03-15-90, 03-16-90, 03-17-90); Deliberations 1 hour, 46 minutes; Verdict (03-17-90); DP Trial (03-17-90, 03-19-90, 03-20-90, 03-21-90); Deliberations 7 hours, 3 minutes; Verdict (03-21-90); Court Sentencing (04-17-90).

Murder and Rape charges were tried to a jury. Patton was convicted of both. The jury recommended against death and the Court sentenced Patton to 60 years for Murder and 30 years for Rape (Class A Felony), consecutive to the sentences imposed for Attempted Murder and the other offenses, bringing the total sentence to 222 years.

Marion County Superior Court Judge Patricia J. Gifford

For Defendant: Robert Joe Hill, Jr., Arnold P. Baratz

For State: John V. Commons, Richard R. Plath

State ex rel. Patton v. Superior Court, 547 N.E.2d 255 (Ind. December 6, 1989)

(49S00-8904-OR-294) (On remand, dispute as to which Division should retry case)

Patton v. State, 588 N.E.2d 494 (Ind. March 16, 1992) (49S00-9007-CR-00475)

(Appeal after remand where jury recommended against DP - Affirmed)

Patton v. State, 810 N.E.2d 690 (Ind. June 22, 2004) (49S02-0309-PC-402)

(Appeal of denial of PCR - Guilty Plea to Attempted Murder not "knowing" and set aside; Other convictions and sentences affirmed.)

Patton v. Davis, \_\_\_ F.Supp. \_\_\_, 2007 WL 129036 (2:05-CV-00050-AS-CAN)

(N.D. Ind. January 11, 2007) (Judge Allen Sharp denying habeas relief)

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 222 YEARS IMPRISONMENT.

**PETERSON, CHRISTOPHER DWAYNE # 74  
(Obadyah Ben-Yisrayl)**

OFF DEATH ROW SINCE 09-10-04  
DOB: 01-20-1969 DOC#: 922005 Black Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45G04-9103-CF-00042

**Date of Murder:** 12-18-90

**Method of Murder:** shooting with sawed-off shotgun

**Victim(s):** George Balovsky W / M / 66  
Eli Balovsky W / M / 60  
(No relationship to Peterson)



**Prosecutor:** James J. Olszewski, Ralph W. Staples, Jr., John G. Evon

**Defense:** I. Alexander Woloshansky, Jerry Jarrett

**Summary:** The Balovsky brothers were found dead in their tailor shop as a result of shotgun wounds to the head. A sawed-off shotgun, identified as the murder weapon, was later recovered from Peterson's home after his mother consented to the search. Peterson made incriminating statements to an acquaintance, and gave a complete confession to police. He also confessed to two additional shotgun murders in Porter County, upon which he was later convicted. These convictions served as the basis for a second aggravating circumstance in this case.

Peterson was also convicted of the 1991 Attempted Murder/Armed Robbery of Ronald Nitsch in Lake County, and was sentenced to 50 years and 20 years imprisonment on 11-16-93.  
(See Peterson v. State, 653 N.E.2d 1022 (Ind.App. 1995) (45G04-9101-CF-00014).

**Trial:** Information/PC for Murder and Death Sentence filed (03-01-91); Individual Voir Dire (04-20-92, 04-21-92, 04-22-92, 04-23-92); Jury Trial (04-24-92, 04-25-92, 04-27-92, 04-28-92, 04-29-92, 04-30-92, 05-01-92, 05-02-92); Deliberations (05-02-92, 05-03-92, 05-04-92); Guilty Verdict (05-04-92); DP Trial (05-04-92); Verdict Against DP (05-04-92); Court Sentencing (06-05-92).

**Conviction:** Murder, Murder

**Sentencing:** June 5, 1992 (Death Sentence)

**Aggravating Circumstances:** b (7) Convicted of murders in Porter County  
b (8) 2 murders

**Mitigating Circumstances:** neglected in childhood by Father  
caring, supportive of others, including girlfriend and baby  
good and quiet prisoner during confinement in jail  
extreme emotional disturbance  
high school graduate  
2 years in Marines  
Father of 11 month old baby  
21 years old at the time of the murders

Judge Overrides Jury Recommendation against DP

**Direct Appeal:** Peterson v. State, 674 N.E.2d 528 (Ind. December 13, 1996) (45S00-9103-DP-223)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: James F. Stanton, Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Peterson v. Indiana, 118 S.Ct. 858 (1998) (Cert. denied)

**PCR:** Notice of Intent to File PCR filed 08-15-97.  
PCR Petition filed 12-29-97. Amended PCR Petition filed 04-06-98, 07-31-98.  
State's Answer to PCR Petition filed 02-20-98, 04-13-98.  
PCR Hearing 07-27-98, 07-28-98, 07-29-98, 07-30-98  
For Defendant: Steven H. Schutte, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Robert L. Collins, Deputy Attorney General (Modisett), Natalie Bokota, DPA  
PCR Denied 09-30-98.

Ben-Yisrayl v. State, 729 N.E.2d 102 (Ind. May 25, 2000) (45S00-9708-PD-460)  
(Appeal of Lake County Judge James L. Clement and Magistrate Kathleen A. Sullivan denial of PCR)  
Affirmed 5-0, Shepard Opinion, Dickson, Sullivan, Boehm, Rucker concur)  
For Defendant: Steven H. Schutte, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)  
Ben-Yisrayl v. Indiana, 122 S.Ct. 73 (2001) (Cert. denied)

Permission to file successive PCR denied by Indiana Supreme Court 02-15-02.

09-10-04 Post-Conviction Relief is granted as to death sentence only, based upon the decision of the Indiana Supreme Court in Saylor v. State, where the Court ruled that any death sentence not returned by the jury was "inappropriate."

**Habeas:** 01-23-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
12-12-01 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Obadyah Ben-Yisrayl v. Ron Anderson, Superintendent (3:01-CV-00065-AS)  
Judge Allen Sharp  
For Defendant: Prentice H. Marshall Jr., John H. Gallo, Kelly Cox, Chicago, IL  
For State: Thomas D. Perkins, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

05-28-02 Order holding in abeyance until U.S. Supreme Court decision in Ring v. Arizona.  
07-26-02 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-20-02 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
12-27-02 Writ of Habeas Corpus denied.  
04-07-03 Certificate of Appealability granted.

Ben-Yisrayl v. Davis, 245 F.Supp.2d 960 (N.D.Ind. December 27, 2002) (3:01-CV-65-AS)  
(Order of United States District Court, Northern District of Indiana, Judge Allen Sharp, denying Petition for Writ of Habeas Corpus.)  
For Defendant: Prentice H. Marshall Jr., John H. Gallo, Denise Keliuotis, Kelly Cox, Chicago, IL  
For State: Thomas D. Perkins, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

Ben-Yisrayl v. Davis, 245 F.Supp.2d 973 (N.D.Ind. February 19, 2003) (3:01-CV-65-AS)  
(Order of United States District Court, Northern District of Indiana, Judge Allen Sharp, denying Motion to Amend Judgment, holding that Ring v. Arizona is not to be applied retroactively.)  
For Defendant: Prentice H. Marshall Jr., John H. Gallo, Denise Keliuotis, Kelly Cox, Chicago, IL  
For State: Thomas D. Perkins, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

Ben-Yisrayl v. Davis, 114 Fed.Appx. 760, 2004 WL 2496711 (7th Cir. October 29, 2004) (03-1851). (Unpublished). State Court granted PCR relief while appeal from Northern District denial of habeas pending. Seventh Circuit holds that because resentencing has not taken place, habeas is not ripe for review. Appeal dismissed.

Order of Circuit Judge Joel M. Flaum, Judge Daniel A. Manion, Judge Ann C. Williams concur.

For Defendant: John N. Gallo, Chicago, IL

For State: Steve Carter, Attorney General

**On Remand:** 12-12-04 Peterson was resentenced by Lake County Superior Court Judge Thomas Stefaniak to consecutive terms of 60 years imprisonment on each of two murder counts, for a total sentence of 120 years imprisonment. Affirmed by Memorandum decision at Ben-Yisrayl v. State, 841 N.E.2d 248 (Ind. App. December 15, 2005).

Ben-Yisrayl v. Buss, 540 F.3d 542 (7th Cir. August 28, 2008)

Appeal of denial of Habeas as to convictions, Cross appeal of granting Habeas as to sentence. Convictions and sentences affirmed. Reversing partial grant of Habeas as to 60 year sentence.

Ben-Yisrayl v. Buss, Nos. 07-2151, 07-228 (7th Cir. Oct. 31, 2008) (en banc denied)

Ben-Yisrayl v. Levenhagen, 129 S.Ct. 2890 (2009) (Cert. Denied)

Ben-Yisrayl v. State, 923 N.E.2d 27 (Ind. App. February 10, 2010)

(Memorandum Decision Not for Publication)

Appeal of trial court denial of Successive PCR. Affirmed.

Ben-Yisrayl v. State, 929 N.E.2d 794 (Ind. 2010) (Transfer denied)

Ben-Yisrayl v. State, Unpub. (Ind. App. Feb. 15, 2010) (No. 45A03-0903-PC-123)

Appeal of trial court denial of Successive PCR. Affirmed.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT IN CASE NO. 45G04-9103-CF-00042 AND CONSECUTIVE TERMS TOTALING 70 YEARS IN CASE NO. 45G04-9101-CF-00014.

**PETERSON, CHRISTOPHER DWAYNE # 73  
(Obadyah Ben-Yisrayl)**

OFF DEATH ROW SINCE 07-23-03  
DOB: 01-20-1969 DOC#: 922005 Black Male

Porter County Superior Court  
Judge Thomas W. Webber

**Trial Cause #:** 64D02-9102-CF-022

**Prosecutor:** James H. Douglas, Gwen R. Rinkenberger

**Defense:** Jerry T. Jarrett, I. Alexander Woloshansky

**Date of Murder:** December 13 & 15, 1990

**Victim(s):** Marie Meitzler W / F / 48; Harchand Dhaliwal I / M / 54 (No relationship to Peterson)

**Method of Murder:** shooting with sawed-off shotgun

**Summary:** Harchand Dhaliwal was working alone in the evening as an attendant at a Hudson Oil station in Portage. He was robbed and shot in the head at close range with a .12 gauge shotgun. Two days later, Marie Meitzler was working alone in the evening as the desk clerk in a Howard Johnson motel. She was robbed and shot in the neck at close range with a .12 gauge shotgun. Three days later, George and Eli Balovsky were found dead following a robbery in their tailor shop in Gary (Lake County). Both were shot in the head at close range by a .12 gauge shotgun. A sawed-off shotgun, identified as the murder weapon in all four murders, was later recovered from Peterson's home after his mother consented to the search, and several witnesses saw Peterson with the shotgun. Peterson made incriminating statements to an acquaintance, and gave a complete confession to police. Evidence of the Lake County murders of the Balovsky brothers was admitted into evidence at the Porter County trial.

Peterson was also convicted of the 1991 Attempted Murder/Armed Robbery of Ronald Nitsch in Lake County, and was sentenced to 50 years and 20 years imprisonment on 11-16-93.  
(See Peterson v. State, 653 N.E.2d 1022 (Ind.App. 1995) (45G04-9101-CF-00014).

**Trial:** Information/PC for Murder filed (02-14-91); Amended Information for DP filed (03-01-91); Voir Dire (02-18-92, 02-19-92, 02-20-92, 02-21-92, 02-22-92, 02-24-92, 02-25-92, 02-26-92, 02-27-92); Jury Trial (02-27-92, 02-28-92, 02-29-92, 03-03-92, 03-04-92, 03-05-92, 03-06-92, 03-07-92, 03-09-92, 03-10-92, 03-11-92, 03-12-92, 03-13-92, 03-14-92, 03-16-92); Verdict (03-16-92); DP Trial (03-17-92); Verdict (03-17-92); Court Sentencing (05-15-92).

**Conviction:** Murder, Felony-Murder, Murder, Felony-Murder

**Sentencing:** May 15, 1992 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** None



**Direct Appeal:** Ben-Yisrayl v. State, 690 N.E.2d 1141 (Ind. December 31, 1997) (64S00-9103-DP-00229)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Selby, Boehm concur.  
For Defendant: Gary S. Germann, Portage, I. Alexander Woloshansky, Merrillville  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Ben-Yisrayl v. Indiana, 119 S.Ct. 877 (1999) (Cert. denied)

**PCR:** Notice of Intent to File PCR Petition 08-07-98.  
PCR Petition filed 01-04-99. Amended PCR filed 08-18-99.  
State's Answer to PCR Petition filed 02-04-99, 09-01-99, 11-18-99.  
Porter County Superior Court Judge Thomas W. Webber  
For Defendant: Deputy State Public Defenders (Carpenter)  
For State: Joseph L. Chamption, Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)  
02-10-00 PCR Petition denied.

Ben-Yisrayl v. State, 753 N.E.2d 649 (Ind. August 28, 2001) (64S00-9808-PD-429)  
(Appeal of PCR denial by Porter County Superior Court Judge Thomas W. Webber)  
Affirmed 5-0; Shepard Opinion, Dickson, Sullivan, Boehm, and Rucker concur.  
For Defendant: Steven H. Schutte, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)  
Ben-Yisrayl v. Indiana, 122 S.Ct. 2382 (June 10, 2002) (Cert. denied)

**Habeas:** 12-07-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
11-05-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Obadyah Ben-Yisrayl v. Ron Anderson, Superintendent (3:01-CV-00871-AS)  
Judge Allen Sharp  
For Defendant: John H. Gallo, Denise D. Keliuotis, Kelly J. Cox, Sidney Austin Brown, Chicago, IL  
For State: James B. Martin, Gary Damon Secrest, Deputy Attorneys General (S. Carter)  
  
04-28-03 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-02-03 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
07-23-03 Writ of Habeas Corpus granted.  
08-14-03 Respondent Motion to Stay Judgment granted.

Ben-Yisrayl v. Davis, 277 F.Supp.2d 898 (N. D. Ind. July 23, 2003) (3:01-CV-0871-AS)  
(Writ of Habeas Corpus granted by Judge Allen Sharp, U.S. District Court for the Northern District of Indiana; Prosecutor's argument was comment on Defendant's failure to testify, and the error was not harmless; Inadequate state trial court record amounted to due process violation. State is to release or retry Petitioner within 120 days.)  
For Defendant: John H. Gallo, Denise D. Keliuotis, Kelly J. Cox, Sidney Austin Brown, Chicago, IL  
For State: James B. Martin, Gary Damon Secrest, Deputy Attorneys General (S. Carter)

Ben-Yisrayl v. Davis, 431 F.3d 1043 (7th Cir. December 13, 2005) (03-3169)  
State's appeal of granting of habeas relief. Affirmed 3-0.  
Circuit Judge Anne Claire Williams Opinion; Joel M. Flaum, Daniel A. Manion concur.  
For Defendant: John H. Gallo, Kelly Huggins, Chicago, IL  
For State: Andrew K. Kobe, Deputy Attorney General (S. Carter)  
Davis v. Ben-Yisrayl, No. 03-3169 (7th Cir. Jan. 31, 2006) (Rehearing and en banc denied)

## POTTS, LARRY DALE # 58

OFF DEATH ROW SINCE 04-08-96  
DOB: 08-04-1938 DOC#: 881979 White Male

Lake County Superior Court Judge Richard J. Conroy

**Trial Cause #:** 3CR-170-1087-676

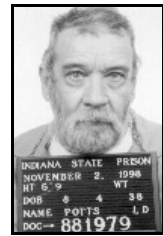
**Prosecutor:** Joseph L. Curosh

**Defense:** Kevin B. Relphorde, Scott L. King

**Date of Murder:** October 12, 1987

**Victim(s):** Sharon Oke W / F / 46 (girlfriend of Potts); Robert Davey W / M / 23 (no relationship)

**Method of Murder:** shooting with handgun



**Summary:** Sharon and Jerry Oke were separated from marriage, but continued their operation of Oke's Lounge. While separated, Sharon moved in with Potts. However, after Potts beat her and broke her jaw, Sharon moved back in with Jerry. One night, Potts came to the Lounge and got into an argument with Sharon. Potts attempted to pick a fight with Jerry, who declined. Potts drew a gun and shot him 3 times. As Sharon came towards him, Potts shot her in the heart and killed her. One patron of the bar, John Smith, was shot in the leg and another, Robert Pavey, was shot dead. Potts returned to Smith and despite his pleas shot him twice more. He shot another patron in the shoulder. As he shot, Potts ran out of ammunition, inserted a fresh clip, and continued to shoot. In all, Potts shot 14 times, each shot striking someone. He then walked behind the bar, called the police and waited for their arrival. When police asked him why he had shot these people, Potts asserted that they were all trying to jump him and were picking on him.

**Trial:** Information/PC for Murder and Death Penalty Filed (10-12-87); Death Sentence Request Filed (12-21-87); Jury Trial (08-23-88, 08-24-88, 08-25-88, 08-26-88); Verdict (08-26-88); DP Trial (08-27-88); DP Verdict (08-27-88); Court Sentencing (10-06-88).

**Conviction:** Murder, Murder, Attempted Murder (A Felony) (3 counts)

**Sentencing:** October 6, 1988 (Death Sentence, 30 years, 30 years, 30 years consecutive)

**Aggravating Circumstances:** b (8) 2 murders

**Mitigating Circumstances:** no prior criminal record  
kind, generous non-violent father  
on pain medication and alcohol on day of murders  
turned himself in  
constant and severe back pain  
addicted to prescription narcotics; alcoholic  
divorced a year before murders; 40 years old  
mental disease of depression  
sudden heat  
at the time of the murders

**Direct Appeal:** Potts v. State, 594 N.E.2d 438 (Ind. June 23, 1992) (45S00-8907-CR-536)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Shepard, Krahulik concur; Debruler, Dickson dissent.  
For Defendant: Albert Marshall, Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Potts v. Indiana, 113 S.Ct. 1869 (1993) (Cert. denied)

**PCR:** 12-02-93 PCR filed; Agreed disposition entered, resentenced by Special Judge James L. Clement on 04-08-96 to 210 years imprisonment.

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 210 YEARS IMPRISONMENT.

## **PROWELL, VINCENT JUAN # 80**

OFF DEATH ROW SINCE 01-11-01

DOB: 03-04-1964 DOC#: 942131 Black Male

Vanderburgh County Circuit Court Judge Richard L. Young

**Trial Cause #:** 82CO1-9305-CF-00313

**Prosecutor:** Brett J. Niemeier, Jonathan J. Parkhurst

**Defense:** Dennis A. Vowels, Michael J. Danks

**Date of Murder:** May 27, 1993

**Victim(s):** Christopher Fillbright W / M / 22; Denise Powers W / F / 22 (neighbor and her friend)

**Method of Murder:** shooting with .38 handgun

**Summary:** Denise Powers was sitting in her car in the parking lot of Green River Manor Apartments in Evansville, waiting for her friend, Chris Fillbright. As Fillbright reached for the passenger door handle, Prowell approached him from behind and shot him in the head without any words or provocation. Prowell then shot twice more through the passenger window, striking Powers in the face and back. Both Powers and Fillbright died. Prowell fled, running over the body of Fillbright as he went. He was later arrested in Benton County, and the murder weapon and ammunition was recovered from his car. He later gave a statement admitting his involvement in the shootings, stating that he felt "threatened" by Fillbright, a Gulf War veteran, who looked at him with a "military look" in his eye earlier.

**Trial:** Information/PC for Murder filed (05-28-95); Amended Information for DP filed (07-07-93); Guilty Plea (01-18-94); Court Sentencing (05-05-94).

**Conviction:** Pled guilty to Murder (2 counts) without Plea Agreement

**Sentencing:** May 5, 1994 (Death Sentence)

**Aggravating Circumstances:** b (8) 2 murders

**Mitigating Circumstances:** no significant history of prior criminal conduct  
grew up in dysfunctional family  
may have been physically and emotionally abused  
extreme mental or emotional distress  
paranoid personality disorder

Guilty Plea

**Direct Appeal:** Prowell v. State, 687 N.E.2d 563 (Ind. November 4, 1997) (82S00-9407-DP-666)

Conviction Affirmed 5-0 DP Affirmed 4-1

Dickson Opinion; Shepard, Selby, Boehm concur; Sullivan dissents against DP.

For Defendant: Dennis A. Vowels, Michael C. Keating, Evansville

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

Prowell v. Indiana, 119 S.Ct. 104 (1998) (Cert. denied)

**PCR:** PCR Petition filed 10-13-98. Amended PCR filed 02-12-99.

State's Answer to PCR Petition filed 01-13-99, 02-24-99

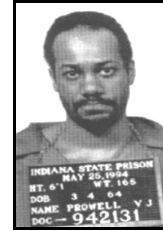
PCR Hearing 04-19-99, 04-20-99, 04-21-99.

Vanderburgh County Circuit Court Judge Carl A. Heldt

For Defendant: Steven H. Schutte, Laura K. Volk, Barbara Blackman, Deputy Public Defenders (Carpenter)

For State: Thomas D. Perkins, Gregory Ullrich, Deputy Attorneys General (Freeman-Wilson)

07-07-99 PCR Petition denied.



Prowell v. State, 741 N.E.2d 704 (Ind. January 11, 2001) (82S00-9803-PD-138)  
(Appeal of denial of PCR by Vanderburgh County Circuit Court Judge Carl A. Heldt)  
Conviction Reversed 5-0 DP Vacated 5-0

Boehm Opinion; Shepard, Sullivan, Dickson, Rucker concur.

(Ineffective assistance of counsel by failure to investigate/ develop expert testimony to support mental illness as defense/plea/mitigator, and knowing violation of caseload restrictions by trial attorney Vowels)

For Defendant: Barbara S. Blackman, Laura L. Volk, Steven H. Schutte, Deputy Public Defenders

For State: Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)

**On Remand:** State withdraws request for death sentence.

On February 27, 2002 Prowell entered a Guilty But Mentally Ill plea to two counts of Murder pursuant to a Plea Agreement calling for a sentence of up to 100 years imprisonment. On March 19, 2002 Vanderburgh County Circuit Court Judge Carl A. Heldt sentenced Prowell to consecutive terms of 50 years on each of two Murder counts, for a total of 100 years imprisonment.

Prowell v. State, 787 N.E.2d 997 (Ind. App. May 9, 2003) (82A04-0204-CR-160)  
(Direct appeal of 100 year sentence - Affirmed)

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 100 YEARS IMPRISONMENT.

## **PRUITT, TOMMY RAY # 100**

OFF DEATH ROW SINCE 05-05-16

DOB: 03-04-62 DOC#: 881037 White Male

Dearborn County Circuit Court  
Venued from Morgan County  
Judge James D. Humphrey

**Trial Cause #:** 15C01-0101-CF-54

**Prosecutor:** Steven P. Sonnega, Terry E. Iacoli

**Defense:** William Vanderpol, Jr., Douglas A. Garner

**Date of Murder:** June 14, 2001

**Victim(s):** Daniel Starnes W / M / 46 (Morgan County Warrant Officer and Reserve - No relationship to Pruitt.

**Method of Murder:** shooting with .45 handgun

**Summary:** Having information that Pruitt had been involved in a burglary a few days earlier in Bloomington and may have stolen guns in the vehicle, Morgan County Deputy Dan Starnes pulled Pruitt over on a rural county road. Pruitt had a scanner in his car, and it is believed that he overheard Deputy Starnes say that he was going to search the vehicle. Pruitt then got out and pulled a .45 caliber handgun. A gun battle ensued, with Deputy Starnes suffering five gunshot wounds to his chest and abdomen. He died from these injuries almost a month later on July 10, 2001. Pruitt was shot seven times, but recovered. Pruitt also shot at the 19 year old son of Deputy Starnes, Ryan, who was in the vehicle as part of a summer internship program.

Pruitt had prior felony convictions of Robbery (C Felony) in 1981, and Forgery (C Felony) in 1988, which served as a basis for the Habitual Offender adjudication.



**Trial:** Amended Information for DP filed (08-27-01); Amended Information filed (07-10-01, 08-16-01); Venued to Dearborn County (09-04-01); Hearing on Mental Retardation (08-12-03, 08-15-03); Voir Dire (10-06-03, 10-07-03, 10-08-03, 10-09-03, 10-10-03); Jury Trial (10-13-03, 10-14-03, 10-15-03, 10-16-03, 10-17-03, 10-21-03); Verdict (10-21-03); DP Trial (10-22-03, 10-23-03, 10-30-03); Verdict (10-30-03); Court Sentencing (11-21-03).

**Conviction:** Murder, Attempted Murder (A Felony), Possession of Firearm by Serious Violent Felon (B Felony), Receiving Stolen Property (D Felony) (4 Counts), Resisting Law Enforcement (D Felony), Habitual Offender.

**Sentencing:** November 21, 2003 (Death Sentence, 50 years, 20 years, 3 years, 3 years, 3 years, 3 years, 3 years, 30 years, consecutive for a total of 115 years imprisonment)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** Mental Retardation, IQ of 60  
Mental Illness, Repeated head injuries  
Traumatic childhood  
Medical malpractice caused death of Deputy Starnes

**Direct Appeal:** Pruitt v. State, 834 N.E.2d 90 (Ind. September 13, 2005) (15S00-0109-DP-393)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Boehm Opinion; Shepard, Dickson, Sullivan concur; Rucker Dissents against DP.  
For Defendant: William Van Der Pol Jr., Martinsville, Teresa D. Harper, Bloomington  
For State: Andrew A. Kobe, Deputy Attorney General (S. Carter)  
Pruitt v. Indiana, 126 S.Ct. 2936 (2006) (Cert. denied)

**PCR:** Notice of Intent to File PCR filed 12-21-06.  
PCR Petition filed 07-07-06. Amended PCR filed 12-27-06, 02-16-07.  
State's Answer to PCR Petition filed 08-31-06.  
PCR Hearing 02-26-07, 02-27-07, 02-28-07, 03-01-07.  
Special Judge James D. Humphrey  
For Defendant: William Van Der Pol, Jr., Martinsville, and Douglas A. Garner, Lawrenceburg.  
For State: Stephen Creason, Deputy Attorney General (S. Carter)  
05-25-07 PCR Petition denied.

Pruitt v. State, 903 N.E.2d 899 (Ind. March 31, 2009) (15S00-0512-PD-617)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Sullivan Opinion; Shepard, Dickson, Boehm concur; Rucker Dissents against DP.  
For Defendant: Thomas C. Hinesley, Laura L. Volk, Deputy Public Defenders (Carpenter)  
For State: Stephen Creason, James B. Martin, Deputy Attorneys General (G. Zoeller)

Pruitt v. State, 907 N.E.2d 973 (Ind. June 16, 2009) (15S00-0512-PD-617) (On Rehearing)  
DP Affirmed 4-1.  
Per Curiam Opinion; Shepard, Dickson, Sullivan, Boehm concur; Rucker Dissents against DP.  
For Defendant: Thomas C. Hinesley, Laura L. Volk, Deputy Public Defenders (Carpenter)  
For State: Stephen Creason, James B. Martin, Deputy Attorneys General (Zoeller)

**Habeas:** 11-18-09 Petition for Writ of Habeas Corpus filed.  
Tom R. Pruitt v. Superintendent (3:09-cv-00380-RLM)  
U.S. District Court, Northern District of Indiana, Judge Robert L. Miller  
07-15-10 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-19-11 Petitioner's Traverse and Memorandum filed in support of Writ of Habeas Corpus.  
10-02-12 Habeas denied by Judge Robert L. Miller

For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, MO  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Pruitt v. Wilson, 2012 U.S. Dist. LEXIS 142162 (N.D. Ind. October 2, 2012) (3:09cv380RLM)  
United States District Court for the Northern District of Indiana, South Bend Division  
Habeas Denied by Judge Robert L. Miller, Jr.  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, Mo.  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Pruitt v. Wilson, 2013 U.S. Dist. LEXIS 45955 (N.D. Ind. March 27, 2013) (3:09cv380RLM)  
United States District Court for the Northern District of Indiana, South Bend Division  
Judge Robert L. Miller, Jr.  
(Expanded Certificate of Appealability Granted)  
For Defendant: Marie F. Donnelly, Chicago, IL; Laurence E. Komp, Manchester, Mo.  
For State: James B. Martin, Stephen R. Creason, Deputy Attorneys General (Hill)

Pruitt v. Neal, 788 F.3d 248 (7th Cir. June 2, 2015) (No. 13-1880)  
Appeal from the United States District Court for the Northern District of Indiana, South Bend  
(No. 3:09-cv-00380-RLM)  
Conviction Affirmed 3-0 DP Reversed 3-0  
Opinion by Tinder; Bauer, Williams concur.  
(We conclude that Pruitt has established that he is intellectually disabled and categorically ineligible for the death penalty and that trial counsel were ineffective in their investigation and presentation of evidence that Pruitt suffered from schizophrenia. We therefore reverse the district court's judgment and remand for further proceedings not inconsistent with this opinion.)  
For Defendant: Marie F. Donnelly, Evanston, IL; Laurence E. Komp, Manchester, Mo.  
For State: James B. Martin, Deputy Attorney General (Hill)

Neal v. Pruitt, 136 S. Ct. 1161 (Feb. 29, 2016) (Cert. denied)

**On Remand:** On May 5, 2016 Dearborn County Circuit Court Judge James D. Humphrey resentenced Pruitt to a term of 65 years imprisonment for the murder, to run consecutive to his 115 year sentence previously imposed for the other related offenses, for an aggregate term of 180 years imprisonment.

Pruitt v. State, 78 N.E.3d 14 (Ind. App May 16, 2017) (15A05-1606-CR-1235)  
Direct Appeal of Resentencing following 7th Circuit reversal.  
Sentence Affirmed 3-0. Opinion by Kirsch; Robb and Barnes concur.  
For Defendant: Leanna Weissmann, Lawrenceburg, Indiana.  
For State: James B. Martin, Deputy Attorney General (Hill)  
Pruitt v. State, 2017 Ind. LEXIS 601 (Ind., Aug. 15, 2017) (Transfer denied)

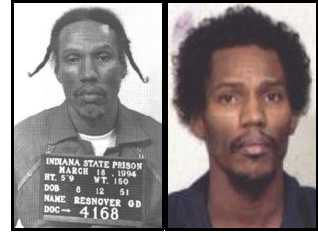
- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 180 YEARS IMPRISONMENT.

## RESNOVER, GREGORY # 9

EXECUTED BY ELECTRIC CHAIR 12-08-94 12:13 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 08-12-1951 DOC#: 4168 Black Male

Marion County Superior Court Judge Jeffrey V. Boles  
(Originally venued to Hendricks County;  
by agreement, returned to Marion, with Hendricks Circuit Judge Jeffrey V. Boles presiding)



**Trial Cause #:** CR-80-442A

**Prosecutor:** J. Gregory Garrison / David E. Cook (Stephen Goldsmith)

**Defense:** Thomas E. Alsip

**Date of Murder:** December 11, 1980

**Victim(s):** Jack Ohrberg W / M / 44 (Indianapolis Police Officer - No relationship to Resnover)

**Method of Murder:** shooting with AR-15 rifle

**Summary:** On December 11, 1980 at 5:30 a.m., Indianapolis Police Sergeant Jack Ohrberg and other officers went to 3544 North Oxford in Indianapolis attempting to serve papers on persons believed to be at that location. Ohrberg banged on the door several times and identified himself as a police officer. Two other officers on the front porch were in uniform. After the next door neighbor told officers that there was noise from inside the apartment, Ohrberg crouched and pounded with his shoulder on the door, which began to open. Officers saw furniture blocking the door, and saw 2 or 3 muzzle flashes from two different locations inside. Ohrberg was shot and collapsed on the porch. Officers took cover and saw a man come out onto the porch, point a rifle, and fire at least 2 additional shots into Ohrberg. Officers took cover and returned fire. Shots continued to come from inside the house. After a few minutes, Gregory Resnover came out, threw down an AR-15 rifle and surrendered. Earl Resnover followed, laying down an AR-15 and a pistol. Ohrberg's business card was found in Earl's wallet. Two women then came out, leaving wounded Smith inside. An AR-15 which was recovered next to Smith was found to be the murder weapon. An arsenal of weapons and ammunition was recovered inside the apartment.

Tommie Smith, Gregory Resnover, and Earl Resnover were also convicted of the 1980 murder and robbery of Brink's guard William Sieg in Marion County, and were sentenced to consecutive terms of 60 years and 20 years imprisonment on 10-22-81. (See Smith v. State, 474 N.E.2d 973 (1985) (CR80-473A))

**Trial:** Information/PC for Murder and Death Penalty Filed (12-11-80); Death Sentence Request Filed (12-11-80); Jury Trial (06-23-81, 06-24-81, 06-25-81, 06-26-81, 06-29-81); Verdict (06-29-81); DP Trial (06-30-81); DP Verdict (06-30-81); Court Sentencing (07-23-81).

**Victim Webpage:** <http://www.odmp.org/officer/10144-detective-sergeant-jack-r-ohrberg>

**Conviction:** Murder, Conspiracy to Commit Murder (Class A Felony)

**Sentencing:** July 23, 1981 (Death Sentence, 50 years imprisonment)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

Joint Trial with Tommie J. Smith, who also received a Death Sentence and was executed on 07-18-96.

**Direct Appeal:** Resnover v. State, 460 N.E.2d 922 (Ind. March 19, 1984) (182-S-21)

Conviction Affirmed 5-0 DP Affirmed 5-0

Pivarnik Opinion; Givan, Hunter, Debruler, Prentice concur.

For Defendant: Dawn D. Duffy, Indianapolis

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Resnover v. Indiana, 105 S.Ct. 231 (1984) (Cert. denied)

**PCR:** Resnover v. State, 507 N.E.2d 1382 (Ind. 1987) (1285-S-515)

(Appeal of PCR denial by Special Judge John Tranberg)

Affirmed 5-0; Givan Opinion; Shepard, Debruler, Pivarnik, Dickson concur.

For Defendant: Paul Levy, Deputy Public Defender (Carpenter)

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Resnover v. Indiana, 108 S.Ct. 762 (1988) (Cert. denied)

Resnover v. State, 547 N.E.2d 814 (Ind. 1989) (49S00-8904-CR-261)

(Appeal of 2nd PCR denial by Special Judge Mary Lee Comer)

Affirmed 4-1; Pivarnik Opinion; Shepard, Givan, Dickson concur; Debruler dissents.

For Defendant: Brent L. Westerfeld, Kevin P. McGoff, Indianapolis

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

Resnover v. Indiana, 111 S.Ct. 216 (1990) (Cert. denied)

**Habeas:** Resnover v. Pearson, 754 F.Supp. 1374 (N.D.Ind. 1991) (S88-128)

(Habeas Writ denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

For Defendant: Charles A. Asher, South Bend

For State: David A. Arthur, Deputy Attorney General (Pearson)

Resnover v. Pearson, 965 F.2d 1453 (7th Cir. 1992) (91-1367)

Affirmed 3-0; Circuit Judge William J. Bauer, Richard A. Posner, Joel M. Flaum.

For Defendant: Charles A. Asher, South Bend, Kevin P. McGoff, Indianapolis

For State: David A. Arthur, Deputy Attorney General (Pearson)

Resnover v. Pearson, 9 F.3d 113 (1993) (Petition for Judgment Relief denied)

Resnover v. Carter, 113 S.Ct. 2935 (1993) (Cert. denied)

Resnover v. Carter, 114 S.Ct. 16 (1993) (Reh. denied)

Resnover v. Carter, 114 S.Ct. 2769 (1994) (Cert. denied)

Resnover v. Carter, 115 S.Ct. 29 (1994) (Reh. denied)

Resnover v. Indiana, 115 S.Ct. 658 (1994) (Application for stay denied)

RESNOVER WAS EXECUTED BY ELECTRIC CHAIR ON 12-08-94 AT 12:13 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 73RD CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND 3RD SINCE THE DEATH PENALTY WAS REINSTATED IN 1977. RESNOVER WAS THE FIRST CONVICTED MURDERER TO BE EXECUTED AGAINST THEIR WILL IN INDIANA IN OVER 30 YEARS AND THE LAST TO BE EXECUTED BY ELECTRIC CHAIR.

## RITCHIE, BENJAMIN DONNIE # 98

ON DEATH ROW SINCE 10-15-02  
DOB: 05-30-80 DOC#: 967072 White Male

Marion County Superior Court Judge Patricia J. Gifford

**Trial Cause #:** 49G04-0010-CF-172900

**Prosecutor:** Scott C. Newman, Joel D. Hand

**Defense:** Kevin M. McShane, John F. Crawford, Jr.

**Date of Murder:** September 29, 2000

**Victim(s):** William Toney W / M / 32  
(Beech Grove Police Officer - No relationship to Ritchie)

**Method of Murder:** Shooting with .9 mm handgun



**Summary:** While on routine patrol, Beech Grove police officer Matthew Hickey noticed a white van matching the description of a van stolen earlier in the evening. Officer Hickey followed the white van, which accelerated at a high rate of speed. Officer Hickey gave chase and was joined by Officer William Toney and Sergeant Robert Mercuri, each driving separate marked police cars. The vehicular chase ended when the driver, Benjamin Ritchie, wrecked the van, then fled on foot. The passenger, Michael Greer fell from the van and also ran. Officer Hickey chased Greer on foot and caught up to him a short distance away. Officer Toney chased Ritchie on foot through several yards and into the backyard of 717 Fletcher Avenue, where he was shot five times with a .9 mm Glock handgun. One of the four bullets Ritchie fired missed Officer Toney's bulletproof vest by an inch, cut through an artery, punctured his lung and lodged itself in his vertebrae. Ritchie ditched a wig and the handgun in shrubbery nearby and eventually made his way to the home of a friend, where he was arrested the next morning. While in jail, Ritchie was interviewed by four local television reporters. During all four interviews, Ritchie both claimed to be very sorry for what he had done and for the death of Officer Toney, but that he had not fired the fatal shot. Rather, Ritchie claimed that he dropped his weapon and that he heard it go off as he ran away.

At sentencing, the victim's wife was reading her victim impact statement when Ritchie repeatedly interrupted her, laughed, and called her a "bitch" when she declared him a coward. The victim statement was given in the presence of Ritchie after sentencing in accordance with a new statute which was enacted in 2002 despite warnings that such outbursts would become commonplace from defendants with nothing to lose after being sentenced to death.

**Trial:** Information/PC for Murder filed (10-04-00); Gag Order entered (10-10-00); Amended Information for DP filed (11-01-00); Guilty Plea to Poss Firearm (07-31-02); Voir Dire (07-31-02, 08-01-02, 08-02-02, 08-05-02); Jury Trial (08-05-02, 08-06-02, 08-07-02, 08-08-02, 08-09-02, 08-10-02); Verdict (08-10-02); DP Trial (08-12-02, 08-13-02, 08-14-02); Verdict (08-14-02); Court Sentencing (10-15-02).

**Conviction:** Murder, Possession of a Firearm by a Serious Violent Felon, Auto Theft, Resisting Law Enforcement, Resisting Law Enforcement.

**Sentencing:** October 15, 2002 (Death Sentence, 20 years, 3 years, 3 years, 1 year - all concurrent)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer  
b (9) On probation or parole

**Mitigating Circumstances:** Defendant's youthful age  
Unstable family  
Diagnosis of Cognitive Disorder N.O.S. (Not Otherwise Specified)

Low I.Q.  
Abused, head injuries as a child  
Mother abused drugs and alcohol during pregnancy  
True natural father unknown  
Meager economic status

**Direct Appeal:** Ritchie v. State, 809 N.E.2d 258 (Ind. May 25, 2004) (49S00-0011-DP-638)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, and Rucker concur.  
(Rucker concurs and dissents noting that he would require aggravators to outweigh mitigators  
"beyond a reasonable doubt," but that here Ritchie did not object and there is no showing of  
fundamental error.)  
For Defendant: Mark Small, Kevin McShane, Marion County Public Defender  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
Ritchie v. Indiana, 126 S.Ct. 42 (2005) (Cert. denied)

**PCR:** 09-20-04 Notice of Intent to File PCR  
04-26-05 PCR Petition filed; Amended 09-09-05.  
06-02-05 Answer filed; Amended 10-05-05.  
PCR Hearing 11-29-05, 11-30-05, 12-01-05, 12-02-05.  
For Defendant: Brent L. Westerfield, Joseph M. Cleary, Deputy Public Defender (Carpenter)  
For State: Stephen R. Creason, James B. Martin,, Deputy Attorneys General (S. Carter)  
Andrew A. Kobe, Joel D. Hand, Special Deputy Attorneys General (S. Carter)  
01-27-06 Marion Superior Court Judge Patricia J. Gifford denied postconviction relief on all conviction  
and sentencing issues, except one count of misdemeanor Resisting Law Enforcement.

Ritchie v. State, 875 N.E.2d 706 (Ind. November 8, 2007) (49S00-0409-PD-420)  
Appeal of PCR denial by Marion Superior Court Judge Patricia Gifford.  
Affirmed 5-0; Opinion by Rucker. Shepard, Dickson, Sullivan, Boehm concur.  
Joseph Cleary, Brent Westerfeld, Indianapolis, IN, Attorneys for Appellant.  
Stephen R. Creason, Deputy Attorney General (Scarfer)

**Habeas:** 04-18-08 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
04-21-08 Order entered granting Stay of Execution for 90 days.  
Benjamin Ritchie v. Mark Levenhagen, Superintendent (1:08-CV-00503-RLY-MJD)  
U.S. District Court, Southern District of Indiana  
Judge Richard L. Young, Referred to Magistrate .  
For Defendant: Brent Westerfield, Joseph M. Cleary, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
07-21-08 Petition for Writ of Habeas Corpus filed.  
11-05-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
01-19-10 Authorization for payment of Attorney fees to Joseph McCleary \$14,530.00.  
01-19-10 Authorization for payment of Attorney fees to Brent Westerfeld \$24,303.00.  
06-16-10 Reassignment to Magistrate Tim A. Baker.  
12-17-10 Reassignment to Magistrate Judge Mark J. Dinsmore.  
05/23/14 Entry Denying Petition for Writ of Habeas Corpus by Judge Richard L. Young.  
03/30/15 Order denying Motion to Alter or Amend Judgment.  
12/22/15 Order denying Petitioner's Motion for Certificate of Appealability.

United States Court of Appeals for the Seventh Circuit (No. 15-1925)  
On appeal from U.S. District Court, Southern District of Indiana (1:08-CV-00503-RLY-MJD)  
February 24, 2016 - "We find no substantial showing of the denial of a constitutional right.  
Accordingly, the request for a certificate of appealability is DENIED."  
Richard A. Posner, Circuit Judge, Michael S. Kanne, Circuit Judge, Diane S. Sykes, Circuit Judge.  
Ritchie v. Neal, 137 S. Ct. 1580 (2017) (Cert. denied)

AWAITING EXECUTION.

## ROARK, DENNIS RAY # 63 & # 76

OFF DEATH ROW SINCE 12-19-94

DOB: 04-12-1963 DOC#: 892138 White Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45GO4-8902-CF-00017

**Prosecutor:** John J. Burke

**Defense:** I. Alexander Woloshansky

**Date of Murder:** February 3, 1989

**Method of Murder:** stabbing with knife (all); smoke inhalation (Dennis); burns (Elizabeth)

**Victim(s):** Mary Waggoner W / F / 19 (live-in girlfriend); Dennis Waggoner W / M / 20 months, Elizabeth Waggoner W / F / 4 months (children of Mary Waggoner and Roark), Betty Waggoner W / F / 61 (mother of Mary Waggoner)

**Summary:** Roark lived with his girlfriend, Mary Waggoner, at the home of her mother, Betty Waggoner, along with their two children aged 20 months (Elizabeth) and 4 months (Dennis). Roark returned to the home after a night of heavy drinking at 5:00 a.m. and was scolded by Betty Waggoner. Roark told Mary that he would rather leave the home than be yelled at by her mother. Betty decided to leave with him and take the kids. Betty grabbed the 20 month old son and told them she would kill herself if they left. She then lunged at Roark with a knife. Roark wrestled the knife away from her, then proceeded to stab Betty, Mary, and the two children multiple times, then fled. The house was later set on fire. (insanity defense)

**Trial:** PC Affidavit filed (02-03-89); Information/PC for Murder and DP filed (02-07-89); Gag Order entered (02-09-89); Voir Dire (09-25-89, 09-26-89); Jury Trial (09-26-89, 09-27-89, 09-28-89); Verdict (09-28-89); DP Trial (09-29-89) Verdict (09-29-89); Court Sentencing (10-17-89); Voir Dire on Remand (08-17-92); Jury Trial (08-18-92, 08-19-92, 08-20-92, 08-21-92); Verdict (08-21-92); DP Trial (08-21-92); Verdict (08-21-92); Court Sentencing (10-29-92).

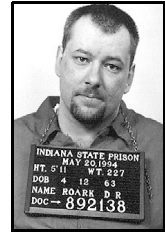
**Conviction:** Murder (3 counts), Voluntary Manslaughter (Betty)

**Sentencing:** October 17, 1989 (Death Sentence)

**Aggravating Circumstances:** b (8) 4 murders  
b (12) 2 victims less than 12 years of age

**Mitigating Circumstances:** no prior criminal record  
drug and alcohol abuse, alcoholism  
extreme mental and emotional disturbance  
father was alcoholic who abused his mother  
model prisoner for 3 1/2 years awaiting trial  
murder weapon was introduced by victim

**Direct Appeal:** Roark v. State, 573 N.E.2d 881 (Ind. June 21, 1991) (45S00-9004-CR-260)  
Conviction Reversed 5-0 DP Vacated 5-0  
(Should have instructed on voluntary manslaughter)  
Shepard Opinion: Debruler, Givan, Dickson, Krahulik concur.  
For Defendant: Albert Marshall, Crown Point Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)



**On Remand:** Voir Dire (08-17-92); Jury Trial (08-18-92, 08-19-92, 08-20-92, 08-21-92); Verdict (08-21-92), DP Trial (08-21-92); Verdict (08-21-92); Court DP Sentencing (10-29-92).

08-21-92 Roark was found guilty of Murder (3 counts) and Voluntary Manslaughter (Betty), and recommended against the death penalty.

10-29-92 Lake County Superior Court Judge James L. Clement sentences Roark to 50 years imprisonment for Voluntary Manslaughter (A Felony), and to death for Murder (3 counts).

Lake County Superior Court Judge James L. Clement

For Defendant: Kevin Relphorde, Noah L. Holcomb, Jr.

For State: John J. Burke

Judge Overrides Jury Recommendation against Death Sentence

**Direct Appeal:** Roark v. State, 644 N.E.2d 565 (Ind. December 19, 1994) (45S00-9302-DP-234)

Conviction Affirmed 5-0 DP Vacated 3-2

Sullivan Opinion; Debruler, Dickson concur; Shepard, Givan dissent.

(Judge findings overriding jury recommendation fails to meet Martinez test, due to "impressive" testimony of defense psychologist regarding defendant's IQ of 72 and poor impulse control; 50+50+50+50 = 200 year term of imprisonment imposed by Indiana Supreme Court)

For Defendant: Marce Gonzalez, Jr., Merrillville

For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 200 YEARS IMPRISONMENT.

## **ROCHE, CHARLES EDWARD, JR. # 66**

OFF DEATH ROW SINCE SUICIDE 02-06-01

DOB: 08-20-1963 DOC#: 902303 White Male

Lake County Superior Court Judge James L. Clement

**Trial Cause #:** 45G04-9005-CF-00095

**Prosecutor:** Joseph L. Curosh, Jr.

**Defense:** Noah L. Holcomb, Jr.

**Date of Murder:** May 10, 1990

**Victim(s):** Ernest Graves W / M / 25; Daniel Brown W / M / 22  
(Acquaintances of Roche)

**Method of Murder:** shooting with .38 Derringer and .22 rifle

**Summary:** Edward Nicksich suspected Ernest Graves of stealing \$120 worth of food stamps from his girlfriend. He and Roche, Jr. arranged a phoney drug deal and lured Ernest Graves and his friend Daniel Brown to the basement of Roche, Jr.'s home. Roche, Jr. came upstairs and remarked to his girlfriend that there were two men downstairs that he was going to shoot because they owed someone \$120. He retrieved a .38 derringer and a .22 rifle and went back downstairs. Nine bullets were later recovered from the victim's bodies. Four of the bullets were found to have come from the derringer owned by Roche, Jr. This meant that he had to reload at least three times. After the shots, Roche, Jr., Roche, Sr., and Nicksich came upstairs and they shared a bag of cocaine taken from the victims. They used the car of Roche's girlfriend to remove and dispose of the bodies. Roche and Nicksich admitted to friends that each had shot one of the victims. Roche testified at trial that he shot both men while acting in self-defense.



**Trial:** Information/PC for Murder filed (05-16-90); Amended Information for DP filed (07-26-90); Voir Dire (10-29-90); Jury Trial (10-30-90, 10-31-90, 11-01-90, 11-02-90, 11-05-90, 11-06-90, 11-07-90); Feliberations 3 hours, 35 minutes; Verdict (11-07-90); DP Trial (11-08-90, 11-09-90) Deliberations 7 hours, 40 minutes; Verdict (11-09-90); Court Sentencing (11-30-90).

**Conviction:** Murder, Murder, Felony-Murder, Felony-Murder, Robbery.  
Roche was tried jointly with John Nicksich. The jury returned a verdict against a Death Sentence for Nicksich, who was sentenced to two consecutive 40 year terms of imprisonment. The jury was hung on a Death Sentence for Roche. John Roche, Sr. was tried separately, convicted of Murder and sentenced to two consecutive 40 year terms of imprisonment.

**Sentencing:** November 30, 1990 Death Sentence (Roche)  
40 years, 40 years consecutive (Nicksich)

Hung Jury on Death Sentence

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no significant prior criminal record  
hung jury in death phase  
traumatic childhood  
psychiatric treatment during puberty  
drug and alcohol addiction  
accomplice was catalyst

**Direct Appeal:** Roche v. State, 596 N.E.2d 896 (Ind. July 20, 1992) (45S00-9012-DP-812)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Givan Opinion: Shepard, Dickson, Debruler, Krahulik concur.  
For Defendant: Charles E. Stewart, Jr., Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** Notice of Intent to File PCR Petition filed 05-21-93  
10-21-93 PCR filed; PCR denied 02-28-96.  
Roche v. State, 690 N.E.2d 1115 (Ind. December 30, 1997) (45S00-9305-PD-588)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Kenneth L. Bird, Marie F. Donnelly, John S. Sommer, Deputy Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

12-23-96 Pro Se Motion to Waive all appeals  
01-28-97 Competency Hearing held in PCR Court; Roche found competent to waive appeals.

**Habeas:** 07-07-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Josephine Brinkman-Roche, as Next Friend and Charles E. Roche Jr. v. Ron Anderson, Superintendent (3:98-CV-347-AS)  
Judge Allen Sharp  
For Defendant: Alan M. Freedman, Evanston, IL, Marie F. Donnelly, Charlottesville, VA  
For State: Geoffrey Slaughter, Deputy Attorney General (S. Carter)  
07-11-98 Evidentiary Hearing Held  
07-14-98 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
04-28-00 Amended Petition for Writ of Habeas Corpus filed.  
09-05-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
10-24-00 Death Penalty Oral Argument  
02-06-01 Writ of Habeas Corpus conditionally granted.

Roche v. Anderson, 132 F.Supp.2d 688 (N.D. Ind. Feb. 6, 2001) (3:98-CV-347-AS)  
(Order of United States District Court, Northern District of Indiana, Judge Allen Sharp, granting Petition for Writ of Habeas Corpus conditioned upon resentencing to Life Without Parole - Ineffective assistance of counsel for failure to object to shackling of defendant during trial)

Roche v. Davis, 291 F.3d 473 (7th Cir. May 28, 2002) (01-1664, 01-1665)  
(Cross appeals of granting of Habeas Writ as to death sentence, not as to conviction)  
Affirmed 3-0, except that case remanded for new sentencing hearing since Life Imprisonment Without Parole was not an option at original sentencing.  
Opinion by Judge Michael S. Kanne, Judge John L. Coffey and Judge Ilana Diamond Rovner.  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Chicago, IL  
Marie F. Donnelly, Virginia Capital Representation Resource Center  
For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Davis v. Roche, 123 S.Ct. 649 (December 2, 2002) (Motion to Allow Belated Writ denied)

§ 1983: Roche v. Adkins, 998 F.2d 1016 (7th Cir. May 14, 1993) (Unpublished)  
(Civil rights action against warden for requiring Roche to drink from only wax coated dixie cups. Dismissed - "The fact that he was required to drink beverages from a wax covered Dixie cup simply does not implicate the constitution.")

Roche v. State, 699 N.E.2d 752 (Ind. September 22, 1998)  
(Direct appeal of 45 year sentence for Attempted Murder of prison guard in LaPorte County, after Roche and 3 others attempted escape in 1994; REVERSED due to admission of prior bad acts as prisoner. On 06-18-99 Roche was convicted of Attempted Aggravated Battery and sentenced to 15 years imprisonment.)

- ▶ WHILE AWAITING RETRIAL, ROCHE COMMITTED SUICIDE (AT 42 YEARS OLD) BY HANGING AT INDIANA STATE PRISON, MICHIGAN CITY, INDIANA ON JANUARY 10, 2006 12:44 AM.

## **RONDON, REYNALDO GORIA # 35**

OFF DEATH ROW SINCE 05-25-99  
DOB: 01-06-1949 DOC#: 851769 Hispanic Male

Lake County Superior Court Judge James E. Letsinger

**Trial Cause #:** 45G02-8410-CR-00186

**Prosecutor:** John F. Crawford, Jr.

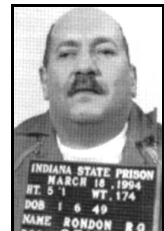
**Defense:** Eric O. Clark

**Date of Murder:** October 11, 1984

**Victim(s):** Francisco Alarcon H / M / 82 (Acquaintance of Rondon)

**Method of Murder:** stabbing with a knife 15 times

**Summary:** The body of 82 year old Francisco Alarcon was found in the bathroom of his home, stabbed 15 times. A trail of blood was noted from the living room to the bathroom. The evidence showed that Everett Amiotte drove Martinez Chavez and Reynaldo Rondon to a place near Alarcon's home on the night of the murder. As Amiotte stayed in the car, Martinez Chavez and Rondon walked around the corner and returned 20 minutes later. Both men were overheard earlier planning to rob Alarcon, and if caught, would kill him. Rondon was identified as driving Alarcon's stolen car on the night of the murder. The next day, Rondon gave his girlfriend 2 knives and told her to hide them. A search of Rondon's residence recovered blood-stained money and dog tags of Alarcon.



**Trial:** Information/PC for Murder (10-17-84); Amended Information for DP filed (10-19-84); Amiotte Guilty Plea (04-02-85); Amiotte Sentencing (05-21-85); Voir Dire (04-15-85); Jury Trial (04-16-85, 04-17-85, 04-18-85, 04-19-85); Verdict (04-18-85); DP Trial (04-20-85); Verdict (04-20-85); Court Sentencing (05-10-85).

**Conviction:** Murder, Felony-Murder

**Sentencing:** May 10, 1985 Death Sentence (Rondon); Death Sentence (Martinez)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** None

Joint Trial with Eladio Martinez-Chavez. Jury recommended a death sentence for Rondon, but recommended against a death sentence for Martinez-Chavez. The Trial Court nevertheless sentenced both to death. The death sentence of Martinez-Chavez was vacated on appeal and he was resentenced to 60 years imprisonment on remand. Amiotte pled guilty before trial to Assisting a Criminal (C Felony) and was sentenced to 7 years imprisonment.

**Direct Appeal:** Rondon v. State, 534 N.E.2d 719 (Ind. March 1, 1989) (1085-S-427)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Givan Opinion; Shepard, Pivarnik concur; Debruler, Dickson dissent.  
For Defendant: Terrance W. Richmond, Milan  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Rondon v. Indiana, 110 S.Ct. 418 (1989) (Cert. denied)  
Rondon v. Indiana, 110 S.Ct. 765 (1990) (Reh. denied)

**PCR:** State ex rel. Rondon v. Lake Superior Court, 569 N.E.2d 635 (Ind. 1991)  
(Mandamus action for change of judge on PCR)

PCR Petition filed 06-29-90. Amended PCR filed 09-27-94, 02-13-95.  
State's Answer to PCR Petition filed 07-31-90.  
PCR Hearing 01-23-95, 01-24-95, 01-25-95, 01-26-95, 01-27-95, 01-31-95, 02-02-95.  
Special Judge Richard J. Conroy  
For Defendant: Judith G. Menadue, James N. Thiros  
For State: Kathleen Sullivan, Natalie Bokota  
06-20-94 Motion for Partial Summary Judgment  
04-01-95 PCR Petition denied

Rondon v. State, 711 N.E.2d 506 (Ind. May 25, 1999) (45S00-9403-PD-229)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Selby Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Judith C. Menadue, Elkhart, Thomas M. Carusillo, Indianapolis  
Amicus Curiae: Richard A. Waples, Indiana Civil Liberties Union, Lawrence A. Vanore, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)

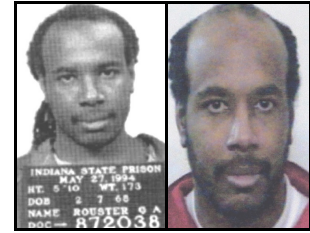
**On Remand:** On August 2, 2000 the State withdrew its request for a death sentence and Rondon was sentenced to 55 years imprisonment for Murder pursuant to a Sentencing Agreement.  
For Defendant: Thomas W. Vanes, Lemuel Stigler  
For State: Susan L. Collins

► CURRENTLY SERVING 55 YEAR TERM OF IMPRISONMENT.

**ROUSTER, GREGORY ANTHONY # 50**  
**(Gamba Mateen Rastafari)**

OFF DEATH ROW SINCE 06-16-03  
DOB: 02-07-1968 DOC#: 872038 Black Male

Lake County Superior Court Judge James E. Letsinger



**Trial Cause #:** 2CR-133-886-531

**Prosecutor:** Thomas W. Vanes, Kathleen Burns

**Defense:** Robert L. Lewis, Noah L. Holcomb

**Date of Murder:** August 12, 1986

**Victim(s):** John Rease B / M / 74; Henrietta Rease B / F / 59 (Ex-Foster Parents of Rouster)

**Method of Murder:** shooting with .32 and .22 handgun

**Summary:** John and Henrietta Rease were elderly foster parents, regularly taking into their home children who were often incorrigible and unwanted. One such child was Gregory Rouster, who was placed in the Rease home by the Welfare Dept. in November 1985 and stayed through February 1986. The Rease's operated a small candy store out of the first floor of their home in Gary. On August 12, 1986 both were shot to death in their home. John Rease was shot once in the shoulder area with a .32 handgun. Henrietta Rease was shot once in the abdomen with the same .32 handgun and twice in the head at close range with a .22 handgun. Ammunition and casings were found on the floor. Numerous witnesses placed Rouster and his companion, Darnell Williams, going into the home with guns on the day of the murder. A foster child of the Rease's, 17 year old Derrick Bryant, testified that he was hiding in the house as Rouster and Williams entered, heard Rouster arguing with Henrietta over money they owed him, heard Henrietta say "Greg, why are you doing this?," then heard two more shots as he ran out the back door. Bryant also testified that he heard the voice of Rouster or Williams say, "it's your turn to kill them." Other witnesses testified that Rouster was outside when the last shots were fired. Rouster had bumped into his Welfare caseworker at the drugstore earlier the same day and asked if the Rease's received a clothing allowance for him while he was in foster care. When he was told that they had received \$5-6 per month, Rouster declared that they owed him money and he was going to get it. Williams was later found in possession of the same .30 caliber ammunition found at the scene, as well as cash and a wristwatch that Bryant identified as the watch he had given to Henrietta as a gift. Rouster was arrested wearing a shirt/vest with blood drops matching both victims. Accomplice Edwin Garland Taylor pled guilty to Robbery (C Felony) and testified for the prosecution.

**Trial:** Information/PC for Murder filed (08-14-86); Amended Information for DP filed (09-16-86); Voir Dire (02-09-87, 02-10-87); Jury Trial (02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-16-87); Verdict (02-17-87); DP Trial (02-17-87, 02-18-87); Deliberations (02-18-87, 02-19-87); Verdict (02-19-87); Court Sentencing (03-20-87).

**Conviction:** Felony-Murder (John Rease), Felony-Murder (Henrietta Rease).  
(Rouster was tried jointly with Darnell Williams, and Teresa Newsome (Rouster's girlfriend and Williams' sister). Newsome was found not guilty.)

**Sentencing:** March 20, 1987 Death Sentence (Rouster); Death Sentence (Williams)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** 18 years old at the time of the murder  
a ward of the State at birth  
no family support  
mildly mentally ill, emotionally disturbed  
speech defect and stuttered  
excessive drug and alcohol intake

Joint Trial and Direct Appeal with Darnell Williams

**Direct Appeal:** *Rouster v. State*, 600 N.E.2d 1342 (Ind. October 16, 1992) (45S00-8710-CR-914)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.  
For Defendant: Scott L. King, Daniel L. Bella, Nathaniel Ruff, Crown Point Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 08-27-93. Amended PCR filed 04-28-95, 06-05-95.  
State's Answer to PCR Petition filed.  
PCR Hearing 06-12-95, 06-26-95, 06-27-95, 06-28-95, 06-29-95, 06-30-95.  
Special Judge Richard J. Conroy  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Kathleen Sullivan, Natalie Bokota  
02-28-96 PCR Petition denied.

*Rouster v. State*, 705 N.E.2d 999 (Ind. February 19, 1999) (45S00-9304-PD-408)  
(Appeal of PCR denial by Special Judge Richard J. Conroy)  
Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: James N. Thiros, Merrillville, Alan M. Freedman, Carol R. Heise, Chicago, IL  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

*Rouster v. State*, 718 N.E.2d 737 (Ind. September 28, 1999)  
(Petition for Rehearing denied, execution date set for November 17, 1999)

Successive PCR Petition filed 02-20-03. Amended PCR filed 04-28-95, 06-05-95.  
State's Answer to PCR Petition filed.  
PCR Hearing 05-20-03, 05-21-03, 05-22-03.  
Special Judge T. Edward Page  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Rhonda Long-Sharp, Alan M. Freedman, Carol R. Heise, Chicago, IL  
06-16-03 PCR Petition granted on grounds that Rouster is mentally retarded.  
12-03-03 State's Appeal Dismissed.

**Habeas:** 10-21-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-04-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
*Gamba M. Rastafari a/k/a Gregory Rouster v. Ron Anderson, Superintendent* (3:99-CV-608-AS)  
Judge Allen Sharp  
For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

06-09-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-08-00 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
08-11-00 Oral Arguments  
10-24-00 Writ of Habeas Corpus denied.  
11-29-00 Certificate of Appealability granted.

Rastafari v. Anderson, 117 F.Supp2d 788 (N.D. Ind. October 24, 2000) (3:99-CV-608-AS)  
(Order of United States District Court, Judge Allen Sharp, denying Habeas Writ)

Rastafari v. Anderson, 278 F.3d 673 (7th Cir. January 22, 2002) (00-4063)  
(Appeal of denial of Habeas Writ; Affirmed 3-0)

Opinion by Judge Michael S. Kanne, Judge Frank H. Easterbrook and Judge William J. Bauer.

For Defendant: Alan M. Freedman, Carol R. Heise, Midwest Center for Justice, Chicago, IL

For State: Arthur Thaddeus Perry, Deputy Attorney General (S. Carter)

Rastafari v. Indiana, 123 S.Ct. 294 (October 7, 2002) (Cert. denied)

**On Remand:** 03-11-05 Rouster was resentenced by Lake County Superior Court Judge Clarence D. Murray to 60 years imprisonment.

- ▶ ROUSTER (AT 48 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON APRIL 21, 2016, AFTER SERVING ± 29 YEARS IN CUSTODY.

## **SAYLOR, BENNY LEE # 79**

OFF DEATH ROW SINCE 05-21-04

DOB: 11-14-1967 DOC#: 894793 White Male

Madison County Superior Court Judge Thomas Newman, Jr.

**Trial Cause #:** 48D03-9206-CF-185

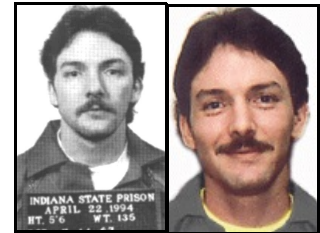
**Prosecutor:** William F. Lawler, Jr.

**Defense:** Jeffrey A. Lockwood, Mitchell P. Chabreja

**Date of Murder:** June 18, 1992

**Victim(s):** Judy VanDuyn W / F / 41 (No relationship to Saylor)

**Method of Murder:** stabbing with knife 45 times



**Summary:** On an evening of a severe rainstorm, Judy VanDuyn went to the laundromat at 8th Street in Anderson. While taking clothes to her car, she was confronted by Saylor. Saylor forced her into her van at knifepoint, directing her to drive to a remote area of the county. A few hours later, a farmer went outside to check his livestock after the storm had subsided, and came upon a van which was parked in a muddy field. He approached the van and saw a female driving, and a man in the passenger seat. He later identified this man in a lineup as Saylor. He asked if they needed help and both said no. After checking his grounds, the farmer returned to the van. He could not see inside, and assumed that the couple had been “parking” and had abandoned the van when it was stuck in the mud. He returned inside his home. A neighbor would later come across the van, thinking there had been an accident. Upon looking inside, he discovered the body of Judy VanDuyn, cut or stabbed approximately 45 times in the chest and abdomen. Footprints inside the van, and away from the van in the muddy field, were discovered with a “Jordache” imprint. The husband of Judy VanDuyn went looking for his wife, and at the laundromat, he made note of an automobile parked nearby and wrote down the make and license number. This car was later found to be registered to Saylor. When questioned, Saylor was found to have scratches over his body and dried blood on his head. A search warrant recovered a pair of soaking wet Jordache tennis shoes from his home. At trial, a fellow inmate at the jail testified that Saylor had admitted the murder. Saylor had been released from IDOC in 1991 on Probation for 4 years following his 1989 conviction for Burglary in Madison County. A Petition to Revoke was pending.

**Trial:** Information filed/PC Hearing for Murder and DP (06-23-92); Voir Dire (01-05-93, 01-06-93, 01-07-93); Jury Trial (01-10-93, 01-11-93, 01-12-93, 01-13-93, 01-14-93, 01-17-93, 01-18-93); Verdict (01-18-93); DP Trial (01-19-93, 01-20-93, 01-21-93); Verdict (01-21-93); Court Sentencing (02-17-93, 02-23-93).

**Conviction:** Murder, Felony-Murder, Robbery (B Felony), Confinement (B Felony)

**Sentencing:** February 17, 1994 (Death Sentence)  
February 23, 1994 (20 years for Robbery and 20 years for Confinement, consecutive)

**Aggravating Circumstances:** b (1) Robbery; b (9) On Probation

**Mitigating Circumstances:** functioned well in correctional system  
he was a good employee  
non-nurturing background and upbringing  
worked to add veteran's name to memorial  
intoxication at the time of the murder

Judge Overrides Jury Recommendation Against Death Sentence.

**Direct Appeal:** Saylor v. State, 686 N.E.2d 80 (Ind. September 19, 1997) (48S00-9301-DP-6)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Jeffrey A. Lockwood, Mitchell P. Chabreja, Anderson  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Saylor v. Indiana, 119 S.Ct. 847 (1998) (Cert. denied)

**PCR:** 01-02-98 Notice of Intent to File PCR Petition.  
07-01-98 PCR Petition filed.  
State's Answer to PCR Petition filed 08-05-98  
PCR Hearing 04-12-99, -04-13-99, 04-14-99, 04-15-99, 04-16-99.  
Special Judge Fredrick Spencer  
For Defendant: Thomas C. Hinesley, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)  
06-18-99 PCR Petition denied.

Saylor v. State, 765 N.E.2d 535 (Ind. March 20, 2002) (48S00-9712-PD-647)  
(Appeal of PCR denial by Special Judge Fredrick Spencer)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Rucker Opinion; Shepard, Dickson, Boehm concur.  
Sullivan dissents as to death sentence based upon Apprendi.  
For Defendant: Thomas C. Hinesley, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Freeman-Wilson)

Saylor v. State, 808 N.E.2d 646 (Ind. May 21, 2004) (48S00-9712-PD-647) (On Rehearing)  
Judgment denying PCR reversed 4-1.  
Opinion by Boehm; Dickson, Sullivan, Rucker concur; Shepard Dissents.  
(Judge override of jury recommendation against DP. 2002 amendments to IC 35-50-2-9 require Judge to sentence in accordance with jury verdict. It is "inappropriate" for Saylor to be executed today.)  
Remanded with instructions to impose sentence of 60 years for Murder, 20 years for Robbery (B Felony), and 20 years for Confinement (B Felony), consecutive, for a total sentence of 100 years.  
For Defendant: Thomas C. Hinesley, Emily Mills Hawk, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Stephen R. Creason, Deputy Attorneys General (Freeman-Wilson)

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 100 YEARS IMPRISONMENT.

## **SCHIRO, THOMAS NICHOLAS # 12**

OFF DEATH ROW SINCE 08-07-96  
DOB: 12-22-1960 DOC#: 13147 White Male

Brown County Circuit Court Judge Samuel R. Rosen  
Venued from Vanderburgh County



**Trial Cause #:** 81-CR-243 (Brown County)  
**Prosecutor:** Jerry A. Atkinson  
**Defense:** Michael C. Keating

**Date of Murder:** February 5, 1981  
**Victim(s):** Laura Luebbehhausen W / F / 28 (Schiro worked in neighborhood)  
**Method of Murder:** manual strangulation

**Summary:** Schiro was an inmate at a halfway house in Evansville for those about to be released from prison. Schiro was serving a 3 year suspended sentence for Robbery (C Felony). Schiro went to the home of Laura Luebbehhausen and gained entrance on the pretext that he had car trouble and needed to use the telephone. Once inside Schiro used the bathroom with permission, exposed himself, and assured her that she need not fear because he was "gay." During the conversation, Luebbehhausen revealed that she had been sexually abused as a child and was a lesbian. Over the next few hours, Luebbehhausen would be raped repeatedly. Schiro then took her to get more liquor and upon return raped her a third time, then passed out. When Schiro awoke, he found Luebbehhausen headed out the door. He dragged her to the bedroom. When he thought she was asleep, he beat her with a vodka bottle, then an iron, then strangled her to death. He then dragged her body into another room, sexually assaulted the corpse, straightened up the house, and left. Her car was found abandoned near the Halfway House two days later. Schiro received the assistance of Halfway House employees in falsifying documents showing his whereabouts, but later confessed to a counselor, and to his girlfriend. An insanity defense was presented at trial. No less than 5 experts testified at trial, none of which gave an opinion that Schiro was insane at the time of the crime. The jury returned a verdict against a Death Sentence after less than 1 hour deliberations. Judge Samuel L. Rosen sentenced Schiro to death anyway, noting that Schiro had constantly rocked back and forth throughout the trial, but only in front of the jury.

**Trial:** Information/PC for Murder filed (02-10-81); Amended Information for DP filed (04-09-81); Venued to Brown County (04-21-81); Voir Dire (09-02-81, 09-03-81); Jury Trial 09-03-81, 09-04-81, 09-08-81, 09-09-81, 09-10-81, 09-11-81, 09-12-81); Deliberations 5 hours; Verdict (09-12-81); DP Trial (09-15-81); Deliberations 1 hour, 1 minute; Verdict (09-15-81); Court Sentencing (10-02-81).

**Conviction:** Felony-Murder; Murder verdict left blank by jury  
Jury Recommendation against Death Sentence  
**Sentencing:** October 2, 1981 (Death Sentence)

**Aggravating Circumstances:** b (1) Rape

**Mitigating Circumstances:** 20 years old at the time of the murder  
sick, rejected, tormented  
victim of forces beyond his control

Judge Overrides Jury Recommendation against a Death Sentence

**Also Serving Time For:** Battery, sentenced to 5 years imprisonment on 03-25-83. (Knox County)

**Direct Appeal:** Schiro v. State, 451 N.E.2d 1047 (Ind. August 5, 1983) (1181-S-329)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Hunter concur; Debruler, Prentice dissent.  
For Defendant: Michael C. Keating, John D. Clouse, Laurie A. Baiden, Evansville  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Schiro v. Indiana, 104 S.Ct. 510 (1983) (Cert. denied)

**PCR:** PCR Petition filed 10-18-82. Amended PCR filed 05-10-84.  
State's Answer to PCR Petition filed 10-31-83, 05-14-84.  
11-22-83 State's Motion to Dismiss granted while appeal pending.  
PCR Hearing 05-17-84.  
Special Judge James M. Dixon  
For Defendant: Frances Watson Hardy, Angela D. Chapman, Deputy Public Defender (Carpenter)  
For State: Robert J. Pigman, Jerry A. Atkinson  
05-29-84 PCR Petition denied.

Schiro v. State, 479 N.E.2d 556 (Ind. June 28, 1985) (1084-S-423)  
(Appeal of PCR denial by Special Judge James M. Dixon)  
Affirmed 3-1; Givan Opinion; Prentice, Pivarnik concur; Debruler dissents; Hunter did not participate.  
For Defendant: Frances Watson Hardy, Deputy Public Defender (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Schiro v. Indiana, 106 S.Ct. 1247 (1986) (Cert. denied)

Schiro v. State, 533 N.E.2d 1201 (Ind. February 8, 1989) (07S00-8807-PC-656)  
(Appeal of 2nd PCR denial by Special Judge John Baker)  
Affirmed 3-2; Pivarnik Opinion; Shepard, Givan concur; Debruler, Dickson dissent.  
For Defendant: Alex R. Voils, Jr., Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Schiro v. Indiana, 110 S.Ct. 268 (1989) (Cert. denied) (Marshall, Brennan, Stevens dissent)

Schiro v. State, 669 N.E.2d 1357 (Ind. August 7, 1996) (07S00-9403-SD-273)  
(Appeal of 3d PCR denial by Judge Heather M. Mollo)  
DP REVERSED 4-1; Debruler Opinion; Dickson, Sullivan, Selby concur; Shepard dissents.  
Death Sentence vacated and remanded to impose 60 year term of imprisonment.  
For Defendant: Monica Foster, Rhonda Long-Sharp, Indianapolis  
For State: Dana Childress-Jones, Deputy Attorney General (P. Carter)

**Habeas:** Schiro v. Clark, 754 F.Supp. 646 (N.D.Ind. December 26, 1990) (S83-588)  
(Habeas Writ denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)  
For Defendant: Alex R. Voils, Jr., Indianapolis  
For State: David A. Arthur, Deputy Attorney General (Pearson)

Schiro v. Clark, 963 F.2d 962 (7th Cir. May 8, 1992) (91-1509)  
Affirmed 3-0; Circuit Judges Frank H. Easterbrook, Harlington Wood, Jr., Judge Walter Cummings.  
For Defendant: Richard D. Gilroy, Alex R. Voils, Jr., Indianapolis  
For State: David A. Arthur, Deputy Attorney General (Pearson)

Schiro v. Farley, 114 S.Ct. 783 (January 19, 1994) (92-7549)  
(Affirmed 7-2; O'Connor Opinion, joined by Rehnquist, Scalia, Kennedy, Souter, Thomas; Blackmun, Stevens dissent.)  
First U.S. Supreme Court Opinion of a post-Furman Indiana death penalty case.  
For Defendant: Monica Foster, Indianapolis  
For State: Arend J. Abel, Deputy Attorney General (P. Carter)  
Schiro v. Farley, 114 S.Ct. 1341 (1994) (Rehearing denied)

**On Remand:** Scheduled to be released on parole in 2007, Schiro was charged in Vanderburgh County with two counts of Rape (Class A Felony) and Criminal Deviate Conduct (Class A Felony), based upon sexual assaults committed in 1980. Jury Trial was venued to Clark County. Following a guilty verdict on one count of Rape and one count of Criminal Deviate Conduct, Schiro was sentenced by Judge Carl A. Heldt to 40 years imprisonment for Rape (Class A Felony) on November 29, 2006. (10C01-0508-FA-000065)

Schiro v. State, 888 N.E.2d 828 (Ind. App. June 19, 2008) (10A01-0701-CR-21)  
(Direct Appeal of Rape/CDC convictions and 40 year sentence - Affirmed)  
Schiro v. State, 898 N.E.2d 1223 (Ind. 2008) (Transfer denied)

- ▶ CURRENTLY SERVING A TERM OF 40 YEARS IMPRISONMENT FOR RAPE (CLASS A FELONY), AND A TERM OF 8 YEARS IMPRISONMENT FOR ROBBERY (CLASS C FELONY) (#2813).

## **SMITH, CHARLES # 23**

OFF DEATH ROW SINCE 12-13-89  
DOB: 10-10-1953 DOC#: 10440 Black Male

Allen County Superior Court Judge Alfred W. Moellering

**Trial Cause #:** CR-83-86

**Prosecutor:** Gregory L. Fumarolo, James P. Posey

**Defense:** Theodore D. Wilson

**Date of Murder:** December 10, 1982

**Victim(s):** Carmine Zink W / F / 20 (No relationship to Smith)

**Method of Murder:** shooting with .32 handgun

**Summary:** Smith allegedly left in a car one night accompanied by Phillip Lee and Briddie Johnson. They stopped to let Smith pick up a .32 handgun and agreed to stake out a local restaurant for likely robbery victims. They went to The Elegant Farmer in Ft. Wayne, parked the car in the lot, and waited. Brenda Chandler and Carmine Zink arrived to attend a Christmas party at the restaurant. Smith and Johnson left the car and with stockings over their heads confronted Chandler and Zink, intent on taking their purses. Smith seized Zink, put her in a headlock, and put the .32 handgun to her head. Johnson was struggling with Chandler, who heard a single gunshot. Smith and Johnson fled. Zink lay on the ground dead as a result of a single gunshot to the head. Lee testified at trial under an agreement with the State and confirmed the above scenario. (Alibi defense presented)

**Trial:** Information/PC for Murder filed (02-05-83); Amended Information for DP filed (02-22-83); Amended Information for Habitual filed (09-19-83); Voir Dire (09-19-83); Jury Trial (09-19-83, 09-20-83, 09-21-83); Deliberations 3 hours, 15 minutes; Verdict (09-21-83); DP Trial (09-22-83); Deliberations 1 hour, 10 minutes; Verdict (09-22-83); Habitual Offender Sentencing Hearing (09-22-83); Deliberations 15 minutes; Verdict (09-22-83); Court Sentencing (10-18-83).

**Conviction:** Murder, Felony-Murder, Habitual Offender (trifurcated trial)

**Sentencing:** October 18, 1983 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery



**Mitigating Circumstances:** None

**Direct Appeal:** Smith v. State, 475 N.E.2d 1139 (Ind. March 25, 1985) (584-S-195)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Hunter, Pivarnik, Prentice concur; Debruler dissents.  
For Defendant: Barrie C. Tremper, Fort Wayne  
For State: Theodore E. Hansen, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 07-02-85. Amended PCR filed 02-27-86, 03-06-86.  
State's Answer to PCR Petition filed 07-29-85.  
PCR Hearing 03-18-86, 03-19-86, 03-21-86.  
Allen County Superior Court Judge Alfred W. Moellering  
For Defendant: Teresa D. Harper, Linda R. Torrent, Deputy Public Defenders (Carpenter)  
For State: Gregory L. Fumaro, James P. Posey  
07-31-87PCR Petition denied.

Smith v. State, 547 N.E.2d 817 (Ind. December 13, 1989) (02S00-8805-PC-489)  
(Appeal of PCR denial by Allen County Superior Court Judge Alfred W. Moellering)  
Conviction Reversed 5-0 DP Vacated 5-0  
Givan Opinion; Shepard, Debruler, Pivarnik, Dickson concur.  
(Ineffective trial counsel in failing to investigate and pursue alibi defense, failing to pursue impeachment of key witness, failure to object to polygraph reference, and failure to investigate and present any mitigation.)  
For Defendant: Teresa D. Harper, Rhonda Long-Sharp, Linda R. Torrent, Deputy Pubic Defenders  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Smith v. State, 547 N.E.2d 822 (Ind. December 13, 1989) (On Rehearing; Habitual Offender finding reversed on sufficiency grounds due to no proof of proper sequence, Givan Opinion 5-0)

**On Remand:** Amended Information to Add Robbery (A Felony) (05-24-90); Application for Death Sentence Withdrawn (05-24-90); Jury Selection in Marion County (04-29-91, 04-30-91); Jury Trial in Allen County (5-01-91, 05-02-91, 05-03-91, 05-04-91, 05-06-91, 05-07-91, 05-08-91, 05-09-91); Deliberations 8 hours, 50 minutes; Verdict (05-09-91).

On remand, the State withdrew its Application for Death Sentence, and added a count of Robbery (Class A Felony). A jury was selected in Marion County for retrial in Allen County. The defense presented testimony from an alibi witness, as well as witnesses who testified that Lee had admitted to intentionally framing Smith. After 8 days of trial and 9 hours of deliberations, the jury found Charles Smith NOT GUILTY of all charges (Murder, Felony-Murder, Robbery).  
Allen County Superior Court, Judge John F. Surbeck, Jr.  
For Defendant: Richard Kammen  
For State: Stephen M. Sims

► ON REMAND, SMITH WAS FOUND NOT GUILTY AFTER A JURY TRIAL.

**SMITH, ROBERT ALLAN # 86**

EXECUTED BY LETHAL INJECTION 01-29-98 AT 12:27 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 03-03-1950 DOC#: 30636 White Male

Sullivan County Circuit Court Judge P. J. Pierson

**Trial Cause #:** 77CO1-9507-CF-0030



**Prosecutor:** Robert E. Springer

**Defense:** William G. Smock, Joseph K. Etling

**Date of Murder:** June 30, 1995

**Victim(s):** Michael Wedmore W / M / 33 (Fellow DOC inmate)

**Method of Murder:** stabbing with homemade knife 37 times

**Summary:** Smith, serving a 38 year sentence for Battery, was an inmate at the Indiana DOC, Wabash Correctional Institution in Sullivan County. Along with inmate Lunsford, Smith stabbed inmate Michael Wedmore 37 times with a sharpened putty knife. The attack was witnessed by correctional officers. Both Smith and Lunsford surrendered immediately, turning over the murder weapons. Smith proceeded pro-se, pled guilty, and agreed to a Death Sentence. The Court nevertheless appointed standby counsel who raised competency as an issue. At the guilty plea hearing, Smith stated, "I'm telling the court that the next person I go at won't be a baby killer, it will be a state employee and I will butcher him." (Wedmore was serving a 60 year sentence for the murder of his girlfriend's 2 year old child in Hamilton County) Smith continued pro-se on appeal, continuing to assert a desire to be executed. The Indiana Supreme Court appointed standby counsel as Amicus.

**Trial:** Information filed/PC Hearing for Murder (06-31-95); Amended Information for DP filed (07-28-95); Motion for speedy Trial (11-07-95); Plea Hearing (03-06-95); Competency Hearing (05-15-95); Defendant Demand to Proceed Pro Se (05-20-96, 06-04-96, 06-26-96); Plea Agreement filed (06-26-96); Defense Attorneys file Motion to Reject Plea (07-12-96); Plea Accepted/Sentencing (07-12-96).

**Conviction:** Pled guilty to Murder by a Plea Agreement requiring Death Sentence

**Sentencing:** July 12, 1996 (Death Sentence)

**Aggravating Circumstances:** b (9) In Custody of DOC

**Mitigating Circumstances:** None

Guilty Plea

**Also Serving Time For:** Battery, sentenced to 38 years imprisonment on 10-13-89. (Madison County )  
Robbery, sentenced to 20 years imprisonment on 04-09-84. (Elkhart County)

**Direct Appeal:** Smith v. State, 686 N.E.2d 1264 (Ind. October 23, 1997) (77S00-9508-DP-950)

Conviction Affirmed 5-0 DP Affirmed 5-0

Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: William G. Smock, Joseph K. Etling, Terre Haute, Amicus Curiae

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

SMITH PLED GUILTY, WAIVED ALL APPEALS, AND WAS EXECUTED BY LETHAL INJECTION ON 01-29-98 AT 12:27 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 77TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND THE 7TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

**SMITH, TOMMIE JOE # 10**

EXECUTED BY LETHAL INJECTION 07-18-96 1:23 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 02-06-1954 DOC#: 4330 Black Male



Marion County Superior Court Judge Jeffrey V. Boles  
(Originally venued to Hendricks County; by agreement, returned  
to Marion, with Hendricks Circuit Judge Jeffrey V. Boles presiding)

**Trail Cause #:** CR-80-442A

**Prosecutor:** J. Gregory Garrison, David E. Cook (Stephen Goldsmith)

**Defense:** Richard R. Plath

**Date of Murder:** December 11, 1980

**Victim(s):** Jack Ohrberg W / M / 44 (Indianapolis Police Officer - No relationship to Smith)

**Method of Murder:** shooting with AR-15 rifle

**Summary:** On December 11, 1980 at 5:30 a.m., Indianapolis Police Sergeant Jack Ohrberg and other officers went to 3544 North Oxford in Indianapolis attempting to serve papers on persons believed to be at that location. Ohrberg banged on the door several times and identified himself as a police officer. Two other officers on the front porch were in uniform. After the next door neighbor told officers that there was noise from inside the apartment, Ohrberg crouched and pounded with his shoulder on the door, which began to open. Officers saw furniture blocking the door, and saw 2 or 3 muzzle flashes from two different locations inside. Ohrberg was shot and collapsed on the porch. Officers took cover and saw a man come out onto the porch, point a rifle, and fire at least 2 additional shots into Ohrberg. Officers took cover and returned fire. Shots continued to come from inside the house. After a few minutes, Gregory Resnover came out, threw down an AR-15 rifle and surrendered. Earl Resnover followed, laying down an AR-15 and a pistol. Ohrberg's business card was found in Earl's wallet. Two women then came out, leaving wounded Smith inside. An AR-15 which was recovered next to Smith was found to be the murder weapon. An arsenal of weapons and ammunition was recovered inside the apartment.

Tommie Smith, Gregory Resnover, and Earl Resnover were also convicted of the 1980 murder and robbery of Brink's guard William Sieg in Marion County, and were sentenced to consecutive terms of 60 years and 20 years imprisonment on 10-22-81. (See Smith v. State, 474 N.E.2d 973 (1985) (CR80-473A))

**Trial:** Information/PC for Murder and Death Penalty Filed (12-11-80); Death Sentence Request Filed (12-11-80); Jury Trial (06-23-81, 06-24-81, 06-25-81, 06-26-81, 06-29-81); Verdict (06-29-81); DP Trial (06-30-81); DP Verdict (06-30-81); Court Sentencing (07-23-81).

**Conviction:** Murder, Conspiracy to Commit Murder (Class A Felony)

**Sentencing:** July 23, 1981 (Death Sentence, 50 years imprisonment)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Smith v. State, 465 N.E.2d 1105 (Ind. July 24, 1984) (182-S-19)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Hunter, Debruler, Givan, Prentice concur.  
For Defendant: Stephen P. Wolfe, Marion  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Smith v. Indiana, 116 S.Ct. 2581 (1996) (Cert. denied)

**PCR:** Smith v. State, 516 N.E.2d 1055 (Ind. December 16, 1987) (49S00-8610-PC918)  
(Appeal of PCR denial by Judge Patricia J. Gifford)  
Conviction and Sentence Affirmed 5-0  
Pivarnik Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: F. Thomas Schornhorst, Bloomington, Deputy Public Defender  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Smith v. State, 613 N.E.2d 412 (Ind. May 12, 1993) (49S00-9008-PD-538)  
(Appeal of 2nd PCR summary dismissal by Judge Patricia J. Gifford)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Krahulik Opinion; Shepard, Givan, Dickson, Debruler concur.  
For Defendant: Judith G. Menadue, Elkhart, Public Defender  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Smith v. Indiana, 114 S.Ct. 1634 (1994) (Cert. denied)

**Habeas:** 11-25-88 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Tommie J. Smith v. Robert A. Farley, Superintendent (3:88-CV-00685-AS)  
Judge Allen Sharp  
For Defendant: Michael P. Rehak, South Bend, F. Thomas Schornhorst, Bloomington  
For State: David A. Arthur, Deputy Attorney General (P. Carter)

02-21-89 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
06-28-94 Amended Petition for Writ of Habeas Corpus filed.  
10-14-94 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
10-31-94 Writ of Habeas Corpus denied.  
11-30-94 Certificate of Probable Cause to Appeal granted.  
Smith v. Farley, 873 F.Supp. 1199 (N.D.Ind. October 31, 1994) (88-CV-685)  
(Habeas Writ denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

Smith v. Farley, 59 F.3d 659 (7th Cir. July 5, 1995) (94-3818)  
(Appeal of Denial of Habeas Writ)  
Affirmed 3-0; Judge Richard A. Posner, Judge William J. Bauer, Judge Joel M. Flaum.  
For Defendant: Michael P. Rehak, South Bend, F. Thomas Schornhorst, Bloomington  
For State: Arend J. Abel, Deputy Attorney General (P. Carter)  
Smith v. Indiana, 116 S.Ct. 935 (1995) (Cert. denied)

Smith v. Parke, 116 S.Ct. 2518 (1996) (Stay of execution granted until disposition of Writ of Certiorari)  
Smith v. Parke, 116 S.Ct. 2581 (1996) (Petition for Writ of Certiorari dismissed; Habeas Corpus denied)  
Smith v. Indiana, 117 S.Ct. 1 (1996) (Application for stay denied)

Smith v. Farley, 949 F.Supp. 680 (N.D.Ind. 1996) (Approval of \$32,316.91 claim at \$125 per hour for attorneys fees in habeas action to Professor F. Thomas Schornhorst of Indiana University School of Law.)

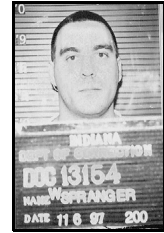
SMITH WAS EXECUTED BY LETHAL INJECTION ON 07-19-96 AT 1:23 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 74TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 4TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977. HE WAS THE FIRST CONVICTED MURDERER EXECUTED IN INDIANA BY LETHAL INJECTION.

## **SPRANGER, WILLIAM J. # 24**

OFF DEATH ROW SINCE 12-14-93

DOB: 09-26-1964 DOC#: 13154 White Male

Wayne County Circuit Court Judge Wayne C. Puckett  
Venued from Noble County



**Trial Cause #:** SCR-83-23 (Noble County), C-83-1189-CR (Wayne County)

**Prosecutor:** G. David Laur

**Defense:** Terrance W. Richmond, Robert C. Way

**Date of Murder:** May 28, 1983

**Victim(s):** William Miner W/M/31 (Aliva Town Marshall - No relationship to Spranger)

**Method of Murder:** shooting with handgun

**Summary:** Avila Town Marshall, William Miner, was called by a resident who reported that two men, later identified as Spranger and Allen Snyder, were vandalizing a car. Miner responded to the scene and arrested both men. A struggle ensued between Snyder and Miner, and Miner's service revolver was knocked away into the highway. Spranger crossed the highway, retrieved the gun, and shot Miner in the back from some distance away. Following his arrest, Spranger made several admissions to shooting the officer, and led police to a lake where the gun was recovered. Snyder was allowed to plead guilty to involuntary manslaughter, received a prison term, and testified at trial. Spranger claimed at trial that Snyder killed the officer.

**Trial:** Information/PC for Murder filed (05-31-83); Snyder Guilty Plea (09-29-83); Snyder Sentencing (12-08-83); Voir Dire/ Jury Trial (11-01-83, 11-02-83, 11-03-83, 11-04-83, 11-05-83, 11-08-83); Verdict (11-08-83); DP Trial (11-09-83, 11-10-83); Verdict (11-10-83); Court Sentencing (12-08-83).

**Conviction:** Murder

**Sentencing:** December 8, 1983 (Death Sentence)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** no advance plan or scheme to murder  
18 years old at the time of the murder  
capable of rehabilitation  
poor social controls  
impulsive and extremely susceptible to influence of others  
no prior criminal record  
intoxication and stress on day of murder  
accomplice received a disproportionate easy plea  
cooperation with law enforcement

**Direct Appeal:** Spranger v. State, 498 N.E.2d 931 (Ind. October 15, 1986) (684-S-216)

Conviction Affirmed 5-0 DP Affirmed 4-1

Dickson Opinion; Givan, Pivarnik, Shepard concur; Debruler dissents.

For Defendant: Terrance W. Richmond, Milan

For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

Spranger v. State, 500 N.E.2d 1170 (Ind. December 3, 1986) (Rehearing Denied 4-1)

Dickson Opinion; Givan, Pivarnik, Shepard concur; Debruler dissents.

Spranger v. Indiana, 107 S.Ct. 1965 (1987) (Cert. denied)

**PCR:** PCR Petition filed 10-07-87. Amended PCR Petition filed 04-01-91.  
State's Answer to PCR Petition filed 10-26-87, 02-26-90.  
PCR Hearing 09-20-93, 09-21-93, 09-22-93, 09-23-93.  
Special Judge Douglas H. Van Middlesworth  
For Defendant: Joseph M. Cleary, J. Jeffreys Merryman, Deputy Public Defenders (Carpenter)  
For State: G. David Laur  
12-14-93 PCR Petition granted as to death sentence, denied as to conviction.

Spranger v. State, 650 N.E.2d 1117 (Ind. May 22, 1995) (89S00-9008-PD-540)  
(Appeal by State of the granting of PCR as to death penalty)  
(Appeal by Spranger of the denial of PCR as to convictions)  
Conviction Affirmed 5-0 DP Vacated 5-0  
Dickson Opinion; Shepard, Debruler, Sullivan, Selby concur.  
For Defendant: Terrance W. Richmond, Milan  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**On Remand:** 06-30-97 Joint Motion to Waive Jury Sentencing  
11-03-07, 11-04-97 Sentencing Hearing held without jury  
11-06-97 Spranger sentenced to 60 years imprisonment.  
Special Judge Douglas H. Van Middlesworth  
For Defendant: Jodie English, Terry Lockwood  
For State: G. David Laur, Robert L. Collins, Deputy Attorney General

- ▶ SPRANGER (AT 48 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JULY 29, 2013, AFTER SERVING ± 30 YEARS IN CUSTODY.

## STEPHENSON, JOHN MATTHEW # 88

OFF DEATH ROW SINCE 10-05-18  
DOB: 07-31-63 DOC#: White Male

Warrick County Superior Court  
Judge Edward A. Campbell

**Trial Cause #:** 87DO1-9604-CF-23

**Prosecutor:** Todd A. Corne, Keith A. Meyer  
**Defense:** S. Anthony Long, Dennis A. Vowels

**Date of Murder:** March 28, 1996

**Method of Murder:** shooting with SKS Assault rifle

**Victim(s):** Brandy Southard W / F / 21; John Jay Tyler W / M / 29;  
Kathy Tyler W / F / 29 (No relationship to Stephenson)



**Summary:** Jay and Kathy Tyler picked up Brandy Southard from her work in Evansville and were chased by Stephenson to an intersection in rural Warrick County, where he emptied a 30 round SKS Assault Rifle into the pickup truck and their bodies. Each were then stabbed repeatedly. Stephenson was also convicted of an earlier Burglary and Theft from Southard's residence.

(Believed to be the longest and most expensive trial in Indiana history. Jury selection began on September 23, 1996; Opening Statements began on December 30; Found Guilty on May 8; Jury recommended death on May 20; 140 total trial days. The defense was allowed 2 attorneys, 2 investigators, a paralegal, a professional photographer, a civil engineer, a forensic scientist, a jury consultant, a neuropsychologist, and a mitigation expert. Sister Helen Prejean was flown in to testify at the sentencing hearing. Claims paid for two attorneys fees were \$334,156, paralegal fees were \$57,788, expert fees were \$79,193, investigator fees were \$74,493, miscellaneous expenses were over \$10,000) (The Record on appeal totaled 132 volumes, 33,000 pages.)

**Trial:** Information/PC for Murder filed (04-02-96); Amended Information for DP filed (05-10-96); Defendant Motion for Speedy Trial (05-15-96); Amended Information filed (05-28-96, 06-11-96, 07-18-96); Voir Dire (09-23-96, 09-24-96, 09-25-96, 09-26-96, 09-27-96, 09-30-96, 10-01-96, 10-02-96, 10-03-96, 10-04-96, 10-07-96, 10-08-96, 10-09-96, 10-10-96, 10-11-96, 10-15-96, 10-16-96, 10-17-96, 10-18-96, 10-21-96, 10-22-96, 10-23-96, 10-24-96, 10-25-96, 10-28-96, 10-29-96, 10-30-96, 10-31-96, 11-01-96, 11-04-96, 11-06-96, 11-07-96, 11-08-96, 11-11-96, 11-12-96, 11-13-96, 11-14-96, 11-15-96, 11-18-96, 11-19-96, 11-20-96, 11-21-96, 11-22-96, 11-25-96, 11-26-96, 11-27-96, 12-02-96, 12-23-96); Motions to Suppress (12-03-96, 12-04-96, 12-05-96, 12-06-96, 12-09-96, 12-10-96, 12-11-96, 12-12-96, 12-13-96, 12-16-96, 12-17-96, 12-19-96, 12-20-96, 12-23-96); Jury Trial (12-30-96, 12-31-96, 01-02-97, 01-03-97, 01-06-97, 01-07-97, 01-08-97, 01-09-97, 01-10-97, 01-14-97, 01-15-97, 01-16-97, 01-17-97, 01-21-97, 01-22-97, 01-23-97, 01-24-97, 01-27-97, 01-28-97, 01-29-97, 01-30-97, 01-31-97, 02-02-97, 02-03-97, 02-04-97, 02-05-97, 02-06-97, 02-07-97, 02-10-97, 02-11-97, 02-12-97, 02-13-97, 02-14-97, 02-18-97, 02-19-97, 02-20-97, 02-21-97, 02-22-97, 02-24-97, 02-25-97, 02-26-97, 02-27-97, 02-28-97, 03-03-97, 03-04-97, 03-06-97, 03-07-97, 03-10-97, 03-11-97, 03-12-97, 03-13-97, 03-14-97, 03-17-97, 03-18-97, 03-19-97, 03-20-97, 03-24-97, 03-25-97, 03-26-97, 03-27-97, 03-31-97, 04-01-97, 04-02-97, 04-03-97, 04-07-97, 04-08-97, 04-10-97, 04-11-97) – Defense Case – (04-11-97, 04-14-97, 04-15-97, 04-10-97, 04-11-97, 04-14-97, 04-15-97, 04-10-97, 04-11-97, 04-14-97, 04-15-97, 04-16-97, 04-17-97, 04-18-97, 04-21-97, 04-22-97, 04-23-97, 04-24-97, 04-25-97 – Rebuttal – 04-25-97, 04-28-97, 04-29-97, 04-30-97)– Surrebuttal – (04-30-97, 05-01-97, 05-05-97, 05-06-97, 05-07-97); Verdict (05-08-97); DP Trial (05-19-97); Verdict (05-19-97); Court Sentencing (06-16-97, 06-17-97).

**Conviction:** Murder (3 counts), Burglary (B Felony), Theft (D Felony)

**Sentencing:** June 17, 1997  
(Death Sentence, Death Sentence, Death Sentence, 10 years, 1 1/2 years concurrent)

**Aggravating Circumstances:** b (8) 3 murders, (lying in wait, drive-by shooting rejected)

**Mitigating Circumstances:** shown he could be safely imprisoned for LWOP  
some multiple murderers are in DOC and not on Death Row

**Direct Appeal:** Stephenson v. State, 742 N.E.2d 463 (Ind. January 25, 2001) (87S00-9605-DP-398)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard; Dickson, Boehm, Rucker concur.  
For Defendant: Brent L. Westerfield, Indianapolis, Janet S. Dowling, Albuquerque, NM  
For State: Michael A. Hurst, Deputy Attorney General (Modisett)  
Stephenson v. Indiana, 122 S.Ct. 905 (2002) (Cert. denied)

**PCR:** 06-15-01 Notice of Intent to file PCR Petition.  
01-31-02 PCR Petition filed. Amended PCR filed 11-14-02.  
State's Answer to PCR Petition filed 03-04-02, 12-06-02.  
PCR Hearing 01-13-03, 01-14-03, 01-15-03, 01-16-03, 01-17-03  
Warrick Superior Court Judge Robert R. Aylsworth  
Cause # 87D02-0210-PC-118  
For Defendant: Jenna Murphy, Thomas C. Hinesley, Steven Schutte,  
Deputy Public Defenders (Carpenter)  
For State: Thomas D. Perkins, Stephen R. Creason, Scott A. Kreider, James B. Martin,  
Deputy Attorneys General (S. Carter)  
05-12-03 PCR Petition denied.  
Stephenson v. State, 864 N.E.2d 1022 (Ind. April 26, 2007) (87S00-0106-PD-285)  
(Appeal of PCR denial by Warrick County Superior Court Judge Robert W. Aylsworth)  
Conviction and Death Sentence Affirmed 5-0  
Opinion by Boehm; Shepard; Dickson, Sullivan, Rucker concur.  
For Defendant: Thomas C. Hinesley, Steven H. Shutte, Deputy Public Defenders (Carpenter)  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Stephenson v. Indiana, 128 S.Ct. 1871 (2008) (Cert. denied)

As expected, PCR counsel alleged ineffective assistance of trial counsel despite the extraordinary and unprecedented resources allowed. Chief Justice Shepard noted this irony in a concurring opinion affirming the denial of postconviction relief at Stephenson v. State, 864 N.E.2d 1022, 1057-1058 (Ind. April 26, 2007):

“A few words about the rhetoric of modern death penalty litigation as regards the most common single issue - effective assistance of trial counsel.

Stephenson's two lawyers at trial were practitioners well known to the bench and bar. Lead counsel Anthony Long had thirty-five years experience in civil and criminal trial work, including four terms as Prosecuting Attorney for Warrick County, one of Indiana's fastest-growing jurisdictions and the site of the murders at issue. Co-counsel Dennis Vowels of Evansville had more than a decade of criminal law experience at the time of Stephenson's trial and had built a respectable reputation in the field of criminal defense. Both had received specialized training in the defense of capital cases.

The defense team went well beyond the lawyers, eventually consisting of six or seven altogether, including a variety of experts, a fact investigator, a mitigation specialist, and paralegals. The year that this team spent defending Stephenson was an intensive one in which the defense enjoyed essentially unlimited resources: a third of a million dollars in lawyer time, \$65,000 worth of expert time, and mitigation and paralegal efforts that brought the defense bill to \$558,000. The post-conviction record has provided the details of this collective effort at some length.

The contention now before us is that the foregoing defense was ‘perfunctory.’ It is declared ‘woefully short,’ ‘laughable,’ a defense conducted by lawyers who were ‘willfully uninformed.’

The facts establish otherwise: a seasoned defense team of respected practitioners, aided by a collection of experts and investigators, mounting a defense with the benefit of vast financial resources. Well beyond any notion of what the Sixth Amendment guarantees.”

**Habeas:** 11-02-07 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
02-04-08 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
John M. Stephenson v. Ed Buss, Superintendent (3:07-CV-00539-TLS)  
Judge Theresa L. Springmann  
For Defendant: Alan M. Freedman, Midwest Center for Justice, Marie F. Donnelly, Chicago, IL  
For State: Kelly A. Miklos, Deputy Attorney General (S. Carter)  
08-08-08 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-02-08 Petitioner's Motion for Summary Judgment filed.  
12-03-08 Response in Opposition to Motion for Summary Judgment filed.  
03-05-09 Oral Arguments on Summary Judgment Motion; Taken Under Advisement.  
07-01-09 Order granting Motion for Summary Judgment;  
Conditionally granting Writ of Habeas Corpus as to stun-belt issue.

Stephenson v. Levenhagen, 2009 WL 1886081 (N.D. Ind. July 01, 2009) (3:07-CV-539-TS)  
U.S. District Judge Theresa L. Springmann, Northern District of Indiana.

Writ of Habeas Corpus granted as to conviction and death sentence  
(Ineffective assistance of trial counsel by failing to object when Stephenson was required to wear stun belt under shirt during trial, which created bulge under shirt which four jurors thought to be a stun belt based upon their post appeal affidavits solicited by Habeas counsel. The State of Indiana is free to re-try John M. Stephenson, providing that it files appropriate documents in the State Trial Court seeking such relief within 120 days of this Order.)  
For Defendant: Mary F. Donnelly, Chicago, IL and Alan M. Freedman, Evanston, IL  
For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Wilson, 619 F.3d 664 (7th Cir. August 26, 2010) (09-2924)  
DP Affirmed 3-0; Reversed conditional granting of Writ of Habeas Corpus by U.S. District Court Judge Theresa L. Springmann, and remanded to U.S. District Court for consideration of all issues raised, including residual doubt and stun belt as to sentence.

Opinion by Circuit Judge Richard A. Posner; Judge William J. Bauer and Judge John D. Tinder.

For Defendant: Mary F. Donnelly, Chicago, IL and Alan M. Freedman, Evanston, IL

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Wilson, 629 F.3d 732 (7th Cir. January 14, 2011) (09-2924)

(Rehearing denied 3-0) William J. Bauer, Richard A. Posner, John Daniel Tinder.

(Rehearing *en banc* denied; Opinion by Judge Ilana Diamond Rovner dissenting, joined by Judge Ann Claire Williams and Judge David F. Hamilton)

For Defendant: Mary F. Donnelly, Chicago, IL and Alan M. Freedman, Evanston, IL

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Wilson, 132 S.Ct. 124 (October 3, 2011) (Cert. denied)

01-24-11 Remanded to U.S. District Court, Northern District of Indiana, for consideration of all remaining claims. John M. Stephenson v. Mark Levenhagen, Superintendent (3:07-CV-00539-TLS)

04-03-12 Petitioner's Traverse / Memorandum filed in support of Writ of Habeas Corpus.

07-06-12 Respondent's Brief in opposition to Writ of Habeas Corpus.

09-07-12 Petitioner's Surreply Brief filed in support of Writ of Habeas Corpus.

09-30-14 Order and Opinion; Petition for Writ of Habeas Corpus denied.

Stephenson v. Levenhagen, (N.D. Ind. September 30, 2014) ( 3:07-CV-539-TS)

United States District Court, Northern District of Indiana, Ft. Wayne Division

Judge Theresa L. Springmann

Petition for Writ of Habeas Corpus denied.

For Defendant: Alan M. Freedman, Evanston, IL; Marie F. Donnelly, Chicago, IL.

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Neal, 2016 U.S. Dist. LEXIS 5092 (N.D. Ind. January 14, 2016)

United States District Court for the Northern District of Indiana (3:07-CV-539-TLS)

Judge Theresa L. Springmann

Motion to Alter Judgment denied.

For Defendant: Alan M. Freedman, Evanston, IL; Marie F. Donnelly, Chicago, IL.

For State: Kelly A. Miklos, Stephen R. Creason, Deputy Attorneys General (Zoeller)

Stephenson v. Neal, 865 F.3d 956 (7th Cir. August 4, 2017) (No. 16-1312)

Appeal from the United States District Court for the Northern District of Indiana, South Bend Division.

(No. 3:07-cv-00539-TLS) Judge Theresa L. Springmann.

Convictions Affirmed 3-0 DP Reversed 3-0

Opinion By: Posner; Bauer, Flaum concur.

(The possibility that the defendant's having to wear the stun belt—for no reason, given that he had no history of acting up in a courtroom—contaminated the penalty phase of the trial persuades us to reverse the district court's denial of Stephenson's petition for habeas corpus and to remand with directions to vacate his sentence. After the completion of these proceedings, Indiana may choose to seek the death penalty anew and hold a new penalty hearing before a jury without Stephenson wearing the stun belt, or to seek a lesser sentence and hold a penalty hearing before a judge. The court's refusal to vacate his conviction, however, is affirmed.)

For Defendant: Alan M. Freedman, Evanston, IL; Marie F. Donnelly, Chicago, IL.

For State: Kelly A. Loy, Deputy Attorney General (Hill)

**On Remand:** On October 5, 2018 the parties submitted a Sentencing Agreement calling for the State to withdraw Death Sentence request and for the Defendant to be sentenced to Count I: Murder (50 years imprisonment). Count II: Murder (50 years imprisonment), and Count III (60 years imprisonment), with Count I and Count II to run concurrent with each other but consecutive with Count III, for a total sentence of 110 years imprisonment. Warrick County Superior Court Judge Robert R. Aylsworth accepted the Sentencing Agreement and sentenced Stephenson accordingly. 8,220 days credit for time previously served.  
State appears by Michael J. Perry and J. Parker Trulock, Warrick County Prosecuting Attorneys.  
Defendant appears by live video feed with counsel Jodie English; Mark Kamish in person.

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 110 YEARS IMPRISONMENT.

## **STEVENS, CHRISTOPHER M. # 81**

OFF DEATH ROW SINCE 06-18-07  
DOB: 09/2/1972 DOC#: 952131 White Male

Tippecanoe County Superior Court  
Judge George J. Heid  
Venued from Putnam County

**Trial Cause #:** 67C01-9307-CF-52 (Putnam County)  
79DO2-9402-CF-24 (Tippecanoe County)

**Prosecutor:** Robert J. Lowe, Anne M. Flannelly, Delbert H. Brewer  
**Defense:** Robert V. Clutter, Jeffrey A. Baldwin

**Date of Murder:** July 15, 1993

**Victim(s):** Zachary Snider W / M / 10 (Neighbor of Stevens)

**Method of Murder:** strangling, smothering

**Summary:** Stevens was convicted of Child Molesting in Marion County in February 1993 and received a 4 year sentence with 3 years suspended and probated. His probation was transferred to Cloverdale, where he returned to live with his father. Apparently, none of his new neighbors were aware of his criminal past. Zachary Snider, age 10, lived in the same subdivision and was often seen in the company of the 20 year old Stevens. Stevens attended and videotaped one of Zachary's little league baseball games. Zachary's father eventually warned Stevens to stay away from his son when he learned that Stevens had taken the boy fishing. A month later, Zachary turned up missing one afternoon. He was last seen at a young friend's home, who was told by Zachary that he was going to Stevens' home. In the midst of a massive local search for Zachary, Stevens' brother reported to police that Stevens had confessed to him that he murdered Zachary. He then directed police to a remote location near a bridge, where Zachary's body and bicycle were recovered. Stevens was arrested and gave a complete confession. He claimed that he had been having sex with Zachary for 2 or 3 months. When Zachary came over to his house, they performed oral sex in Stevens' room. Zachary threatened to tell his parents about having sex and Stevens decided he did not want to go through what he went through in Marion County. Stevens smothered Zachary with a pillow, then strangled him with an electrical cord around his neck. When Zachary continued to gasp, Stevens got a plastic garbage bag and wrapped it over his head. He then put Zachary and his bicycle in the car, drove to a bridge in a remote area, and threw them both over. He returned the next morning, fearing that police would connect him to the trash bag, removed it from Zachary's head, and threw it out along the highway on the way home. A similar bag was recovered by police in the area described by Stevens. Stevens later admitted to psychologists that he had molested 25-30 children, and had ejaculated on Zachary when he killed him. The psychologists concluded that he was a benign pedophile and was a serious danger to society. (This case later resulted in Zachary's Law, IC 5-2-12, establishing Indiana Sex Offender Registry)



**Trial:** Information/PC for Murder and Death Penalty Filed (07-22-93); Death Sentence Request Filed (07-30-93); Venued to Tippecanoe Superior Court II (02-14-94); Voir Dire (01-30-95, 01-31-95, 02-01-95, 02-03-95); Jury Trial (02-06-95, 02-07-95, 02-08-95, 02-09-95); Verdict (02-09-95); DP Trial (02-09-95, 02-10-95, 02-13-95, 02-14-95, 02-15-95); DP Verdict (02-15-95); Court Sentencing (03-14-95).

**Conviction:** Murder

**Sentencing:** March 14, 1995 (Death Sentence)

**Aggravating Circumstances:** b (1) Child Molesting  
b (12) Victim less than 12  
b (9) On Probation

**Mitigating Circumstances:** confession to Police  
20 years old at murder  
parents divorced when he was a child  
father jailed for molesting his stepsister  
mother jailed for drug dealing  
mental health treatment for depression in 1992  
average intelligence with good insight  
manipulative, shallow, poor impulse control

**Direct Appeal:** Stevens v. State, 691 N.E.2d 412 (Ind. December 31, 1997) (79S00-9507-DP-828)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.  
For Defendant: Brent L. Westerfeld, Jeffrey A. Baldwin, Indianapolis  
For State: Geoff Davis, Deputy Attorney General (Modisett)  
Stevens v. Indiana, 119 S.Ct. 550 (1998) (Cert. denied)

**PCR:** PCR Petition filed 12-02-98. Amended PCR Petition filed 04-16-99, 07-22-99)  
Answer filed 02-04-99.  
PCR Hearing held 08-30-99; PCR denied 09-14-99.  
Stevens v. State, 770 N.E.2d 739 (Ind. June 26, 2002) (79S00-9804-PD-00250)  
(Appeal of PCR denial by Tippecanoe County Superior Court Judge George J. Heid)  
Conviction and Sentence Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Thomas C. Hinesley, Barbara S. Blackman, Deputy Public Defender (Carpenter)  
For State: Andrew L. Hedges, Deputy Attorney General (Freeman-Wilson)  
Stevens v. Indiana, 124 S.Ct. 69 (2003) (Cert. denied)

**Habeas:** 01-17-03 Notice of Intent to File Petition for Writ of Habeas Corpus; Motion for Stay  
11-03-88 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Christopher M. Stevens v. Daniel McBride, Superintendent (4:03-CV-00005-AS)  
Judge Allen Sharp  
For Defendant: Alan Rossman, Cleveland, OH, Kathy Lea Stinton-Glen, Zionsville, IN  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)  
  
06-15-04 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
09-17-04 Motion to Dismiss by Stevens  
01-13-05 Writ of Habeas Corpus denied.  
02-18-05 Certificate of Appealability granted.  
Stevens v. McBride, \_\_\_ F.Supp.2d \_\_\_ (N.D. Ind. January 13, 2005)  
U.S. District Judge Allen Sharp, Northern District of Indiana, denied the Petition for Writ of Habeas Corpus, rejecting claims of ineffective assistance of trial and appellate counsel.

Stevens v. McBride, 489 F.3d 883 (7th Cir. June 18, 2007) (05-1442)

Opinion by Judge Kenneth F. Ripple Granting Writ of Habeas Corpus as to Death Sentence only, holding that investigation and presentation of expert psychological testimony at his penalty trial amounted to ineffective assistance of counsel; Judge Diane P. Wood concurs and would grant Writ as to both conviction and sentence; Judge Daniel A. Manion dissents and would grant Writ on neither. For Defendant: Kathy Lea Stinton-Glen, Zionsville, IN

For State: James B. Martin, Deputy Attorney General (S.Carter)

("The case is remanded with instructions to issue a conditional writ of habeas corpus that sets aside the sentence of capital punishment unless, within 120 days, the State affords Stevens another penalty hearing.")

Stevens v. Buss, 128 S.Ct. 2423 (May 12, 2008) (Cert. Denied).

Buss v. Stevens, 128 S.Ct. 2429 (May 12, 2008) (Cert. Denied).

**On Remand:** On December 14, 2009, Stevens entered a guilty plea pursuant to a plea agreement and was sentenced by Tippecanoe County Superior Court #2 Judge Thomas H. Busch to Life Without Parole.

For State: Tim Bookwalter, For Defense: Jessie Cook.

► CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

## **STROUD, PHILLIP A. # 97**

OFF DEATH ROW SINCE 05-25-04

DOB: 12-30-78 DOC#: 932249 Black Male

St. Joseph County Superior Court Judge William T. Means

**Trial Cause #:** 71D04-0009-CF-00434

**Prosecutor:** John M. Maciejczyk, Michael J. Tuszynski

**Defense:** Philip Skodinski, James F. Korpai



**Date of Murder:** September 14, 2000

**Victim(s):** Wayne Shumaker W / M / 59; Corby Myers W / M / 30;  
Lynn Ganger W / M / 54 (No relationship to Stroud)

**Method of Murder:** shooting with .9 mm handgun

**Summary:** Wayne Shumaker, Corby Myers, and Lynn Ganger were building a loft in a pole barn at an upscale home Lakeville, Indiana when Stroud and 3 men from Detroit (Wade, Carter and Seabrooks) came to burglarize the house. After one of the workers came out of the barn, Stroud decided they needed to be killed because he may have seen the license plate on their car. Instead of fleeing the scene, they went to the barn, where Stroud ordered the men tied up and robbed. Stroud then shot each victim in the head with a Tech .9 mm semiautomatic handgun. Stroud and accomplices then returned to the home to finish the burglary. In statements later given to police, Stroud claimed that his only role was as a lookout and that he was not involved in the killings. Another accomplice, Ronald Carter of Detroit, has testified that Stroud was the shooter, as did 2 friends of Stroud who said Stroud admitted to them he shot the workmen. The men were told about the house, the valuables in it, and how to bypass the burglar alarm in order to get in, by 18 year old Charity Lynn Payne, who had once dated a member of the family. Payne cooperated by testifying at trial and later received 151 years imprisonment. Wade received 55 years and Carter 45 years. DNA from dog feces found outside the house matched the DNA in feces on the Nike athletic shoes police took from the apartment of Stroud's girlfriend.

At the time of the murders, Stroud was released on bail for charges of Dealing in Cocaine, for which he was later convicted on 01-16-02 in the St. Joseph Superior Court and sentenced to terms of 50 years imprisonment in Cause # 71D08-9907-CF-0414, and 20 years imprisonment in Cause # 71D08-9907-CF-0410.

**Trial:** Information/PC for Murder filed (09-18-00); Motion for Speedy Trial (10-02-00); Amended Information for DP filed (11-09-00); Voir Dire (02-20-02, 02-21-02, 02-22-02, 02-26-02, 02-27-02, 02-28-02, 03-01-02, 06-24-02, 06-25-02, 06-26-02, 07-01-02, 07-02-02, 07-03-02, 07-05-02, 07-09-02, 07-10-02); Jury Trial (07-11-02, 07-12-02, 07-13-02, 07-15-02, 07-16-02, 07-17-02, 07-18-02, 07-19-02); Deliberations over 2 days; Verdict (07-20-02); DP Trial (07-22-02, 07-23-02, 07-24-02); Verdict (07-24-02); Court Sentencing (09-04-02).

**Conviction:** Murder (3 counts), Felony-Murder (3 counts) Burglary (A Felony), Robbery (A Felony) (2 counts), Attempted Robbery (A Felony)

**Sentencing:** September 4, 2002 (Death Sentence, Death Sentence, Death Sentence, 20 years, 20 years, 20 years, 20 years - Consecutive to each other and consecutive to sentences in other cases: Cause # 71D08-9907-CF-0414 (50 years), Cause # 71D08-9907-CF-0410 (20 years). Felony Murder counts merged. Class A Felony Burglary and Robbery counts reduced to Class B Felony.

In sentencing order, Judge Means stated that he believed Indiana's amended death penalty statute required him to follow the jury's recommendation. If he were not so constrained, however, he said he would "be inclined to judicially override the jury recommendation for death."

**Aggravating Circumstances:** b (1) Burglary, Robbery  
b (8) 3 Murders

**Mitigating Circumstances:** 21 years of age  
Disadvantaged childhood; Rarely saw father  
Mistreated by Mother's boyfriends  
Abandoned by Mother  
Caring towards younger half-brother  
Emotional hardship on family and friends

**Direct Appeal:** Stroud v. State, 809 N.E.2d 274 (Ind. May 25, 2004) (71S00-0011-DP-00642)  
Convictions Affirmed 5-0 DP Vacated 5-0  
Sullivan Opinion; Shepard, Dickson, Rucker and Boehm concur.  
For Defendant: Eric K. Koselke, Brent L. Westerfeld, Indianapolis, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
(DP vacated on grounds that jury was improperly instructed that verdict was only a "recommendation." Remanded for new penalty and sentencing phases. Rucker and Boehm concurred with separate opinion, noting that "accordingly" in new statute does not compel Judge to follow jury recommendation for death)

**On Remand:** 05-24-05 Citing a severe breakdown in the attorney-client relationship, lead defense attorney James F. Korpall allowed to withdraw.  
For State: Frank Schaffer, James Fox, Deputy Prosecutors  
07-11-05 Stroud entered a guilty plea pursuant to a Plea Agreement and was sentenced by St. Joseph County Superior Court Judge William T. Means to Life Without Parole, and consecutive sentences of 20 years (Burglary), 20 years (Robbery), 20 years (Robbery), 20 years (Attempted Robbery).

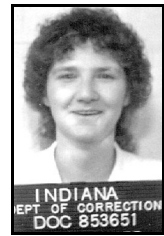
- ▶ CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE, AND 70 YEARS IMPRISONMENT.

## THACKER, LOIS ANN # 37

OFF DEATH ROW SINCE 07-23-90

DOB: 01-27-1958 DOC#: 853651 White Female

Dubois County Circuit Court Judge Hugo C. Songer  
Venued from Orange County



**Trial Cause #:** 84-CR-15 (Orange County); CR-85-4(V) (Dubois County)

**Prosecutor:** Darrell F. Ellis

**Defense:** Alphonso Manns, Steven E. Ripstra

**Date of Murder:** November 2, 1984

**Victim(s):** John E. Thacker W / M / 31 (Husband to Thacker)

**Method of Murder:** shooting with shotgun

**Summary:** Lois Thacker was the beneficiary on the life insurance policy covering her husband, John Thacker. Lois solicited three men, Buchanan, Music and Hart to kill her husband, and formulated a plan for him to be shot on a certain isolated road where her husband drove. She insisted that a shotgun with deer slugs be used, and directed that his wallet be returned to her. One night the three men joined Lois in her trailer while her husband was gone and insisted that he be killed that night. The men left, assuring her that it would be done. The plan was executed by placing a log in the road which forced Mr. Thacker to stop. When he got out of his truck, he was shot by Music. Buchanan removed the wallet which was returned to Lois that night. During her efforts to induce the men to kill Mr. Thacker, Lois told them that she wanted him killed just like she and Mr. Thacker had killed her first husband, Phillip Huff. Buchanan, Music and Hart all testified against Lois at trial after entering into plea agreements.

**Trial:** Information filed/PC Hearing for Murder and DP (11-05-84); Venued to Dubois County (01-02-85); Voir Dire (05-01-85, 05-02-85, 05-03-85, 05-06-85, 05-07-85, 05-08-85, 05-09-85); Jury Trial (05-10-85, 05-11-85, 05-13-85, 05-14-85, 05-15-85, 05-16-85, 05-17-85); Verdict (05-17-85); DP Trial (05-18-85); Verdict (05-18-85); Court Sentencing (06-27-85).

**Conviction:** Murder

**Sentencing:** June 27, 1985 (Death Sentence)

**Aggravating Circumstances:** b (3) Lying In wait  
b (5) Hiring another to kill

**Mitigating Circumstances:** None

**Direct Appeal:** Thacker v. State, 556 N.E.2d 1315 (Ind. July 23, 1990) (1285-S-506)

Conviction Affirmed 5-0

DP Vacated 3-2 with instructions to impose a sentence of 60 years imprisonment

(Proof of lying in wait insufficient since Thacker not at scene; proof of hiring to kill insufficient since no evidence that triggerman was offered or received compensation)

Debruler Opinion; Shepard, Dickson concur; Givan, Pivarnik dissent.

For Defendant: Alphonso Manns, Bloomington

For State: Cheryl L. Greiner, Deputy Attorney General (Pearson)

**On Remand:** On October 4, 1990 Dubois County Circuit Court Judge Hugo C. Songer resentenced Thacker to 60 years imprisonment in accordance with Indiana Supreme Court Opinion.

Thacker v. State, 578 N.E.2d 351 (Ind. September 19, 1991)

(Direct Appeal of 60 year sentence - Affirmed)

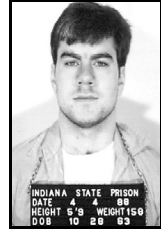
- ▶ THACKER (AT 55 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON APRIL 5, 2013 , AFTER SERVING ± 28 YEARS IN CUSTODY.

## THOMPSON, JAY R. # 18

OFF DEATH ROW SINCE 04-25-86

DOB: 10-28-1963 DOC#: 13149 White Male

Harrison County Circuit Court Judge Scott T. Miller  
Venued from Pike County



**Trial Cause #:** 81-CR-26 (Pike County) / 81-S-62 (Harrison County)

**Prosecutor:** Jerry J. McGaughey

**Defense:** Timothy R. Dodd

**Date of Murder:** March 8, 1981

**Victim(s):** William Hilborn W / M / 72; Mary Hilborn W / F / 65 (No relationship to Thompson)

**Method of Murder:** stabbing with knife

**Summary:** William and Mary Hilborn were found stabbed to death in their home in Petersburg. Richard Dillon was identified by a Deputy Sheriff as near the property at the time of the murders. When questioned, Dillon said he was not in Petersburg, but was in Princeton at the home of a friend, Jay R. Thompson. The murder weapon, a knife, was later found at Thompson's car. Dillon later gave a complete confession admitting that he and Thompson had committed the Burglary and that he (Dillon) stabbed both victims. They gained entry by requesting to use the telephone. Dillon was armed with a buck knife and stabbed both Hilborns. Both men then forced Mrs. Hilborn, by holding a knife under her chin, to obtain money for them. Dillon then stabbed her again and when she fell to the floor, cut her throat. Thompson then stabbed both victims with a folding knife to insure that both were dead. The pathologist testified that the fatal wound to both Hilborns was made with a knife similar to the folding knife. Dillon testified for the State. Thompson was waived from Juvenile Court to be tried as an adult.

**Trial:** Juvenile Jurisdiction Waiver filed (09-01-81); Information/PC for Murder Filed (09-02-81); Death Sentence Request Filed (09-21-81); Jury Trial (02-26-82, 02-27-82); Verdict (02-27-82); DP Trial (03-05-82); DP Verdict Against Death (03-05-82); Court Sentencing (03-18-82).

**Conviction:** Murder, Murder

**Sentencing:** March 18, 1982 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary, Robbery  
b (7) Prior Murder Conviction

**Mitigating Circumstances:** 17 years old at the time of the crime

Judge Overrides Jury Recommendation against death penalty  
Companion Case to Dillon

**Direct Appeal:** Thompson v. State, 492 N.E.2d 264 (Ind. April 25, 1986) (882-S-303)

65 ALR4th 805 Conviction Affirmed 5-0

DP Vacated 3-2 with instructions to conduct new DP hearing

(Prior murder conviction was improper aggravator relied on by Judge where it was not charged and did not accrue until after trial - aggravator of committing another murder was not charged or instructed upon)

Dickson Opinion; Debruler, Shepard concur; Givan, Pivarnik dissent.

For Defendant: Timothy R. Dodd, Evansville

For State: Michael Gene Worden, Deputy Attorney General (Pearson)

**On Remand:** Thompson was resentenced to 60 years imprisonment on each Count of Murder to run consecutively, and to a concurrent sentence of 20 years imprisonment for Conspiracy to Commit Burglary, for an aggregate sentence of 120 years imprisonment by Special Judge Henry N. Leist in Harrison County.

Thompson v. State, 552 N.E.2d 472 (Ind. 1990) (31S00-8902-PC-167)  
(Direct Appeal of 120 year sentence - Affirmed)

Thompson v. Superintendent, Wabash Valley Corr. Facility (S.D. Ind. May 4, 2017)  
United States District Court for the Southern District of Indiana (No: 2:16-cv-244-WTL-DKL)  
Judge William T. Lawrence  
(Procedural Default/Laches; Writ of Habeas Corpus and Certificate of Appealability denied.)  
For Defendant: Jay R. Thompson, Petitioner, Pro se.  
For State: Chandra Hein, Kelly A. Loy, Deputy Attorneys General (Zoeller)

Thompson v. Brown, 901 F.3d 851 (7th Cir. August 27, 2018) (No. 17-2085)  
Appeal from the United States District Court for the Southern District of Indiana, Terre Haute  
Opinion by Wood; Kane, Scudder concur.  
(The laches doctrine did not reflect a firmly established and regularly followed state practice at the time it was applied and Defendant's petition should not have been dismissed and it was remanded to allow the district court to assess the merits of defendant's petition before the appellate court reviewed them. Judgment vacated and remanded.)  
For Defendant: Joshua T. Buchman, Elizabeth M. Rowe, Chicago, IL.  
For State: Chandra Hein, Deputy Attorney General (Hill)

Thompson v. Vanihel, 998 F.3d 762 (7th Cir. May 25, 2021) (No. 20-2571)  
Appeal from the United States District Court for the Southern District of Indiana, Terre Haute  
Affirmed 3-0 Opinion by Kirsch; Wood, Hamilton concur.  
(On remand, the district court dismissed the petition because counsel's alleged errors did not prejudice Thompson. We agree with the district court, and thus affirm.)  
Counsel for Defendant: Todd G. Vare, Daniel Mikhail Thompson, Indianapolis, IN.  
For State: Andrew A. Kobe, Deputy Attorney General (Rokita)

- ▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## **THOMPSON, JERRY K. # 85 & # 95**

KILLED ON DEATH ROW 10-27-02

DOB: 03-17-1961 DOC#: 860214 White Male

Marion County Superior Court Judge John R. Barney, Jr.

**Trial Cause #:** 49GO3-9204-CF-060651

**Prosecutor:** John V. Commons, Lawrence O. Sells

**Defense:** Robert V. Clutter, Jeffrey A. Baldwin

**Date of Murder:** March 14, 1991

**Victim(s):** Melvin Hillis W / M / 68; Robert Beeler W / M / 47 (No relationship to Thompson)

**Method of Murder:** shooting with handgun

**Summary:** Melvin Hillis and his employee, Robert Beeler, were shot to death during a robbery at Hillis Auto Sales in Indianapolis. Three months later, Thompson and Douglas Percy were stopped in Illinois for a traffic violation and a .9 mm handgun was recovered from the vehicle. Ballistics tests later confirmed this gun to be the murder weapon. Percy came forward a year after the murder, and in exchange for dismissal of relatively minor charges, testified that he and Thompson had gone to Hillis Auto Sales and Thompson had shot and robbed Hillis and Beeler. Percy also testified that the gun used had been stolen from Wesley Crandall in New Castle one month earlier. Percy testified that he and Thompson had gone there to buy marijuana, and that Thompson had killed Crandall with a shotgun, then stole his guns, marijuana, and money. Thompson was later convicted of Crandall's murder. Details of the Crandall murder in New Castle, as well as the subsequent murder conviction, were admitted as evidence during the guilt phase here.

**Trial:** Information/PC for Murder filed (04-28-92); Amended Information for DP filed (03-02-94); Voir Dire (03-04-96, 03-05-96, 03-06-96); Jury Trial (03-07-96, 03-08-96, 03-09-96, 03-11-96); Verdict (03-12-96); DP Trial (03-12-96); Verdict (03-13-96); Court Sentencing (05-24-96).

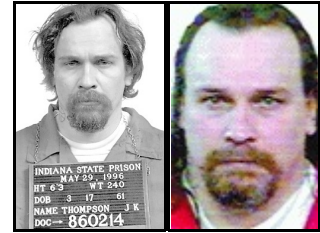
**Conviction:** Murder (2 counts), Robbery (B Felony), (2 counts), Carrying Handgun Without License (A Misd)

**Sentencing:** May 24, 1996 (Death Sentence, Death Sentence, 20 years, 20 years, 1 year)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders  
b (7) Convicted of another murder

**Mitigating Circumstances:** dysfunctional family  
difficult family upbringing

**Direct Appeal:** *Thompson v. State*, 690 N.E.2d 224 (Ind. December 23, 1997) (49S00-9507-DP-869)  
Conviction Reversed 5-0 DP Vacated 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby, concur  
(Details of prior murder, and Thompson's conviction of that murder, should not have been admitted, even though murder weapon was stolen from prior murder victim)  
For Defendant: Joseph M. Cleary, Robert V. Clutter, Indianapolis  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)



**On Remand:** Voir Dire (04-24-00, 04-25-00, 04-26-00; Jury Trial (04-26-00, 04-27-00, 04-28-00, 04-29-00); Verdict (04-29-00); DP Trial (05-01-00, 05-02-00, 05-03-00); DP Verdict (05-03-00; Court Sentencing (09-29-00).

A Marion Superior Court jury again found Thompson guilty of two counts of Murder, two counts of Felony-Murder, two counts of Robbery and Carrying a Handgun Without a License, and again recommended a death sentence on May 3, 2000. Thompson was again sentenced to death on September 29, 2000.

Marion County Superior Court Judge Tonya Walton Pratt

For Defendant: David Hennessy, Joseph M. Cleary

For State: Lawrence O. Sells, Mark S. Massa

Thompson v. State, 671 N.E.2d 1165 (Ind. 1996) (Direct appeal of 90 year sentence and conviction for unrelated murder/habitual offender in Henry County Cause #33D01-9207-CF-027; Affirmed)

ON OCTOBER 27, 2002, THOMPSON (AT 42 YEARS OLD) WAS FOUND DEAD IN THE RECREATION AREA OF A CELLBLOCK ON "X ROW" AT THE INDIANA STATE PRISON IN MICHIGAN CITY, INDIANA. THOMPSON SUFFERED SEVERAL FATAL STAB WOUNDS. AT THE TIME, THOMPSON WAS ON DIRECT APPEAL FROM HIS DEATH SENTENCE FOLLOWING A RETRIAL IN MARION COUNTY. HE HAD SERVED ± 10 YEARS IN CUSTODY.

## **TIMBERLAKE, NORMAN H. # 83**

DIED OF NATURAL CAUSES ON DEATH ROW 11-10-07  
DOB: 08-14-1947 DOC#: 873051 White Male

Marion County Superior Court  
Special Judge Alfred W. Moellering

**Trial Cause #:** 49G02-9302-CF-014191  
**Prosecutor:** Scott C. Newman, John V. Commons  
**Defense:** Ellen O'Connor, Arnold P. Baratz

**Date of Murder:** February 5, 1993  
**Victim(s):** Michael Greene W / M / 43  
(Indiana State Police Officer - No relationship to Timberlake)



**Victim Website:** <http://www.in.gov/isp/2336.htm>  
<http://www.odmp.org/officer/reflections/452-master-trooper-michael-earl-greene>

**Method of Murder:** shooting with .25 handgun

**Summary:** An ISP Dispatcher was requested via radio by Trooper Greene to run a records check on Tommy L. McElroy and Norman Timberlake. She responded that Timberlake was not wanted, but there was an outstanding warrant for McElroy. Trooper Greene advised that he would be outside the car securing the subject. Two minutes later a female voice came over the radio stating, "Help. An officer's been hurt." A number of passersby along I-65 gave various eyewitness accounts. Most had seen the officer attempting to put handcuffs on a heavyset man while a skinny man with stringy hair watched nearby. Two witnesses observed the skinny man lunge toward the officer, sticking his right hand up, and the officer fell. McElroy is a heavyset man, Timberlake is very thin. Officer Greene was found to have died from a single gunshot wound to the chest. A muzzle burn was noted on his chest. Later the same afternoon, an Ameritech operator received a call from a Norman Timberlake requesting to make a collect call from a pay phone. The operator was aware of the shooting, and aware that police were looking for Timberlake. She called the police, who responded to the scene of the pay phone. The man in the booth was asked his name. He responded that he had no name, and reached with his right arm. The officers grabbed him and recovered a .25 automatic handgun from his right pocket. This gun was tested and confirmed to be the murder weapon. The man was Timberlake. McElroy testified at trial that Timberlake shot the trooper while he was being taken into custody, then both of them jumped in the car and Timberlake said, "drive." Another man, who was earlier with Timberlake and McElroy for a few days, testified the gun was his and Timberlake had taken the gun from him.

**Trial:** Information/PC for Murder filed (02-08-93); Amended Information for DP filed (02-18-93); Voir Dire (07-10-95, 07-12-95); Jury Trial (07-13-95, 07-14-95, 07-15-95, 07-17-95, 07-18-95, 07-19-95, 07-20-95); Verdict (07-20-95); DP Trial (07-21-95); Verdict (07-21-95); Court Sentencing (08-11-95).

**Conviction:** Murder, Carrying a Handgun (A Misd); Escape (B Felony) dismissed on State's request at trial.

**Sentencing:** August 11, 1995 (Death Sentence; Carrying a Handgun (A Misd) merged; Carrying a Handgun enhancement dismissed on State's request at sentencing)

**Aggravating Circumstances:** b (6) Victim was law enforcement officer

**Mitigating Circumstances:** None

**Direct Appeal:** Timberlake v. State, 690 N.E.2d 243 (Ind. December 30, 1997) (49S00-9305-DP-577)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Selby Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Judith G. Menadue, Norman  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Timberlake v. Indiana, 119 S.Ct. 808 (1999) (Cert. denied)

**PCR:** PCR Petition filed 06-02-98. Amended PCR filed 12-07-98, 10-28-99.  
State's Answer to PCR Petition filed 07-02-98, 11-04-99.  
09-15-99, 10-04-99, 10-05-99 Hearings held to determine competency and/or whether Timberlake has had a mind-control device surreptitiously implanted by the U.S. Marines.  
11-04-99 Request for Interlocutory Appeal denied.  
PCR Hearing 11-08-99, 11-09-99, 11-10-99, 11-12-99, 11-15-99, 05-04-95.  
Special Judge Steven R. Nation  
For Defendant: Eric K. Koselke, Ann M. Skinner, Public Defenders (Carpenter)  
For State: Priscilla J. Fossum, John M. Chavis, James B. Martin, Deputy Attorneys General  
12-27-99 PCR Petition denied.

Timberlake v. State, 753 N.E.2d 591 (Ind. August 20, 2001) (49S00-9804-PD-252)  
(Appeal of PCR denial by Special Judge Steven R. Nation)  
Conviction and Death Sentence Affirmed 5-0  
Boehm Opinion; Shepard, Dickson, Sullivan, Rucker concur.  
For Defendant: Eric K. Koselke, Ann M. Sutton, Deputy Public Defenders (Carpenter)  
For State: Priscilla J. Fossum, James B. Martin, Deputy Attorneys General (Freeman-Wilson)  
Timberlake v. Indiana, 123 S.Ct. 162 (October 7, 2002) (Cert. denied)

Timberlake v. State, 858 N.E.2d 625 (Ind. December 15, 2006) (49S00-0606-SD-235)  
(Motion for Leave to file Successive PCR denied 3-2)  
(Shepard, Dickson, Sullivan concur; Boehm, Rucker dissent on grounds that Timberlake should have hearing on his competency to be executed)

**Habeas:** 01-08-02 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
11-18-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Norman Timberlake v. Cecil Davis, Superintendent (IP 02-C- 0036-Y/S)  
Judge Richard L. Young  
For Defendant: Brent L. Westerfield, Indianapolis, Linda Meier Youngcourt, Huron  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

02-14-03 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
02-25-03 Petition for Guardian Ad Litem denied.  
12-10-03 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
03-24-04 Writ of Habeas Corpus denied.  
06-18-04 Certificate of Appealability denied.

Timberlake v. Davis, 409 F.3d 819 (7th Cir. May 27, 2005) (04-2315).  
(Appeal of habeas denial; Affirmed 3-0)  
Frank H. Easterbrook Opinion; Kenneth F. Ripple, Daniel A. Manion concur.  
For Defendant: Brent L. Westerfeld, Indianapolis, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
Timberlake v. Davis, 418 F.3d 702 (7th Cir. August 1, 2005) (Reh. denied).  
Timberlake v. Buss, 126 S.Ct. 1910 (2006) (Cert. denied)

Timberlake v. Donahue, \_\_\_\_ F.Supp. \_\_\_\_, 2007 WL 141950 (1:06-CV-01859-RLY-WTL)  
(S.D. Ind. January 16, 2007) (Judge Richard L. Young memo on issues for trial on requested injunction challenging lethal injection method of execution)

For Timberlake: Brent L. Westerfield, Richard A. Waples, Indianapolis, Lorinda Meier Youngcourt, Huron  
For Donahue: Thomas D. Quigley, Betsy M. Isenberg, Deputy Attorneys General (S.Carter)  
Timberlake v. Buss, \_\_\_ F.Supp. \_\_\_ (S.D. Ind. May 1, 2007) (1:06-CV-01859-RLY-WTL)  
(Judge Richard L. Young denying State's Motion for Summary Judgment)  
Timberlake v. Buss, \_\_\_ F.Supp. \_\_\_ (S.D. Ind. May 1, 2007) (1:06-CV-01859-RLY-WTL)  
(Judge Richard L. Young denying Stay / Injunction)

**Stay:** Timberlake v. State, 859 N.E.2d 1209 (Ind. January 17, 2007) (49S00-0606-SD-235)  
(Stay of Execution granted until U.S. Supreme Court decision in Panetti v. Quarterman, relating to competency for execution, is handed down 3-2; (Dickson, Boehm, Rucker concur; Shepard, Sullivan dissent on grounds that it is very unlikely Panetti will have any affect on this case)

Timberlake v. State, 679 N.E.2d 1337 (Ind. May 15, 1997) (Direct appeal of 111 year sentence and convictions for unrelated Robbery, Confinement, Carrying a Handgun and Habitual Offender finding, committed the day before murder. - Convictions affirmed, but remanded for resentencing.)

WHILE AWAITING THE SETTING OF AN EXECUTION DATE, TIMBERLAKE (AT 59 YEARS OLD) DIED OF NATURAL CAUSES ON DEATH ROW, INDIANA STATE PRISON, MICHIGAN CITY, INDIANA ON NOVEMBER 10, 2007. HE HAD SERVED ± 14 YEARS MIN CUSTODY.

## **TOWNSEND, JOHNNY, JR. # 32**

OFF DEATH ROW SINCE 04-29-99  
DOB: 12-27-1963 DOC#: 850551 Black Male

Lake County Superior Court Judge Richard W. Maroc

**Trial Cause #:** 1CR-227-1283-898

**Prosecutor:** Thomas L. Jackson, Kathleen M. O'Halloran

**Defense:** Cornell Collins, Daniel L. Toomey, Hamilton Carmouche

**Date of Murder:** November 28, 1983

**Victim(s):** Hal Fuller B / M / 65; Margaret Fuller B / F / 63 (Acquaintances of Townsend)

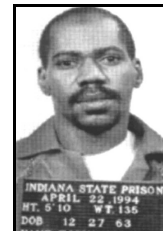
**Method of Murder:** stabbing with a steak knife 10 times (Hal) and 9 times (Margaret)

**Summary:** The bodies of Hal and Margaret Fuller were discovered in their home with multiple stab wounds. Mr. Fuller's open wallet was found at his feet and a serrated steak knife with blood was found in the driveway. The Fuller's car was found abandoned two days later. The girlfriends of Townsend and Phillip McCollum gave statements that they had driven in a similar car with McCollum and Townsend, picked up a radio to sell, and that Townsend had a cut hand. Bloody clothing was later recovered from their residence. Both Townsend and McCollum gave remarkably similar statements to police. They said they went to the Fuller home and talked for awhile. When Mr. Fuller started to use the phone, Townsend stabbed him in the back. McCollum then started stabbing Mrs. Fuller, who cried out "Please don't kill me." McCollum told her to shut up and kept on stabbing her. McCollum stabbed Mr. Fuller in the chest to finish him off. They found no money, took a radio, stole the Fuller's car, and fled.

**Conviction:** Murder, Felony-Murder

**Sentencing:** March 8, 1985 Death Sentence (McCollum); Death Sentence (Townsend)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders



**Mitigating Circumstances:** 18 years old and single at the time of the murder  
no prior criminal record

Joint Trial and Appeal (Both McCollum and Townsend received death sentences)

**Direct Appeal:** Townsend v. State, 533 N.E.2d 1215 (Ind. February 14, 1989) (885-S-339)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Pivarnik Opinion; Shepard, Debruler, Givan, Dickson concur.  
For Defendant: Ellen S. Podgor, David H. Nicholls, Crown Point Public Defenders  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Townsend v. Indiana, 110 S.Ct. 1327 (1990) (Cert. denied)  
McCollum v. Indiana, 110 S.Ct. 2633 (1990) (Cert. denied)  
McCollum v. Indiana, 111 S.Ct. 9 (1990) (Rehearing denied)

**PCR:** 11-13-90 Townsend PCR filed; Denied by Special Judge Richard Conroy 04-10-95.  
07-08-91 McCollum PCR filed; Denied by Special Judge Richard Conroy 04-10-95.

(04-29-99 While appeal pending, parties entered into agreement. Judge Richard W. Maroc modified sentence of both McCollum and Townsend to 60 years consecutive on each count, for a total sentence of 120 years imprisonment for each.)

► CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## **TRUEBLOOD, JOSEPH L. # 64**

EXECUTED BY LETHAL INJECTION 06-13-03 12:24 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 12-26-1956 DOC#: 902302 White Male

Tippecanoe County Circuit Court Judge Ronald E. Melichar

**Trial Cause #:** 79C01-8904-CF-12

**Prosecutor:** Jerry J. Bean, John H. Meyers, IV

**Defense:** George G. Wilder, Thomas J. O'Brien, Michael J. O'Reilly

**Date of Murder:** August 15, 1988

**Victim(s):** Susan Bowsher W / F / 23 (ex-girlfriend);  
Ashlyn Bowsher W / F / 2 and William Bowsher W / M / 17 months (children of Susan)

**Method of Murder:** shooting with handgun

**Summary:** Trueblood was upset with his former girlfriend, Susan Bowsher, because she expressed her intention of going back with her ex-husband. Trueblood picked up Susan and her two small children one day and while they were in the car he shot Susan 3 times in the head, and shot each child once in the head. He then drove to the home of his twin brother, admitted to him what he had done, borrowed a shovel, then drove to a secluded area and buried all three in a shallow grave. After 4 witnesses had testified at trial, Trueblood indicated a desire to plead guilty and did so. When interviewed by the Probation Officer for the Presentence Report, Trueblood claimed that Susan had shot the kids, then killed herself. He then sought to withdraw his guilty plea, which was denied.



**Trial:** Information/PC for Murder Filed (08-22-88); Death Sentence Request Filed (09-02-88); Guilty Plea Count III (10-04-88); Judgment Entered (10-06-88); Voir dire (02-13-90, 02-14-90, 02-15-90, 02-16-90, 02-20-90); Jury Trial (02-21-90, 02-22-90, 02-23-90); Guilty Plea Count I & II (02-23-90); Judgment Entered (03-02-90); Defense Counsel Motion to Withdraw denied (03-02-90); Defendant Motion to Withdraw Guilty Plea denied (03-02-90); DP Sentencing Hearing (03-02-90, 03-06-90, 03-07-90, 03-08-90); Court Sentencing (04-12-90).

**Conviction:** Pled Guilty during trial without a Plea Agreement to Murder (3 counts)  
Motion to withdraw guilty plea before sentencing was denied

**Sentencing:** April 12, 1990 (Death Sentence)

**Aggravating Circumstances:** b (12) 2 victims less than 12 years of age; b (8) 3 murders

**Mitigating Circumstances:** extreme emotional disturbance  
good conduct while in jail awaiting trial  
mixed personality disorder  
he was kind to children  
he was hero for pulling woman from burning building

Guilty Plea

**Direct Appeal:** Trueblood v. State, 587 N.E.2d 105 (Ind. February 28, 1992) (79S00-9004-DP-00304)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Debruler, Givan, Dickson, Krahulik concur.  
For Defendant: Thomas J. O'Brien, Michael J. O' Reilly, Lafayette Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Trueblood v. Indiana, 113 S.Ct. 278 (1992) (Cert. denied)

**PCR:** 10-28-92 Notice of Intent to file PCR.  
05-09-94 PCR filed; Amended PCR filed 01-16-96, 04-15-96.  
06-09-94 Answer filed.  
01-19-96 Trial Court certifies for Interlocutory Appeal, denied by Indiana Supreme Court 02-13-96.  
06-11-96 Defense Motion for Summary Judgment denied.  
06-11-96 State's Motion for Summary Judgment granted in part.  
06-25-96, 06-26-96, 07-16-96, 07-17-96, 07-19-96 PCR Hearing  
For Defendant: John S. Sommer, Kathleen Littell, Chris Hitz-Bradley, Deputy Public Defenders  
For State: Jerry J. Bean, John H. Meyers IV  
Special Judge Thomas K. Milligan  
08-12-96 PCR Denied.

Trueblood v. State, 715 N.E. 2d 1242 (Ind. September 9, 1999) (79S00-9211-PD-887)  
(Appeal of PCR denial by Special Judge Thomas K. Milligan)  
Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: John S. Sommer, Kathleen Cleary, Chris Hitz-Bradley, Deputy Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)  
Trueblood v. Indiana, 121 S.Ct. 143 (2000) (Cert. denied)

**Habeas:** 02-28-00 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
08-28-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Joseph L. Trueblood v. Rondle Anderson, Superintendent (3:00-CV-125-AS)  
Judge Allen Sharp  
For Defendant: F. Thomas Schornhorst, Orange Beach, AL  
For State: Suzannah B. Wilson, Thomas D. Perkins, Michael A. Hurst, Deputy Attys. Gen. (S. Carter)  
  
01-23-01 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
03-23-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-07-02 Writ of Habeas Corpus granted.

09-13-01 Certificate of Appealability granted.

Trueblood v. Anderson, 156 F.Supp.2d 1056 (N.D. Ind. July 30, 2001) (3:00-CV-125-AS)

(Order of U.S. District Court Judge Allen Sharp, Northern District of Indiana, granting habeas relief as to the murder of Susan Bowsher in that the guilty plea was involuntary because the trial court failed to advise Trueblood that by pleading guilty, he would be admitting an aggravator on child murders; also granting habeas relief because the trial court found as an aggravating circumstance that the murders were "cold blooded, premeditated killings of three helpless and defenseless persons." Order of release or retrial within 120 days.)

For Defendant: F. Thomas Schornhorst, Orange Beach, AL

For State: Suzannah B. Wilson, Thomas D. Perkins, Michael A. Hurst, Deputy Attys. Gen. (S. Carter)

Trueblood v. Davis, 301 F.3d 784 (7th Cir. August 20, 2002) (01-3281, 3282)

(The United States Court of Appeals, Seventh Circuit, reversed the judgment of Judge Allen Sharp of the U.S. District Court, Northern District of Indiana, which granted habeas corpus. In reinstating the death sentences against Trueblood, the Seventh Circuit summarily dismissed the grounds used by Judge Sharp to grant habeas, including the characterizations by the trial Judge describing the murders as "cold-blooded" and "premeditated.")

Opinion by Circuit Judge Richard A. Posner, Judge Kenneth F. Ripple, Judge Terrance T. Evans.

For Defendant: F. Thomas Schornhorst, Orange Beach, AL

For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Trueblood v. Davis, 123 S.Ct. 1650 (March 31, 2003) (Cert. denied)

Trueblood v. Indiana Parole Bd., 123 S.Ct. 2295 (June 12, 2003) (Application for stay denied)

Trueblood v. Indiana, 123 S.Ct. 2295 (June 10, 2003) (Application for stay denied)

Trueblood v. State, 790 N.E.2d 97 (Ind. June 12, 2003) (79S00-0304-SD-172)

(Successive motion for stay of execution of death sentence)

Denied 5-0; Opinion by Shepard; Dickson, Sullivan Boehm, Rucker concur.

Governor's decision concerning clemency petition was not subject to judicial review.

TRUEBLOOD WAS EXECUTED BY LETHAL INJECTION 06-13-03 12:24 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 81ST CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 11TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## **UNDERWOOD, HERBERT A. # 38**

OFF DEATH ROW SINCE 04-21-95

DOB: 07-11-1960 DOC#: 853860 White Male

Marion County Superior Court Judge Thomas E. Alsip

**Trial Cause #:** CR84-106C

**Prosecutor:** Robert P. Thomas, David E. Cook

**Defense:** Craig O. Wellnitz, Eugene C. Hollander

**Date of Murder:** June 5, 1984

**Victim(s):** Kerry Golden W / M / 29 (Acquaintance of Huffman, met on night of murder)

**Method of Murder:** beating with tire iron; stomping; manual strangulation



**Summary:** Kerry Golden was introduced to Huffman while at the 50 Yard Line Bar in Indianapolis. They sat together and Golden displayed a large amount of money and marijuana. They met Huffman's longtime friends, Herb Underwood and Rick Asbury and closed down the bar. They smoked marijuana in the parking lot together and left in a car with Huffman driving, Underwood in the front, and Asbury and Golden in the back. The car was stopped in a remote area. Underwood got out and pulled Golden from the car. Huffman and Underwood told Golden to "give up the pot," then attacked him, both punching and kicking him. They stripped off his clothing and Underwood grabbed his penis and lifted him off the ground as Golden screamed. Underwood then took money from Golden's pants. Asbury got out and kicked Golden and gave his knife to Huffman. Huffman threatened to kill Golden if he told. Underwood stated that he had to kill him because he did not want to go to prison. Huffman got a tire iron from the trunk and both he and Underwood beat Golden. Underwood then told Asbury he had to hit Golden. Asbury "tapped" Golden twice with the tire iron. Asbury testified for the State at trial, pled guilty, and received a 25 year sentence for his role in the killing.

**Trial:** Information/PC for Murder and Death Penalty Filed (06-07-84); Death Sentence Request Filed (07-30-84); Jury Trial (07-15-85 through 07-24-85); Verdict (07-25-85); DP Trial (07-25-85); DP Verdict (07-25-85); Court Sentencing (08-23-85).

**Conviction:** Murder, Felony-Murder, Conspiracy to Commit Murder (A Felony), Robbery (A Felony), Conspiracy to Commit Robbery (A Felony)

**Sentencing:** August 23, 1985  
(Death Sentence, 50 years, 50 years, 50 years; Murder and Felony-Murder merged)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** intoxication

Joint Trial with Richard Huffman

**Direct Appeal:** Underwood v. State, 535 N.E.2d 507 (Ind. March 10, 1989) (49S00-8602-CR-206)  
Conviction Affirmed 5-0 DP Affirmed 4-1  
Givan Opinion; Shepard, Debruler, Pivarnik concur; Dickson dissents.  
For Defendant: Allen N. Smith, Jr., Indianapolis  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Underwood v. Indiana, 110 S.Ct. 257 (1989)(Cert. denied)  
Underwood v. Indiana, 110 S.Ct. 524 (1989)(Rehearing denied)

**PCR:** PCR Petition filed 06-01-90. Amended PCR filed 07-02-92.  
State's Answer to PCR Petition filed 06-28-90.  
07-10-92 Defendant's Motion for Summary Judgment, denied 12-04-92.  
02-01-93 Order granting Certification for Interlocutory Appeal.  
02-27-95 Renewed Motion for Summary Judgment  
Special Judge Ora A. Kincaid, III  
For Defendant: Jeffrey Evans, Lorinda Youngcourt  
For State: John V. Commons, Marc E. Lundy, Frank A. Gleaves  
04-24-95 Defendant's Motion for Summary Judgment granted, vacating conviction and sentence.

**On Remand:** Motion for Speedy Trial (06-22-95); Voir dire (08-19-96, 08-20-96, 08-21-96); Jury Trial (08-22-96, 08-23-96, 08-24-96, 08-25-96, 08-26-96, 08-27-96); Deliberations over 4 days; Verdict (08-30-96).  
Retrial on 08-19-96 to 08-27-96.  
Marion Superior Court Special Judge Paula E. Lopossa  
For Defendant: Brent L. Westerfield, Lorinda Youngcourt



**Sentencing:** May 27, 1983 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** 20 years old at the time of the murder  
intoxication  
bad home life  
failed stint in the Army, Honorable Discharge  
could not find a job after Army

Guilty Plea

**Direct Appeal:** Van Cleave v. State, 517 N.E.2d 356 (Ind. December 30, 1987) (384-S-109)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Shepard Opinion; Debruler, Givan, Pivarnik, Dickson concur.  
For Defendant: Richard Kammen, Indianapolis, Daniel Dovenbarger, IU School of Law  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Van Cleave v. Indiana, 109 S.Ct. 819 (1989) (Cert. denied)  
Van Cleave v. Indiana, 110 S.Ct. 271 (1989) (Rehearing denied)

**PCR:** PCR Petition filed 08-24-89. Amended PCR filed 03-01-90, 05-07-90, 05-24-90, 11-21-90, 04-15-91.  
State's Answer to PCR Petition filed 09-22-89.  
PCR Hearing 05-13-91, 05-14-91, 05-15-91, 05-16-91, 05-17-91, 05-23-91, 05-24-91, 08-26-91, 08-28-91.  
Summary Judgment Hearing 10-13-92.  
Marion County Superior Court Special Judge John W. Tranberg  
Marion County Superior Court Special Judge Paula E. Lopoosa  
For Defendant: John V. Commons, Frank Gleaves  
For State: Thomas C. Hinesley, Joseph M. Cleary, Kenneth L. Bird, Deputy Public Defenders  
11-23-94 PCR Petition granted.

State v. Van Cleave, 674 N.E.2d 1293 (Ind. December 19, 1996) (49S00-9008-PD-541)  
(State's appeal of Judge Paula E. Lopoosa granting PCR vacating guilty plea, conviction and death sentence on grounds of ineffective assistance of counsel)  
Reversed and remanded 5-0 for new sentencing hearing only and conviction reinstated;  
Vacating death sentence not challenged by State on appeal.  
Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: Thomas C. Hinesley, Joseph M. Cleary, Kenneth L. Bird, Deputy Public Defenders  
For State: Geoff Davis, Deputy Attorney General (P. Carter)  
State v. Van Cleave, 681 N.E.2d 181 (Ind. May 28, 1997) (On Rehearing) (49S00-9008-PD-541)  
Remanded 5-0, Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
(Ordering PCR court to determine if any additional evidence is necessary on remaining PCR issues, and if denied, then to conduct resentencing before appeal. Supreme Court strongly disapproves of PCR court severing ineffective assistance claims and entering a ruling only on that claim, causing unnecessary additional proceedings.)  
Van Cleave v. Indiana, 118 S.Ct. 1060 (1998) (Cert. denied)

**On Remand:** 02-23-95 G. Thomas Gray appointed Special Judge  
07-25-97 Amended PCR Petition filed  
08-25-97 State's Answer filed  
06-01-98 PCR Hearing  
06-05-98 Guilty Plea/Sentencing  
Special Judge Thomas Gray denied PCR relief.

Following a new sentencing hearing, on 06-05-98 Special Judge Thomas Gray ruled that State has not satisfied burden of proof and a death sentence was removed from consideration. Van Cleave sentenced to 60 years imprisonment.

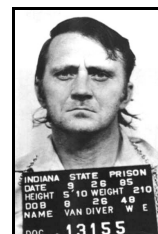
VANCLEAVE WAS RELEASED FROM THE INDIANA DEPARTMENT OF CORRECTIONS, BUT RECOMMITTED FOLLOWING HIS ARREST ON OCTOBER 28, 2010 AND CONVICTION OF POSSESSION OF COCAINE. ON AUGUST 16, 2011 HE WAS SENTENCED PURSUANT TO A PLEA AGREEMENT TO 20 YEARS IMPRISONMENT WITH 5 YEARS SUSPENDED AND PROBATED IN MARION COUNTY SUPERIOR COURT 21 (49G21-1011-FA-082523). HE WAS RELEASED FROM IDOC BACK TO COURT AUTHORITY ON JUNE 2, 2017.

## **VANDIVER, WILLIAM C. # 26**

EXECUTED BY ELECTRIC CHAIR 10-16-85 12:20 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 08-26-1948 DOC#: 13155 White Male

Lake County Superior Court Judge James E. Letsinger



**Trial Cause #:** 45G02-8306-CR-00117

**Prosecutor:** Thomas W. Vanes

**Defense:** Herbert I. Shaps

**Date of Murder:** March 20, 1983

**Victim(s):** Paul Komyatti, Sr. W / M / 62 (Father-In-Law of Vandiver)

**Method of Murder:** stabbed with fish filet knife over 100 times

**Summary:** Paul Komyatti, Sr. on occasion drank to excess and became loud and violent. He was disliked by members of his immediate family, which included his wife, Rosemary, his son Paul Jr., and his daughter, Mariann. Paul Sr. had demanded that Mariann divorce Vandiver because of his criminal past, and threatened to inform the police on him. Vandiver joined with the family in a conspiracy to kill Paul Sr. Pursuant to their agreement, several attempts to poison him were made without success. Finally, they decided to put him under with ether and inject air into his veins. One evening, Vandiver and Mariann waited outside the home for a signal from Paul Jr. that Paul Sr. was asleep. Upon seeing the signal, they entered the house and changed the plan at the last moment for lack of ether. Instead they entered the bedroom intending to smother Paul Sr., and sprang on him in his bed. Paul Sr. fought hard for his life and yet another attempt at murder was bungled. Vandiver, however, terminated the resistance by stabbing him in the back with a fish filet knife "at least 100 times." 34 deep knife wounds were later discovered on the body. He hit him in the head 5 or 6 times with his gun, but he was still breathing. By Vandiver's own admission, decapitation was the immediate cause of death. Vandiver and the other family members then sectioned up the body while making jokes. Evidence was also presented that Vandiver had gotten a "loan" of \$5000 from Paul Jr., as well as \$1700 and Paul Sr.'s truck from Rosemary. At trial, Vandiver recanted his prior confessions and placed the entire blame on Paul Jr. for the murder and dissection.

**Trial:** Indictment for Murder filed (06-24-83); Amended Indictment for DP filed (06-30-83); Notice of Insanity Defense filed (07-29-83); Motion to Change Venue (08-08-83); Motion for Change of Judge (11-04-83); Insanity Plea Withdrawn (12-05-83); Voir Dire (12-12-83, 12-13-83, 12-14-83); Jury Trial (12-14-83, 12-15-83, 12-16-83, 12-16-83, 12-17-83, 12-18-83, 12-19-83); Habitual Offender filed (12-19-83); Verdict (12-19-83); DP Trial (12-19-83, 12-20-83); Verdict (12-21-83); Court Sentencing (01-20-84). Habitual Offender Dismissed (04-13-84).

**Conviction:** Murder  
**Sentencing:** January 20, 1984 (Death Sentence)

Accomplice Paul Komyatti, Jr. was convicted of Murder and Conspiracy and sentenced to 55/45 years imprisonment on 12/28/83 in 2CR-118-683-466, and was discharged from IDOC in 2010.  
Accomplice Rosemary Komyatti was convicted of Murder and Conspiracy and sentenced to 55/45 years imprisonment on 12/28/83 in 2CR-118-683-466, and died on 02/16/12.

**Aggravating Circumstances:** b (3) Lying in wait  
b (4) Hired to kill

**Mitigating Circumstances:** None

**Direct Appeal:** Vandiver v. State, 480 N.E.2d 910 (Ind. July 29, 1985) (984-S-341)  
Conviction Affirmed 4-0 DP Affirmed 4-0  
Pivarnik Opinion; Givan, Debruler, Prentice concur. Hunter did not participate.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

VANDIVER WAIVED APPEALS AND WAS EXECUTED BY ELECTRIC CHAIR ON 10-16-85 AT 12:20 AM EST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 72ND CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE SECOND SINCE THE DEATH PENALTY WAS REINSTITATED IN 1977.

## **WALLACE, DONALD RAY, JR. # 16**

EXECUTED BY LETHAL INJECTION 03-10-05 12:23 AM  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 09-03-1957 DOC#: 7114 White Male

Vigo County Circuit Court Judge Hugh D. McQuillan  
Venued from Vanderburgh County

**Trial Cause #:** C-CR80-9 (Vigo County)

**Prosecutor:** Stanley M. Levco, Robert J. Pigman

**Defense:** William G. Smock

**Date of Murder:** January 14, 1980

**Victim(s):** Patrick Gilligan W / M / 30; Teresa Gilligan W / F / 30; Lisa Gilligan W/F/5;  
Gregory Gilligan W / M / 4 (No relationship to Wallace)

**Method of Murder:** shooting with handgun

**Summary:** As attested by the admission of Wallace to friends after the fact, after burglarizing the home of Ralph Hendricks, he "got greedy" and decided to break into the house next door. However, when he did so, he was surprised to find the family inside. Patrick and Teresa Gilligan and their two children, aged 4 and 5, were confronted by Wallace with a gun. All four were tied up and shot in the head. Wallace would say to friends later that he shot Mr. Gilligan because he was "giving him trouble"; he shot Mrs. Gilligan because she was screaming and he "had to shut her up"; and he shot the children because he "could not let the children grow up with the trauma of not having parents." Wallace then took guns, a CB, a scanner, and other property, all of which was later recovered from or traced to Wallace.



**Trial:** Venued to Vigo County (01-24-80); Found Incompetent (05-19-80); Found Competent (09-02-80); Found Incompetent (01-16-81); Competency Hearing (06-10-82, 06-11-82, 06-14-82, 06-16-82, 06-18-82); Found Competent (06-28-82); Insanity Defense filed (07-02-82); Insanity Defense Withdrawn (08-12-82); Voir dire (08-31-82, 09-01-82, 09-02-82, 09-03-82, 09-07-82, 09-08-82, 09-09-82); Jury Trial (09-09-82, 09-10-82, 09-11-82, 09-13-82, 09-14-82, 09-15-82, 09-16-82, 09-17-82, 09-18-82, 09-20-82, 09-21-82, 09-22-82); Verdict (09-22-82); DP Trial (09-23-82); Verdict (09-23-82); Court Sentencing (10-21-82).

**Conviction:** Murder (4 counts)

**Sentencing:** October 21, 1982 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary  
b (8) 4 murders

**Mitigating Circumstances:** extreme emotional disturbance  
loveless childhood  
insecure childhood

**Direct Appeal:** Wallace v. State, 486 N.E.2d 445 (Ind. December 6, 1985) (583-S-190)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Pivarnik Opinion; Givan, Shepard concur; Debruler and Prentice dissent.  
For Defendant: William G. Smock, Terre Haute  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Wallace v. Indiana, 106 S.Ct. 3311 (1986) (Cert. denied)

**PCR:** PCR Petition filed 12-03-86. Amended PCR filed 03-18-87.  
State's Answer to PCR Petition filed 12-18-86, 03-23-87.  
PCR Hearing 04-08-87.  
Special Judge Robert Brown  
For Defendant: Pro Se, JoAnn Farnsworth, Margaret Hills, Deputy Public Defenders (Carpenter)  
For State: Stanley M. Levco, Robert J. Pigman  
09-04-87 PCR Petition denied.

Wallace v. State, 553 N.E.2d 456 (Ind. April 17, 1990) (84S00-8803-PC-00298)  
(Appeal of PCR denial by Judge Robert Brown)  
Affirmed 3-2; Pivarnik Opinion; Givan, Shepard concur; Debruler, Dickson dissent.  
For Defendant: Margaret Hills, Deputy Public Defender (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Wallace v. Indiana, 111 S.Ct. 2250 (1991) (Cert. denied)

09-01-92 2nd PCR Petition filed.  
09-21-92 State's Answer to PCR Petition filed.  
09-24-92 State files Motion for Summary Judgment.  
01-04-93 State's Motion for Summary Judgment granted, PCR dismissed.

Wallace v. State, 640 N.E.2d 374 (Ind. September 28, 1994) (84S00-9305-DP-527)  
(Appeal of 2nd PCR denial by Judge Dexter Bolin, Jr., summary judgment to State)  
Affirmed 5-0; Givan Opinion; Shepard, Dickson, Debruler, Sullivan concur.  
For Defendant: Judith G. Menadue, Elkhart, John J. Ray, Indianapolis, Public Defenders  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)  
Wallace v. Indiana, 115 S.Ct. 1972 (1995) (Cert. denied)

Wallace v. State, 820 N.E.2d 1261 (Ind., Jan 13, 2005) (84S00-0412-SD-502)

Leave to file Successive Petition for Postconviction Relief denied.

(Claims barred by res judicata.)

(All justices concur - Dickson, Shepard, Sullivan, Boehm Rucker)

**Habeas:** 02-21-95 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
09-06-95 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Donald Ray Wallace, Jr. v. Cecil Davis, Superintendent (IP 95-0215-C-B/S)  
Judge Sarah Evans Barker  
For Defendant: Sarah L. Nagy, Indianapolis  
For State: Michael A. Hurst, Thomas D. Perkins, Deputy Attorneys General (S. Carter)

11-02-95 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
12-14-95 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-14-02 Writ of Habeas Corpus denied.  
03-26-03 Certificate of Appealability granted in part.

Wallace v. Davis, WL 31572002 (S.D. Ind. November 14, 2002) (Not Reported in F.Supp)  
(IP 95-0215-C-B/S) (Order of Judge Sarah Evans Barker of the U.S. District Court for the Southern District of Indiana denying the Habeas Corpus Petition of Donald Ray Wallace, which had been pending for more than 7 years, an unconscionable delay that is left unexplained by the Court.)  
For Defendant: Ann M. Pfarr, Juliet M. Yackel, Deputy Public Defenders (Carpenter)  
For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Wallace v. Davis, 362 F.3d 914 (7th Cir. March 26, 2004) (02-4262)  
(Appeal of denial of Habeas Writ by Judge Sarah Evans Barker)  
Affirmed 3-0; Circuit Judge Frank H. Easterbrook, Judge Joel M. Flaum, Judge Anne Claire Williams.  
For Defendant: Alan M. Freedman, Evanston, IL  
For State: Stephen R. Creason Deputy Attorney General (S. Carter)  
Wallace v. Davis, 125 S.Ct. 617 (November 29, 2004) (Cert. denied)

Wallace v. Davis, 373 F.3d 844 (7th Cir. June 28, 2004) (02-4262).  
Petition for Rehearing and Rehearing En Banc denied by 8-3 majority of active Judges of 7th Circuit.  
For Defendant: Alan M. Freedman, Evanston, IL  
For State: Stephen R. Creason Deputy Attorney General (S. Carter)

WALLACE WAS EXECUTED BY LETHAL INJECTION 03-10-05 12:23 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 82ND CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900, AND THE 12TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

**WARD, ROY LEE # 99 & # 103**

ON DEATH ROW SINCE 06-08-07  
DOB: 07-20-1972 DOC#: 914976 White Male

Spencer County Circuit Court Judge Wayne Roell

**Trial Cause #:** 74C01-0107-CF-0158

**Prosecutor:** Jon A. Dartt, Jack R. Robinson  
**Defense:** Barbara Coyle Williams, Scott A. Blazey

**Date of Murder:** July 11, 2001

**Victim(s):** Stacy Payne W / F / 15 (No relationship to Ward)

**Method of Murder:** stabbing with knife



**Summary:** 15-year old Stacy Payne and her 14-year old sister, Melissa, were home alone in their rural Dale, Indiana home after their parents and older sister left for work. Pretending he was searching for a lost dog, Ward convinced Stacy to let him into the house. When Ward entered he attacked Stacy with a knife. Melissa had taken a nap upstairs and was awakened by Stacy's screams. From the top of the stairs Melissa saw Ward on top of Stacy. She called 9-1-1 and heard Stacy pleading, "Stop!," while Ward said, "You better be quiet." Ward was still at the scene, covered with blood and pocket knife in hand, when police arrived 10 minutes later and took him into custody. Stacy Payne's torso was nearly sliced in two, disemboweled with her spine exposed from the front; her throat was cut to the back of her windpipe; and her wrist was slashed to the bone. She was nevertheless alive for several hours, and conscious most of that time, communicating by squeezing the hand of medical personnel. Vaginal bruising and Stacy's DNA on Ward's genitals supported the Rape and Criminal Deviate Conduct charges. Ward was on probation for a Burglary in Missouri at the time of the crime and had a dozen prior convictions for Public Indecency/Indecent Exposure.

**Trial:** Information/PC for Murder and Death Sentence filed (07-16-01); Motion to Change Venue (02-08-02); Motion to Change Venue Withdrawn (03-01-02); Amended PC and DP Request filed (03-01-02); Motion to Change Venue (04-11-02); Voir Dire (10-07-02, 10-08-02, 10-09-02, 10-10-02, 10-11-02); Jury Trial (10-14-02, 10-15-02, 10-16-02, 10-17-02, 10-18-02, 10-19-02); Deliberations and Verdict (10-19-02); DP Trial (10-21-02, 10-22-02, 10-23-02); (Deliberations and Verdict (10-23-02); Court Sentencing (12-18-02).

**Conviction:** Murder, Rape and Criminal Deviate Conduct

**Sentencing:** December 18, 2002 (Death Sentence, 50 years, 50 years)

**Aggravating Circumstances:** b (1) Rape/Criminal Deviate Conduct  
b (9) On probation or parole  
b (11) Mutilation / Torture

**Mitigating Circumstances:** dysfunctional family, education, and social environment  
parents separated and divorced  
mental retardation, low intelligence, mental illness and instability  
exhibitionism disorder

**Direct Appeal:** Ward v. State, 810 N.E.2d 1042 (Ind. June 30, 2004) (74S00-0108-DP-00361)  
Convictions Reversed 5-0 DP Vacated 5-0  
Rucker Opinion; Shepard, Dickson, Sullivan and Boehm concur.  
For Defendant: Steven E. Ripstra, Jasper, IN, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (S. Carter)  
(Reversal on the grounds of failure to change venue or to obtain jurors from another county pursuant to IC 35-36-6-11, in the face of extensive pretrial publicity and community bias in a small county. It is thought to be the only such reversal in the state's history.)  
Indiana v. Ward, 126 S.Ct. 395 (2005) (Cert. denied)

**On Remand:** Venued to Clay County.  
05-03-07 Entered Guilty Plea to Murder, Rape.  
Charge of Criminal Deviate Conduct dismissed by State; Aggravating Circumstance alleging intentional murder during course of Criminal Deviate Conduct dismissed by State.  
06-08-07 Sentenced to death, based upon Aggravating Circumstances of b (1) Rape; b (9) On probation or parole; b (11) Mutilation / Torture.  
Special Judge Robert J. Pigman, Vanderburgh County Circuit Court  
Prosecutor: Jon A. Dartt  
Defense: Steven Ripstra, Lorinda Meier Youngcourt  
  
Retrial: Jury Selection in Clay County (05-09-07); DP Sentencing Hearing in Vanderburgh County, State's Case (05-14-07, 05-15-07); Defendant's Case (05-16-07, 05-17-07); Jury Verdict after 45 minutes deliberations (05-18-07); Court Sentencing (06-08-07).

**Direct Appeal:** Ward v. State, 903 N.E.2d 946 (Ind. April 07, 2009) (74S00-0707-DP-263)  
DP Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven E. Ripstra, Jasper, IN, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (G. Zoeller)  
  
Ward v. State, 908 N.E.2d 595 (Ind. June 26, 2009) (74S00-0707-DP-263) (On Rehearing)  
DP Affirmed 5-0  
Dickson Opinion; Shepard, Sullivan, Boehm, Rucker concur.  
For Defendant: Steven E. Ripstra, Jasper, IN, Lorinda Meier Youngcourt, Huron, IN  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Ward v. Indiana, 130 S.Ct. 2060 (March 29, 2010) (Cert. denied)

**PCR:** 01/21/10 Petition for Post-Conviction Relief filed.  
03/02/10 State's Answer to Petition for Post-Conviction Relief filed.  
07/07/10 Amendment to Petition for Post-Conviction Relief.  
08/26/10 Second Amendment to Ward's Petition for Post-Conviction Relief.  
08/26/10 Hearing on Petition for Post Conviction Relief commences.  
11/22/10 Findings of Fact / Conclusions of Law denying Amended Petition for Post-Conviction Relief.  
State v. Roy Lee Ward (74C01-0107-CF-000158)  
Special Judge Robert J. Pigman  
For Defendant: Thomas Hinesley, Laura Volk. State Public Defenders  
For State: James Martin, Kelly Miklos, Deputy Attorneys Generals. (Zoeller)

Ward v. State, 969 N.E.2d 46 (June 21, 2012) (74S00-0907-PD-320)  
(Appeal of PCR denial by Special Judge Robert J. Pigman, Spencer County)  
Affirmed 5-0; Sullivan Opinion; Dickson, Rucker, David, Massa concur.  
For Defendant: Thomas C. Hinesley, Laura L. Volk, Deputy Public Defenders (Owens)  
For State: James B. Martin, Deputy Attorney General (Zoeller)

**Habeas:** 12-03-12 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
03-04-13 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana.  
08-16-13 Respondent's Return with exhibits filed in opposition to Writ of Habeas Corpus.  
09-22-15 Entry Denying Petition for Writ of Habeas Corpus, with prejudice.

Roy Lee Ward v. Bill Wilson, Superintendent  
Ward v. Wilson, 2015 U.S. Dist. 126406 (S.D. Ind. Sept. 22, 2015) (3:12-cv-00192-RLY-WGH)  
Chief Judge Richard L. Young  
Conviction Affirmed DP Affirmed  
For Defendant: Marie F. Donnelly, Chicago, IL, Laurence E. Komp, Manchester, MO  
For State: Andrew A. Kobe, James B. Martin, Deputy Attorneys General (Zoeller)

Ward v. Neal, 835 F.3d 698 (7th Cir. August 26, 2016)  
United States Court of Appeals for the Seventh Circuit (No. 16-1001)  
Conviction Affirmed 3-0 DP Affirmed 3-0  
Opinion By Wood; Easterbrook and Rovner concur.  
For Defendant: Marie F. Donnelly, Evanston, IL; Laurence E. Komp, Manchester, MO.  
For State: Andrew A. Kobe, James Blaine Martin, Deputy Attorneys General (Hill)  
Ward v. Neal, 2017 U.S. LEXIS 3269 (U.S., May 22, 2017) (Cert. denied)

**Civil Suit:** Roy Ward v. Eric Holcomb, Robert Carter, Jr. (46D02-1901-PL-000069)  
(Civil suit for declaratory and injunctive relief from prisoner under a death sentence, seeking to declare Indiana Capital Punishment unconstitutional.)  
LaPorte Circuit Court #2, Judge Richard R. Stalbrink, Jr.  
01-08-19 Complaint filed.  
04-01-19 Defendants' Motion to Dismiss For Lack of Jurisdiction and Failure to State Claim filed.  
05-28-19 / 05/27/21 Order of Dismissal entered.  
For Plaintiff: Christopher C. Myers, Fort Wayne  
For State: Ryan J. Guillory, Archer Rose, Jr., Deputy Attorneys General (Hill)

**Civil Suit:** Roy Ward v. Bruce Lemmon, Ron Neal (46C01-1512-PL-002154)  
LaPorte Circuit Court, Judge Thomas J. Alevizos  
(Civil Suit seeking to declare change of drugs used in the Indiana lethal injection protocol violated Ward's rights under Administrative Rules and Procedures Act (ARPA) violating due process. In May 2014, the Department announced it would alter the three-drug combination used for executions, replacing Sodium Thiopental with Brevital—a barbiturate anesthetic in the same class. Following that announcement, Indiana's three-drug execution protocol included Brevital, followed by Pancuronium Bromide and then Potassium Chloride.)  
01-07-16 Petition filed.  
03-31-16 Motion to Dismiss filed  
06-08-16 Response to Motion to Dismiss filed.  
06-24-16 Hearing on Motion to Dismiss.  
07-13-16 Motion to Dismiss granted.

Ward v. Carter, 79 N.E.3d 383 (Ind. App. June 1, 2017) (46A03-1607-PL-1685)  
Appeal of Dismissal Order entered by LaPorte Circuit Court in 46C01-1512-PL-002154.  
For Defendant: David W. Frank, Christopher C. Myers & Associates, Fort Wayne, Indiana.  
For State: Stephen R. Creason, Deputy Attorney General (Hill)  
(IDOC is not exempted from ARPA; Because the statutory definition of "rule" clearly includes the DOC's execution protocols, we reverse)  
Reversed 3-0 - Opinion by Baker; Barnes and Crone concur.  
Ward v. Carter, 92 N.E.3d 1089 (Ind. Sept. 7, 2017) (Transfer granted)  
Opinion vacated by Ward v. Carter, 90 N.E.3d 660 (Ind. February 13, 2018).

Ward v. Carter, 90 N.E.3d 660 (Ind. February 13, 2018) (No. 46S03-1709-PL-00569)  
On transfer, Affirming judgment of dismissal by LaPorte Circuit Court (46C01-1512-PL-2154)  
5-0 Opinion by Goff; Rush, David, Massa, and Slaughter concur.  
For Defendant: David W. Frank, Christopher C. Myers & Associates, Fort Wayne, Indiana.  
For State: Stephen R. Creason, Deputy Attorney General (Hill)  
Ward v. Carter, 2018 Ind. LEXIS 295 (Ind., Apr. 23, 2018) (Rehearing denied)  
Ward v. Carter, 2018 U.S. LEXIS 4413 (Oct. 1, 2018) (Cert. denied).

AWAITING EXECUTION.

## **WEISHEIT, JEFFREY ALAN # 106**

ON DEATH ROW SINCE 07-11-13  
DOB: 03-28-76 DOC#: 108004 White Male

Clark County Circuit Court Judge Daniel E. Moore  
Venued from Vanderburgh County (82C01-1004-MR-00449)

**Trial Cause #:** 10C01-1008-MR-000601

**Prosecutor:** Gary J. Schutte, Charles L. Berger

**Defense:** Michael J. McDaniel, Stephen H. Owens

**Date of Murder:** April 10, 2010

**Victim(s):** Caleb Lynch W / M / 5 (son of girlfriend)  
Alyssa Lynch W / F / 8 (daughter of girlfriend)



**Method of Murder:** Arson fire

**Summary:** Weisheit lived with Lisa Lynch and her two children, 5 year old Caleb, and 8 year old Alyssa. While Lisa worked a 12 hour shift, Weisheit babysat the children. A fire engulfed the Evansville home, killing both children. Alyssa was found curled up in a closet and Caleb was found with a flare stuffed into his underwear, with a dishcloth in his throat. Weisheit was arrested a few hours later after a high speed chase, driving his car near Cincinnati, 200 miles away. He did not answer his cell phone and refused a call from Lisa via OnStar. When arrested, he pulled a knife and threw it at officers, saying "kill me, I want to die." At trial, Weisheit testified that Caleb was argumentative when he told him to go to bed and that he responded by binding the child's hands with duct tape, stuffed his mouth with a dish cloth and placed tape over his mouth, then left the home in his Chevrolet Camaro. He said there was no fire in the home when he left. He explained that he wanted to get away for only a day or two to escape the stressful situation at home. Weisheit said he had brought the flares into the home, but had not given them to the child or come into contact with them at the time of the fire. Instead, he speculated that the flares were possibly placed near the boy's body by first responders in an effort to "stage" the scene. Weisheit had quit his job the previous day and withdrawn all money in his bank account. He had told co-workers that he wanted to go out in a "blaze of glory."

**Trial:** Information/Affidavit filed (04-12-10), DP Notice filed (04-26-10), Agreed Change of Venue to Clark County (08-06-10), Voir Dire (06-03-13, 06-04-13, 06-05-13, 06-06-13, 06-07-13), Jury Trial (06-10-13, 06-11-13, 06-12-13, 06-13-13, 06-14-13, 06-17-13, 06-18-13, 06-19-13, 06-20-13, 06-21-13), Deliberations (2 hours), Verdict (06-18-13), DP Trial (06-19-13, 06-20-13, 06-21-13), Deliberations (5 hours), DP Verdict 06-21-13, DP Sentencing (07-11-13).

**Conviction:** Murder, Murder, Arson (Class A Felony)

**Sentencing:** July 11, 2013 (Death Sentence, Death Sentence, 20 Years)

**Aggravating Circumstances:** b (8) Multiple Murders  
b (12) 2 victims less than 12 years of age

**Mitigating Circumstances Raised:** Extreme emotional disturbance  
Mental Illness  
Bi-Polar Disorder, Depression  
Organic Brain Injury  
Attention Deficit Hyperactivity Disorder

**Interlocutory Appeal:** Weisheit v. State, 969 N.E.2d 1082 (Ind. App. June 29, 2012) (10A01-1202-CR-58)  
Interlocutory Appeal (Bail) from the Clark County Circuit Court.  
Judge Daniel E. Moore. (910C01-1008-MR-000601)  
No Bail Affirmed 3-0  
Vaidik Opinion; Crone, Bradford concur.  
For Defendant: Michael J. McDaniel, New Albany, Indiana.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Weisheit v. State, 2012 Ind. App. LEXIS 421 (Ind. Ct. App. 2012) (Reh. denied)  
Weisheit v. State, 989 N.E.2d 782 (Ind. 2013) (Transfer denied)

**Direct Appeal:** Weisheit v. State, 26 N.E.3d 3 (Ind. February 18, 2015) (10S00-1307-DP-492)  
Conviction Affirmed 5-0 DP Affirmed 5-0.  
Opinion by: David; Rush, Dickson, Rucker, and Massa concur.  
For Defendant: Steven E. Ripstra, Jasper, Indiana; Thomas A. Dysert, Petersburg, Indiana.  
For State: James B. Martin, Deputy Attorney General (Zoeller)  
Weisheit v. State, 2015 Ind. LEXIS 511 (Ind., June 9, 2015) (Reh. denied)  
Weisheit v. Indiana, 136 S. Ct. 901 (Jan. 19, 2016) (Cert. denied)

**PCR:** 01/05/16 PCR Petition Filed.  
01/21/16 State's Answer filed.  
07/06/16 State's Request for Production, Interrogatories filed.  
07/15/16 Amended PCR Petition filed.  
09/26/16 Letter from Weisheit filed.  
09/26-28/16 Evidentiary hearing held.  
11/18/16 Petition for Writ of Habeas Corpus denied.  
Clark County Circuit Court #1 Judge Andrew Adams (10C01-1601-PC-000001)  
For Defendant: John Pinnow, Kathleen Cleary, and Anne Burgess, Deputy Public Defenders (Owens)  
For State: Kelly A. Loy and Tyler G. Banks, Deputy Attorneys General (Hill)

Weisheit v. State, 109 N.E.3d 978 (Ind. November 7, 2018) (10S00-1507-PD-413)  
Conviction Affirmed 5-0, DP Affirmed 4-1.  
Massa Opinion; David, Goff concur; Slaughter concurring in part and in judgment.  
Rush dissents. (Counsel's penalty-phase performance suffered multiple deficiencies: failure to call Dr. Philip Harvey, an expert on bipolar disorder who personally observed Weisheit exhibit signs of a manic episode during an in-person evaluation, to testify; failure to pursue the Boys School records; and failure to lay foundation for testimony of former IDOC Commissioner Aiken who opined that IDOC could securely house Weisheit safely. The cumulative effect requires a new DP sentencing hearing)  
For Defendant: Kathleen Cleary, John Pinnow, Anne Murray Burgess, Deputy Public Defenders (Owen)  
For State: Kelly A. Loy, Tyler G. Banks, Deputy Attorneys General (Hill)  
Weisheit v. State, 2019 Ind. LEXIS 8 (Ind., Jan. 17, 2019) (Reh. denied).  
Weisheit v. Indiana, 139 S.Ct. 2749 (June 24, 2019) (Cert. denied).

- Habeas:** 02-25-19 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
01-17-20 Petition for Writ of Habeas Corpus filed in U.S. District Court, Southern District of Indiana with 55 Exhibits.  
Multiple extensions of time allowed.  
06/29/21 Petitioner shall have through August 31, 2021, to file an amended petition. The respondent shall have 90 days to answer any amended petition, and the petitioner shall have 60 days to reply. Absent extraordinary circumstances, the Court does not anticipate granting any further extensions of time.  
07/19/2021 Motion for Confidential Legal Visits with Petitioner.  
07/27/2021 Order allowing Neuropsychological Examination Without Handcuffs .  
09/04/2021 First Amended Petition for Writ of Habeas Corpus filed.  
Jeffrey Alan Weisheit v. Ron Neal, Superintendent, Indiana State Prison (4:19-cv-00036-SEB-DML)  
U.S. District Court for the Southern District of Indiana (New Albany)  
Judge Sarah Evans Barker, Magistrate Judge Debra McVicker Lynch  
For Defendant: David Paul Voisin, Jackson, MS, Joseph J. Perkovich, New York, NY  
For State: Andrew A. Kobe, Caryn Nieman Szyper, Tyler G. Banks, Deputy Attorneys General (Rokita)
- ▶ PETITION FOR WRIT OF HABEAS CORPUS PENDING IN THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF INDIANA. (4:19-cv-36-SEB-DML)

## DANIEL RAY WILKES # 104

OFF DEATH ROW SINCE 08-12-11  
DOB: 07-30-1968 DOC#: 108002 White Male

Clark County Circuit Court  
Venued from Vanderburgh Circuit Court

Vanderburgh Circuit Court Judge Carl A. Heldt

**Trial Cause #:** 82C01-0605-MR-438 (Vanderburgh);  
10C01-0705-MR-158 (Clark)

**Prosecutors:** Stanley M. Levco, Donita F.M. Farr

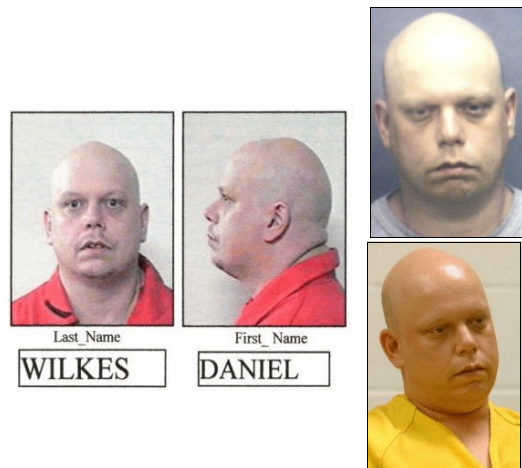
**Defense:** Barbara Williams, Kurt Schnepfer

**Date of Murder:** April 23, 2006

**Victim(s):** Donna Lee Joy Claspell, W/F/38 (Friend and roommate); Avery Pike, W/F/13 (Donna's daughter); Sydne Claspell W/F/8 (Donna's daughter).

**Method of Murder:** Beaten with a hammer and level, knife to cut throat (Donna); Beaten with a hammer and level (Sydne); Strangulation with a sports bra (Avery).

**Summary:** Wilkes met and befriended Donna Claspell while they were enrolled in an in-patient drug rehabilitation facility in Evansville. After completing treatment, Wilkes moved in with Donna and her two daughters, Avery (13) and Sydne (8). Shortly thereafter, Wilkes began molesting Avery. While intoxicated, Wilkes murdered Donna in her bed, beating her with a hammer and wooden level which resulted in multiple skull fractures. He also cut her throat with a knife. Wilkes also attacked Sydne in Donna's bedroom, beating her with the hammer and level, causing massive skull fractures. Wilkes then went to Avery's bedroom, strangling her with a sports bra and leaving her naked on her bed with her hands tied behind her back and one of her legs tied to the footboard of the bed. Wilkes confessed to the crimes, but claimed at trial with the aid of an expert, that it was a false confession.



**Trial:** PC Affidavit for Murder filed (04-27-06); Information for Murder filed (05-01-06); Initial Hearing (05-03-06); DP Request filed (06-19-06); Change of Venue Ordered (04-17-07); Voir Dire (12-04-07, 12-05-07); Jury Trial (12-06-07, 12-07-07, 12-10-07, 12-11-07, 12-12-07); Verdict (02-12-07) (2 Hour deliberation); DP Trial (12-13-07, 12-14-07); Hung Jury 11-1 Verdict (12-14-07); Court Sentencing (01-25-08).

Hung Jury on Death Sentence. (But found existence of Aggravating Circumstances in special verdict)

**Conviction:** Murder, Murder, Murder

**Sentencing:** January 25, 2008 (Death Sentence)

**Aggravating Circumstances:** b (12) 2 victims less than 12 years of age  
b (8) 3 murders

**Mitigating Circumstances:** no significant history of prior criminal conduct  
alcohol/Drug intoxication and dependence  
mixed personality disorder and psychosocial stressors  
under influence of extreme mental or emotional disturbance  
depression  
victim was a participant in or consented to conduct  
defendant was merely an accomplice  
acted under the substantial domination of another person  
mental disease or defect  
childhood was unstable, abusive and neglectful  
defendant can be safely incarcerated at DOC.

**Direct Appeal:** Wilkes v. State, 917 N.E.2d 675 (Ind. December 10, 2009) (10S00-0808-DP-453)  
Clark Circuit Court Cause #10C01-0705-MR-158 (Venued from Vanderburgh County)  
Conviction 5-0 DP Affirmed 5-0  
Boehm Opinion; Dickson, Shepard, Sullivan, Rucker concur.  
For Defendant: John Andrew Goodridge (Evansville), William Wayne Gooden (Mt. Vernon)  
For State: Stephen R. Creason, Deputy Attorney General (Zoeller)  
Wilkes v. State, 2010 Ind. LEXIS 199 (March 16, 2010) (Reh. denied)  
Wilkes v. Indiana, 131 S.Ct. 414 October 18, 2010) (Cert. denied)

**PCR:** 04/15/10 Notice Of Intent To File Petition For Post-Conviction Relief.  
10/13/10 States Answer to Petition for Post-Conviction Relief filed.  
04/08/11 Amendment To Petition For Post-Conviction Relief filed.  
05/05/11 States Answer to Amended Petition for Post-Conviction Relief filed.  
08/12/11 PCR granted as to death sentence.  
State of Indiana vs. Daniel Ray Wilkes (10C01-0705-MR-000158)  
Special Judge Carl D. Heldt  
(Post Conviction Relief granted, Death Sentence vacated and sentence reduced to Life Without Parole.  
Judge Heldt based his ruling upon consideration of the jury's indecision in failing to reach a verdict. The Court did not do so in the original sentencing. The State did not appeal this ruling.)

Wilkes v. State, 984 N.E.2d 1236 (Ind. April 4, 2013) (10S00-1004-PD-185)  
Appeal of denial of PCR as to conviction. Conviction Affirmed 5-0  
Dickson Opinion; Rucker, David, Massa, and Rush concur.  
(Affirming denial of all PCR claims relating to conviction, and affirming LWOP sentence)  
For State: Stephen R. Creason, Kelly A. Miklos, Deputy Attorneys General (Zoeller)  
For Defendant: Joanna Green, Steven H. Shutte, Kathleen Cleary, Deputy Public Defenders (Owens)

► CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

**WILLIAMS, DARNELL # 51**

OFF DEATH ROW SINCE 07-02-04  
DOB: 07-31-1966 DOC#: 872037 Black Male

Lake County Superior Court  
Judge James E. Letsinger



**Trial Cause #:** 2CR-133-886-531

**Prosecutor:** Thomas W. Vanes, Kathleen Burns

**Defense:** Nathaniel Ruff

**Date of Murder:** August 12, 1986

**Victim(s):** John Rease B / M / 74; Henrietta Rease B / F / 59 (Ex-Foster Parents of Rouster)

**Method of Murder:** shooting with .32 and .22 handgun

**Summary:** John and Henrietta Rease were elderly foster parents, regularly taking into their home children who were often incorrigible and unwanted. One such child was Gregory Rouster, who was placed in the Rease home by the Welfare Dept. in November 1985 and stayed through February 1986. The Rease's operated a small candy store out of the first floor of their home in Gary. On August 12, 1986 both were shot to death in their home. John Rease was shot once in the shoulder area with a .32 handgun. Henrietta Rease was shot once in the back with the same .32 handgun and twice in the head at close range with a .22 handgun. .30 caliber ammunition was found on the floor. Numerous witnesses placed Rouster and his companion, Darnell Williams, going into the home with guns on the day of the murder. A foster child of the Rease's, 17 year old Derrick Bryant, testified that he was hiding in the house as Rouster and Williams entered, heard Rouster arguing with Henrietta over money they owed him, heard Henrietta say "Greg, why are you doing this?," then heard two more shots as he ran out the back door. Other witnesses testified that Rouster was outside when the last shots were fired. Rouster had bumped into his Welfare caseworker at the drugstore earlier the same day and asked if the Rease's received a clothing allowance for him while he was in foster care. When he was told that they did, Rouster declared that they owed him money and he was going to get it. Williams was later in possession of the same .30 caliber ammunition found at the scene, as well as cash and a wristwatch that Bryant identified as a gift to Henrietta. Accomplice Edwin Garland Taylor pled guilty to Robbery (C Felony) and testified for the prosecution.

**Trial:** Information/PC for Murder filed (08-14-86); Amended Information for DP filed (09-16-86); Voir Dire (02-09-87, 02-10-87); Jury Trial ( 02-11-87, 02-12-87, 02-13-87, 02-14-87, 02-16-87); Verdict (02-17-87); DP Trial (02-17-87, 02-18-87); Verdict (02-19-87); Court Sentencing (03-23-87).

**Conviction:** Felony-Murder (John Rease), Felony-Murder (Henrietta Rease).  
(Williams was tried jointly with Gregory Rouster and Teresa Newsome, Rouster's girlfriend and Williams' sister, who was found not guilty.)

**Sentencing:** March 23, 1987 Death Sentence (Rouster); Death Sentence (Williams)

**Aggravating Circumstances:** b (1) Robbery  
b (8) 2 murders

**Mitigating Circumstances:** no prior criminal conduct  
aid and kindness to members of his family  
regular employment  
high school graduate

Joint Trial and Direct Appeal with Gregory Rouster

**Direct Appeal:** Rouster v. State, 600 N.E.2d 1342 (Ind. October 16, 1992) (45S00-8710-CR-914)

Conviction Affirmed 5-0 DP Affirmed 4-1

Shepard Opinion; Givan, Dickson, Krahulik concur; Debruler dissents.

For Defendant: Scott L. King, Daniel L. Bella, Crown Point Public Defenders

For State: Arthur Thaddeus Perry, Deputy Attorney General (Pearson)

**PCR:** PCR Petition filed 08-26-93. Amended PCR filed 04-28-95, 06-05-95.

State's Answer to PCR Petition filed 02-17-94.

PCR Hearing 09-18-95, 09-25-95, 09-26-95, 09-27-95, 09-28-95, 09-29-95, 10-02-95, 10-04-95.

Special Judge Richard J. Conroy

For Defendant: Ann M. Pfarr, Juliet M. Yackel, Jeffreys Merryman, Deputy Public Defenders (Carpenter)

For State: Natalie Bokota, Taylor

02-28-96 PCR Petition denied.

Williams v. State, 706 N.E.2d 149 (Ind. 1999) (45S00-9303-PD-397)

(Appeal of PCR denial by Special Judge Richard J. Conroy)

Affirmed 5-0; Shepard Opinion; Dickson, Sullivan, Selby, Boehm concur.

For Defendant: Ann M. Pfarr, Juliet M. Yackel, Deputy Public Defenders (Carpenter)

For State: Arthur Thaddeus Perry, Deputy Attorney General (Modisett)

Williams v. Indiana, 120 S.Ct. 1970 (2000) (Cert. denied)

Williams v. State, 718 N.E.2d 737 (Ind. September 28, 1999)

(Petition for Rehearing denied, execution date set for November 17, 1999)

Williams v. State, 791 N.E.2d 193 (Ind. June 27, 2003) (45S00-0306-SD-248)

(Successive PCR in the form of DNA testing of blood on his shorts and co-defendant's pants)

Authorization Declined 5-0; Opinion by Shepard; Dickson, Sullivan Boehm, Rucker concur.

(The testing would not be probative of the perpetrator or exculpatory, would not indicate an unlawful or inappropriate death sentence.)

Williams v. Indiana, 124 N.E.2d 300 (October 6, 2003) (Cert. denied)

Williams v. State, 792 N.E.2d 22 (Ind. July 22, 2003) (45S00-0306-SD-248)

Order directing State to respond to Defendant's "Petition For The Consideration Of New Evidence Pursuant To Indiana Code 35-50-2-9(k)."

Williams v. State, 793 N.E.2d 1019 (Ind. July 25, 2003) (45S00-0306-SD-248)

(Successive PCR for consideration of new evidence pursuant to IC 35-50-2-9(k).

Authorization Declined 3-2; Opinion by Sullivan, Shepard, Dickson concur. Boehm and Rucker dissent, concluding that execution should be delayed while new DNA testing is performed.

Williams v. State, 808 N.E.2d 652 (Ind. May 21, 2004) (45S00-0306-SD-248)

(Rehearing denied. Opinion by Shepard; Dickson, Sullivan, Rucker, Boehm concur.)

**Habeas:** 10-04-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

05-12-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Darnell Williams v. Ron Anderson, Superintendent (3:99-CV-0570-AS)

Judge Allen Sharp

For Defendant: Juliet Marie Yackel, Chicago, IL, Stephen E. Eberhardt, Crestwood, IL

For State: Michael A. Hurst, Deputy Attorney General (S. Carter)

11-03-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.

04-02-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.

11-19-01 Writ of Habeas Corpus denied.

12-20-01 Certificate of Appealability granted.

Williams v. Anderson, 174 F.Supp. 843 (N.D. Ind. November 19, 2001) (3:99-CV-0570-AS)  
(Habeas Corpus denied by Judge Allen Sharp, U.S. District Court, Northern District of Indiana)

Williams v. Davis, 301 F.3d 625 (7th Cir. August 29, (2002) (01-4225)  
(Appeal of denial of Habeas Corpus)

Affirmed 3-0; Opinion by Judge Michael S. Kanne, Judge John L. Coffey Judge Harlington Wood, Jr.  
For Defendant: Juliet M. Yackel, Chicago, IL, Stephen E. Eberhardt, Crestwood, IL

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Williams v. Indiana, 123 S.Ct. 1904 (April 28, 2003) (Cert. denied)

**Clemency:** In July 2003 Governor Frank O'Bannon granted a stay of execution for Darnell Williams in order that DNA testing could be performed on clothing he was wearing when arrested. However, the testing proved inconclusive at best, and the Indiana Supreme Court set a July 9, 2004 execution date. State v. Williams, 2004 Ind. LEXIS 474 (May 21, 2004).

On July 2, 2004 Governor Joe Kernan issued an Executive Order commuting the death sentence of Darnell Williams to Life Imprisonment Without Parole. Noting that Gregory Rouster was more culpable in the murders, but had been spared the death penalty after he was declared mentally retarded, Governor Kernan said "Because Rouster cannot be executed for the crime, it is unjust for Williams to be executed." The commutation followed a recommendation for commutation from the State Parole Board. This was the first time since the reinstatement of the Death Penalty in Indiana in 1977 that the Parole Board recommended commutation of a death sentence, or that the Governor commuted a death sentence.

<https://secure.in.gov/ipdc/files/Darnell-Williams-Kernan.pdf>

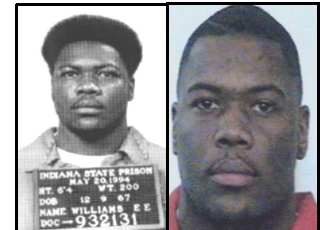
► CURRENTLY SERVING TERM OF LIFE IMPRISONMENT WITHOUT PAROLE.

**WILLIAMS, EDWARD EARL # 77**  
**(Akeem Aki-Khuam)**

OFF DEATH ROW SINCE 03-25-02

DOB: 12-09-1967 DOC#: 932131 Black Male

Lake County Superior Court Judge James E. Letsinger



**Trial Cause #:** 45G02-9207-CF-00182

**Prosecutor:** John J. Burke

**Defense:** David R. Schneider, Darnail Lyles

**Date of Murder:** June 19, 1992

**Victim(s):** Robert Hollins B / M / 26; Debra Rice B / F / 42; Michael Richardson B / M / 41  
(No relationship to Williams)

**Method of Murder:** shooting with handgun

**Summary:** Williams, Jemelle Joshua and three others went to the home of school teacher Michael Richardson, intent on stealing the audio and video equipment from his basement. Williams and Joshua were admitted to the home and let the three accomplices in. Williams held a handgun to Richardson's head and Joshua held a shotgun on Richardson's sister, Debra Rice, while the other three men went to the basement. Robert Hollins, a guest in the home, struggled with one of the men and was shot in the back by Williams. Debra Rice tried to escape and Joshua shot her in the chest. The equipment proved too difficult to remove from the basement, and as the invaders were leaving the home, Williams shot Richardson, Rice, and Hollins once in the head. A few hours later, he would tell his sister that he did so in order not to leave any witnesses.

**Trial:** Information/PC for Murder filed (07-18-92); Jury Trial (01-25-93, 01-26-93, 01-27-93, 01-28-93, 01-29-93); Verdict (01-29-93); DP Trial (01-30-93); Jury Hung (01-31-93); Court Sentencing (03-02-93).

**Conviction:** Murder (3 counts), Felony-Murder (3 counts)

**Sentencing:** March 2, 1993 (Death Sentence)

**Aggravating Circumstances:** b (1) Robbery (3 counts)  
b (8) 3 murders

**Mitigating Circumstances:** low IQ  
father convicted of abusing Williams as a child

Hung Jury on Death Sentence

**Direct Appeal:** Edward Williams v. State, 669 N.E.2d 1372 (Ind. August 7, 1996) (45S00-9210-DP-770)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Debruler, Dickson, Selby concur.  
For Defendant: Charles E. Stewart, Jr., Darnail Lyles, Crown Point  
For State: Arthur Thaddeus Perry, Deputy Attorney General (P. Carter)  
Williams v. Indiana, 117 S.Ct. 1828 (1997) (Cert. denied)

**PCR:** 01-22-97 Notice of Intent to file PCR Petition.  
PCR Hearing 12-16-97, 12-17-97, 12-18-97, 12-19-97, 12-22-97, 01-26-98.  
Special Judge Richard W. Maroc  
For Defendant: Ann M. Pfarr, Robert E. Lancaster, Danielle L. Gregory, Deputy Public Defenders.  
For State: Natalie Bokota, Robert L. Collins, Christopher L. Lafuse, Deputy Attorneys General  
02-19-97 PCR Petition denied.

Edward Williams v. State, 724 N.E.2d 1070 (Ind. February 23, 2000) (45S00-9701-PD-45)  
(Appeal of PCR denial by Special Judge Richard W. Maroc)  
Affirmed 5-0; Shepard Opinion, Dickson, Sullivan, Boehm, Rucker concur.  
For Defendant: Danielle L. Gregory, Ann M. Skinner, Robert E. Lancaster, Public Defenders  
For State: Rosemary L. Borek, Deputy Attorney General (Modisett)  
Williams v. Indiana, 121 S.Ct. 886 (2001) (Cert. denied)

**Habeas:** 06-23-00 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
12-14-00 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Akeem Aki-Khuam a/k/a Edward Earl Williams v. Rondle Anderson, Superintendent (IP 01-C- 864-M/S)  
Judge Allen Sharp  
For Defendant: Brent L. Westerfield, Eric Koselke, Indianapolis  
For State: Thomas D. Perkins, Stephen R. Creason, Deputy Attorneys General (S. Carter)

02-12-01 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
08-16-01 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
11-07-02 Writ of Habeas Corpus granted.

Aki-Khuam v. Davis, 203 F. Supp.2d 1001 (N.D. Ind. March 25, 2002) (3:00-CV-386-AS)  
(Order of U.S. District Court Judge Allen Sharp, Northern District of Indiana, granting Writ of Habeas Corpus as to conviction and sentence on grounds that the trial judge improperly denied peremptory challenges of white jurors by the defense.)  
For Defendant: Brent L. Westerfield, Eric Koselke, Indianapolis  
For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

Aki-Khuam v. Davis, 328 F.3d 366 (7th Cir. May 8, 2003) (02-1945)  
(This opinion vacated and replaced by opinion dated August 5, 2003)

Aki-Khuam v. Davis, 339 F.3d 521 (7th Cir. August 5, 2003) (02-1945)  
(Appeal of grant of Habeas Corpus by Judge Allen Sharp)

Affirmed 3-0, Conviction Reversed, DP Vacated.

Opinion by Circuit Judge William J. Bauer, Judge Ilana Diamond Rovner, Judge Diane P. Wood.  
Vacating Opinion dated May 8, 2003.

(Trial court's modification of Batson procedure, by not requiring initial challenge by prosecution and by rejecting race-neutral reasons at step two of Batson analysis, was contrary to clearly established federal law.)

For Defendant: Eric Koselke, Brent L. Westerfeld, Indianapolis

For State: Stephen R. Creason, Deputy Attorney General (S. Carter)

**On Remand:** Aki-Khuam pled guilty pursuant to a plea agreement to three counts of murder in exchange for (1) dismissal of felony murder counts, (2) withdrawal of the death penalty request, and (3) recommendation that the sentence for one of the murder convictions run concurrently with the others. On May 16, 2007, Lake Superior Court, Criminal Division Judge Clarence Murray accepted the agreement and sentenced Aki-Khuam to 50 years for each count of murder, with two of the sentences to run consecutively, for a total sentence of 100 years imprisonment. (45G02-9207-CF-00182)

For Defendant: Karen Coulis, Teresa Hollandsworth and Mark Bates.

For State: John Evon and Jacqueline Jacobs

Aki-Khuam v. State, 883 N.E.2d 228 (Ind. App. March 20, 2008) (45A05-0706-CR-348)  
(Direct Appeal of 100 year sentence - Affirmed)

▶ CURRENTLY SERVING CONSECUTIVE TERMS TOTALING 120 YEARS IMPRISONMENT.

## **WILLIAMS, LARRY C. # 6**

OFF DEATH ROW SINCE 07-08-88

DOB: 03-28-1958 DOC#: 10213 White Male

LaPorte County Circuit Court Judge Robert S. Gettinger  
Venued from Marshall County

**Trial Cause #:** 7515 (Marshall Circuit)  
SCR80-9 (Marshall County), 4807-C (LaPorte County)

**Prosecutor:** Ralph R. Huff, James P. Hayes, Fred R. Jones

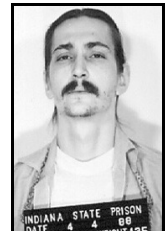
**Defense:** Jere L. Humphrey

**Date of Murder:** April 12, 1979

**Victim(s):** Jesse Hubbard W / M / 45 (Acquaintance of Williams)

**Method of Murder:** stabbing with butcher knife

**Summary:** Williams and Larry Perkins agreed on a scheme to blackmail Jesse Hubbard and went to his house for that purpose. They drank beer, smoked pot, and watched TV for awhile, when they decided to rob him instead. Perkins hit Hubbard on the head with his pistol and Williams stabbed him several times in the chest with a butcher knife. He then hit him with a whiskey bottle and a piece of pipe. The men attempted to wipe off their fingerprints, took Hubbard's billfold, and went



to Williams' mother's house to split the money. Accomplice Redman pled guilty to Assisting a Criminal and was sentenced to 8 years imprisonment on June 17, 1980. Accomplice Perkins testified for the State at trial, then entered a guilty plea to Felony Murder and Conspiracy to Robbery, and was sentenced to 54 years and 20 years concurrent on September 19, 1980.

Williams was also convicted of the 1979 murder and robbery of Claude Yarian in Fulton County on 05-28-80. A jury recommended against death and Williams was sentenced to 130 years imprisonment. (See Williams v. State, 426 N.E.2d 662 (1981) (S-79-53))

**Trial:** Indictment for Murder and Death Sentence transferred from Circuit to Superior Court in Marshall County (02-04-80); Motion for Change of Venue (02-12-80); Arraignment in LaPorte County (04-21-80); Motion for Speedy Trial (04-21-80); Amended DP Information (06-06-80); Voir Dire (07-08-80, 07-09-80, 07-10-80); Jury Trial (07-14-80, 07-15-80, 07-16-80, 07-17-80); Verdict 07-17-80); DP Trial (07-17-80); Verdict 07-17-80); Habitual Offender Sentencing Hearing (07-17-80); Verdict (07-17-80); Court Sentencing (08-25-80).

**Conviction:** Murder, Felony-Murder, Robbery (A Felony), Conspiracy to Commit Robbery (A Felony), Habitual Offender (Trifurcated Trial)

**Sentencing:** August 25, 1980 (Death Sentence, 90 years, 30 years 30 years, consecutive)

**Aggravating Circumstances:** b (1) Robbery  
b (7) Convicted of another murder on 05-09-80.

**Mitigating Circumstances:** 21 years old at the time of the murder  
beer and marijuana intoxication  
stealing, dealing drugs all his life  
abandoned by his father at age 11  
lived in poverty  
his younger brothers are also in trouble with the law

**Direct Appeal:** Larry Williams v. State, 430 N.E.2d 759 (Ind. January 19, 1982) (1280-S-443)  
Conviction Affirmed 5-0 DP Affirmed 3-2  
Hunter Opinion; Givan, Pivarnik concur; Debruler, Prentice dissent.  
For Defendant: Jere I. Humphrey, Plymouth  
For State: Palmer K. Ward, Deputy Attorney General (Pearson)  
Williams v. Indiana, 103 S.Ct. 33 (1982) (Appeal dismissed)  
Williams v. Indiana, 103 S.Ct. 479 (1982) (Rehearing denied)

**PCR:** PCR Petition filed 03-25-83.  
State's Answer to PCR Petition filed.  
PCR Hearing 09-12-84.  
Special Judge Donald D. Martin  
For Defendant: Paul Levy, Deputy Public Defender (Carpenter)  
For State: Ralph R. Huff  
04-08-85 PCR Petition denied.

Williams v. State, 525 N.E.2d 1238 (Ind. July 8, 1988) (985-S-372)  
(Appeal of PCR denial by Special Judge Donald D. Martin)  
Conviction Affirmed 5-0 DP Vacated 4-1  
(Remanded due to jury instructions using "should" instead of "may" recommend death; Habitual Offender sentence also vacated)  
Shepard Opinion; Debruler, Givan, Dickson concur; Pivarnik dissents.  
For Defendant: Paul Levy, Deputy Public Defender (Carpenter)  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)

**On Remand:** DP Jury Sentencing Hearing - Voir Dire (08-19-91, 08-20-91, 08-21-91, 08-22-91)  
Jury Trial (08-22-91) Mistrial declared by agreement based on juror "misconduct."  
01-27-92 State withdraws DP request  
02-28-92 Guilty Plea, Sentencing.  
New DP Sentencing Hearing conducted and aborted by mistrial on grounds of juror misconduct.  
State withdrew request for death sentence. LaPorte County Circuit Court Judge Robert S. Gettinger sentenced Williams to consecutive terms of 60 years (Murder), 30 years (Robbery), and 30 years (Conspiracy to Robbery) totaling 120 years imprisonment.  
For Defendant: Donald W. Pagos  
For State: Ralph R. Huff, Fred R. Jones

Williams v. State, 619 N.E.2d 569 (Ind. 1993) (46S00-9206-CR-503)  
(Appeal after remand and imposition of 120 year sentence; Affirmed)

WILLIAMS DIED (AT 53 YEARS OF AGE) IN THE INDIANA DEPARTMENT OF CORRECTIONS ON AUGUST 27, 2011 WHILE SERVING 120 YEAR TERM OF IMPRISONMENT.

## WISEHART, MARK ALLEN # 21

OFF DEATH ROW SINCE 05-10-05  
DOB: 11-21-1962 DOC#: 22622 White Male

Madison County Superior Court  
Judge Thomas Newman, Jr.

**Trial Cause #:** 3SCR-82-204

**Prosecutor:** William F. Lawler, Jr.

**Defense:** Garry Miracle

**Date of Murder:** October 9, 1982

**Victim(s):** Marjorie Johnson W / F / 61 (No relationship to Wisehart)

**Method of Murder:** stabbing with butter knife

**Summary:** Anderson Police received an anonymous call to go to a certain apartment where they would find a body. Police did so and found the body of 61 year old Marjorie Johnson. Her clothing was torn and wrapped around her mid-section, her head was beaten and bloody, and there were 13 stab wounds in her chest area. Johnson was a regular visitor to the Christian Center, where Wisehart resided. Another resident testified that Wisehart had sent a letter to Johnson before the murder, talking about going to old people's houses and robbing them. Upon his arrest, Wisehart gave a confession, admitting that he had stabbed Johnson several times with several weapons, punching her with his fist, and striking her in the head with a whiskey bottle. He stated he took \$14 and admitted he was the one who tipped off police.

**Trial:** Information/PC for Murder and DP filed (10-18-82); Insanity Defense filed (11-12-82); Competency Hearing (04-11-83); Motion for Speedy Trial (06-14-83); Voir Dire (08-16-83, 08-17-83, 08-18-83); Jury Trial (08-18-83, 08-19-83, 08-23-83, 08-24-83, 08-25-83, 08-26-83, 08-27-83); Verdict (08-27-83); DP Trial (10-16-98, 10-19-98, 10-20-98); Verdict (10-20-98); Court Sentencing (09-29-83).

**Conviction:** Murder, Robbery (A Felony), Burglary (B Felony), Theft (D Felony)



Last Name First Name  
WISEHART MARK

**Sentencing:** September 26, 1983 (Death Sentence)

**Aggravating Circumstances:** b (1) Burglary, Robbery

**Mitigating Circumstances:** None

**Direct Appeal:** Wisheart v. State, 484 N.E.2d 949 (Ind. October 31, 1985) (384-S-89)  
Conviction Affirmed 4-1 DP Affirmed 4-1  
Pivarnik Opinion; Givan, Prentice, Shepard concur; Debruler dissents.  
For Defendant: Garry W. Miracle, Anderson  
For State: Joseph N. Stevenson, Deputy Attorney General (Pearson)  
Wisheart v. Indiana, 106 S.Ct. 2929 (1986) (Cert. denied)

**PCR:** PCR Petition filed 05-25-90. Amended PCR filed 02-17-94, 05-12-94.  
State's Answer to PCR Petition filed 04-13-94.  
PCR Hearing 04-13-94, 04-14-94, 04-15-94, 04-18-94, 04-21-94, 04-22-94, 5-05-94.  
Special Judge Thomas G. Wright  
For Defendant: Thomas C. Hinesley, Janet S. Downling, J. Jeffreys Merryman, Jr.,  
Deputy Public Defenders (Carpenter)  
For State: William F. Lawler, Jr.  
06-27-94 PCR Petition denied.

Wisheart v. State, 693 N.E.2d 23 (Ind. 1998) (48S00-9005-PD-378)  
(Appeal of PCR denial by Special Judge Thomas G. Wright)  
Affirmed 5-0; Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Thomas C. Hinesley, Janet S. Downling, J. Jeffreys Merryman, Jr.,  
Deputy Public Defenders (Carpenter)  
For State: James A. Joven, Deputy Attorney General (P. Carter)  
Wisheart v. Indiana, 119 S.Ct. 1338 (1999) (Cert. denied)

**Habeas:** 07-28-98 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
10-06-98 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.  
Mark A. Wisheart v. Cecil Davis, Superintendent (IP 01-C- 864-M/S)  
Judge Larry J. McKinney  
For Defendant: Alan M. Freedman, Evanston, IL, Rhonda Long-Sharp, Indianapolis  
For State: Michael A. Hurst, Thomas D. Perkins, Deputy Attorneys General (S. Carter)  
04-27-99 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
10-15-99 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
12-12-04 Writ of Habeas Corpus denied.  
04-08-04 Certificate of Appealability granted in part.

Wisheart v. Davis, 408 F.3d 321 (7th Cir. May 10, 2005) (04-1632).  
(Appeal of Habeas Denial; Reversed 3-0)  
Judgment vacated by Seventh Circuit "with directions that the State release Wisheart, retry him, or conduct a further postconviction hearing addressed to the issue of jury bias." (10 years after trial, juror gave defense an affidavit stating that during trial he "heard" that trial was delayed so Wisheart could take polygraph. Juror did not know from whom he "heard" it, and did not know results of polygraph).  
Opinion by Richard A. Posner; Joel M. Flaum, Diane P. Wood concur.  
For Defendant: Alan M. Freedman, Evanston, IL  
For State: Steve Carter, Indiana Attorney General  
Buss v. Wisheart, 126 S.Ct. 1617 (2006) (Cert. denied)

**On Remand:** Following granting of Habeas Corpus relief by the Seventh Circuit U.S. Court of Appeals in 2005 remanding the case back for further PCR proceedings on the issue of jury bias relating to polygraph evidence - On September 1, 2010, in the Madison County Superior Court Wisheart plead guilty pursuant to a Plea Agreement and was sentenced by Judge Dennis Carroll as follows: Ct I: Murder - 60 years; Ct II: Robbery (Class B Felony) - 15 years; Ct III: Burglary (Class B Felony) - 15 years; and Ct IV: Theft (Class D Felony) - 3 years; Counts II, III, and IV to run concurrently with each other but consecutive to Count I for a total sentence of 75 years executed at the Indiana Department of Correction. Credit from 10/16/1982.

For State: Madison County Prosecutor Tom Broderick

For Defense: Jeff Lockwood and Eric Koselke

- ▶ WISEHART (AT 58 YEARS OLD) WAS DISCHARGED FROM THE INDIANA DEPARTMENT OF CORRECTIONS ON JULY 19, 2020, AFTER SERVING ± 37 YEARS IN CUSTODY.

## **WOODS, DAVID LEON # 34**

EXECUTED BY LETHAL INJECTION 05-05-07 AT 1:35 AM EST.  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 08-07-1964 DOC#: 851765 White Male

Boone County Superior Court Judge Donald R. Peyton  
Venued from DeKalb County

**Trial Cause #:** SCR-84-160 (DeKalb County)  
S-7007 (Boone County)

**Prosecutor:** Paul R. Cherry, Ora A. Kincaid, III

**Defense:** Allen F. Wharry, Douglas E. Johnston, Charles C. Rhetts

**Date of Murder:** April 7, 1984

**Victim(s):** Juan Placencia H / M / 77 (Neighbor of Woods)

**Method of Murder:** stabbing with knife 21 times



**Summary:** Woods, Greg Sloan, and Pat Sweet went to the home of Juan Placencia in Garrett, Indiana to steal a television. Woods was armed with a knife. Sweet stayed in the yard, while Woods and Sloan rang the doorbell. When Placencia answered Woods immediately jumped in and stabbed him with the knife. When he fell back and asked for help, Woods then stabbed him again repeatedly and took money from his wallet. Woods and Sloan then carried out the television, hid it, and later sold it. They washed their clothes and threw the knife in the creek. When police arrived the next morning in response to a call of a man needing help, Woods was on the porch of Placencia's apartment complex crying and saying that he had gone there to use the telephone and found the body. While questioning Woods, his mother came to the scene and told police that she thought her son was involved in the murder. She consented to a search of her residence, which revealed a knife sheath and a stained towel. Woods was taken to the station and while preparations were being made for a polygraph, Woods broke down and gave a complete confession. Sloan testified at trial after entering a guilty plea to Aiding in Murder and was awaiting sentencing.

**Trial:** Information/PC for Murder filed (04-09-84); Amended Information for DP filed (04-12-84); Amended DP Information (04-26-84); Motion for Change of Venue (05-09-84, 05-31-84, 07-31-84); Change of Venue Granted (08-06-84); Amended Information filed (08-15-84); Voir Dire (02-19-85, 02-21-85, 02-22-85); Jury Trial (02-22-85, 02-23-85, 02-25-85, 02-26-85, 02-28-85, 03-01-85, 03-02-85); Verdict (03-02-85); DP Trial (03-04-85); Verdict (03-04-85); Court Sentencing (03-28-85).

**Conviction:** Murder, Robbery (A Felony)

**Sentencing:** March 28, 1985 (Death Sentence, 50 years)

**Aggravating Circumstances:** b (1) Robbery

**Mitigating Circumstances:** no prior criminal record  
19 years old at the time of the murder  
mistreated as a child  
raised in foster homes  
personality disorder

**Direct Appeal:** Woods v. State, 547 N.E.2d 772 (Ind. November 28, 1989) (885-S-343)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Cheryl L. Greiner, Deputy Attorney General (Pearson)

Woods v. State, 557 N.E.2d 1325 (Ind. November 23, 1990) (On Rehearing)  
Affirmed 5-0; Debruler Opinion; Shepard, Givan, Pivarnik, Dickson concur.  
For Defendant: David P. Freund, Deputy Public Defender (Carpenter)  
For State: Cheryl L. Greiner, Deputy Attorney General (Pearson)  
Woods v. Indiana, 111 S.Ct. 2911 (1991) (Cert. denied)

**PCR:** PCR Petition filed 05-06-94. Amended PCR filed 06-21-94.  
State's Answer to PCR Petition filed 07-25-94.  
PCR Hearing 01-06-96, 01-17-96, 01-18-96, 01-19-96.  
Special Judge David Ault  
For Defendant: David C. Stebbins, Columbus, OH, Joe Keith Lewis, Marion  
For State: Eugene Bosworth  
04-15-96 PCR Petition denied.

Woods v. State, 701 N.E.2d 1208 (Ind. November 3, 1998) (06S00-9403-PD-224)  
(Appeal of PCR denial by Special Judge David Ault)  
Affirmed 5-0; Boehm Opinion; Shepard, Dickson, Sullivan, Selby concur.  
For Defendant: David C. Stebbins, Columbus, OH, Joe Keith Lewis, Marion  
For State: James D. Dimitri, Deputy Attorney General (Modisett)  
Woods v. Indiana, 120 S.Ct. 150 (1999) (Cert. denied)

Woods v. State, 863 N.E.2d 301 (Ind. March 26, 2007) (06S00-0612-SD-544)  
(Motion for Leave to file Successive PCR on issues of mental retardation and conflict of interest with PCR attorneys)  
Denied 5-0; Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.  
Woods v. Indiana, 127 S.Ct. 2159 (2007) (Cert. / Stay denied)

**Habeas:** 04-14-99 Notice of Intent to File Petition for Writ of Habeas Corpus filed.  
12-02-99 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

David Leon Woods v. Rondale Anderson, Superintendent (IP 99-C- 0520-M/S)  
Judge Larry J. McKinney  
For Defendant: William Van Der Pol, Jr., Martinsville, Teresa Harper, Bloomington  
For State: Michael A. Hurst, Stephen R. Creason, Deputy Attorneys General (S. Carter)

04-27-00 Respondent's Return and Memorandum filed in opposition to Writ of Habeas Corpus.  
03-31-03 Petitioner's Reply and Memorandum filed in support of Writ of Habeas Corpus.  
02-02-04 Writ of Habeas Corpus denied.

Woods v. Anderson, 302 F.Supp.2d 915 (S.D. Ind. February 2, 2004) (IP99-0520-C-M/S)  
(Order of U.S. District Court Judge Larry J. McKinney, Southern District of Indiana, denying Writ of Habeas Corpus.)

For Defendant: William Van Der Pol, Jr., Martinsville, Teresa Harper, Bloomington

For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Woods v. McBride, 430 F.3d 813 (7th Cir. November 30, 2005) (04-1776)  
(Appeal of denial of Writ of Habeas Corpus)

Affirmed 3-0; Opinion by Circuit Judge Michael S. Kanne .

Judge William J. Bauer and Judge Terence T. Evans concur.

For Defendant: William Van Der Pol, Jr., Martinsville, Teresa Harper, Bloomington

For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

Woods v. Buss, 127 S.Ct. 2160 (2007) (Cert. / Stay denied)

Woods v. Buss, \_\_\_ F.3d \_\_\_, 2007 WL 1302114 (7th Cir. May 2, 2007) (07-1951)  
(Stay / Certificate of Appealability denied)

Woods v. Buss, \_\_\_ F.3d \_\_\_, 2007 WL 1302119 (7th Cir. May 3, 2007) (07-2001)  
(Stay / Injunction denied; Challenge to lethal injection method of execution)

WOODS WAS EXECUTED BY LETHAL INJECTION 05-05-07 AT 1:35 AM EST. AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 88TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 18TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

## WRINKLES, MATTHEW E. # 82

EXECUTED BY LETHAL INJECTION 12-11-09 AT 12:39 AM CST  
AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA.

DOB: 01-03-1960 DOC#: 952132 White Male

Vanderburgh County Circuit Court  
Judge Richard L. Young

**Trial Cause #:** 82CO1-9407-CF00447

**Date of Murder:** July 21, 1994

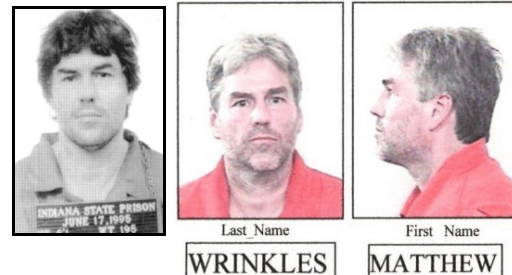
**Method of Murder:** shooting with .357 handgun

**Defense:** Michael J. Danks, Dennis A. Vowels

**Prosecutor:** Stanley M. Levco, Mary Margaret Lloyd

**Victim(s):** Debbie Wrinkles W / F / 31 (Wife)  
Tony Fulkerson W / M / 28 (Brother of Debbie);  
Natalie Fulkerson W / F / 26 (Wife of Tony)

**Summary:** After continuous marital problems with her husband Matthew Wrinkles, Debbie moved out of the house with their two children, going to live with Debbie's brother, Tony, and his wife, Natalie, on Tremont Drive in Evansville. Twice in the past Wrinkles had threatened Debbie with a gun. Soon after, Wrinkles filed for divorce. His mother was concerned about his behavior and had him committed. After three days of evaluation, he was released. In the next two weeks, despite a



Protective Order in effect, Wrinkles went looking for Debbie. He showed up at her place of employment, and at the homes of two of her friends, dressed up in camouflage demanding to see her. He was unsuccessful each time. On July 20, 1994 Wrinkles, Debbie and their attorneys met for a provisional hearing in their divorce proceeding. They reached an agreement to set aside the Protective Order, and for Wrinkles to have visitation. They also agreed for Debbie to meet Wrinkles with the kids at a restaurant later that day. Debbie decided not to show up for the meeting. Later that night, Wrinkles again dressed up in camouflage and drove to the home of Tony Fulkerson, where Debbie and the kids were staying. He parked a block away, cut the telephone wires, and kicked in the back door. He was armed with a .357 handgun and a knife. When he was finished, Natalie was dead on the front porch with a gunshot wound to her face; Tony was dead in the bedroom with four gunshot wounds; Debbie was dead in the hallway with a gunshot wound to her chest/shoulder area. One of the children (Lindsay) saw her father shoot her mother, then attempt CPR. Lindsay told him she was going to call police, and he fled from the house. Wrinkles was later arrested at the home of his cousin, where the .357 murder weapon was recovered.

**Trial:** Information/PC for Murder filed (07-21-94); Amended Information for DP filed (07-28-94); Voir Dire (05-11-95, 05-12-95, 05-13-95); Jury Trial (05-15-95, 05-17-95, 05-18-95, 05-19-95); Verdict (05-19-95); DP Trial (05-20-95); Verdict (05-20-95); Court Sentencing (06-14-95).

**Conviction:** Murder, Murder, Murder

**Sentencing:** June 14, 1995 (Death Sentence)

**Aggravating Circumstances:** b (8) 3 murders

**Mitigating Circumstances:** no significant history of criminal conduct  
methamphetamine intoxication at time of murders  
extreme emotional disturbance  
grew up in dysfunctional family causing emotional instability

**Direct Appeal:** Wrinkles v. State, 690 N.E.2d 1156 (Ind. December 31, 1997) (82S00-9408-DP-741)  
Conviction Affirmed 5-0 DP Affirmed 5-0  
Sullivan Opinion; Shepard, Dickson, Selby, Boehm concur.  
For Defendant: Michael C. Keating, Michael J. Danks, Evansville  
For State: James D. Dimitri, Deputy Attorney General (P. Carter)  
Wrinkles v. Indiana, 119 S.Ct. 148 (1998) (Cert. denied)

**PCR:** PCR Petition filed 12-01-98. Amended PCR filed 04-01-99, 07-01-99.  
State's Answer to PCR Petition filed 02-26-99, 05-03-99; PCR Hearing 08-09-99, 08-10-99, 08-11-99.  
Vanderburgh Circuit Court Judge Carl A. Heldt  
For Defendant: Joanna Green, Laura L. Volk, Linda Hughes, Deputy Public Defenders (Carpenter)  
For State: Rosemary Boreck, Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)  
09-03-99 PCR Petition denied.

Wrinkles v. State, 749 N.E.2d 1179 (Ind. June 29, 2001) (82S00-9803-PD-170)  
(Appeal of denial of PCR by Vanderburgh Circuit Court Judge Carl A. Heldt)  
Affirmed 5-0; Rucker Opinion; Shepard, Dickson, Sullivan, Boehm concur.  
For Defendant: Joanna Green, Laura L. Volk, Linda Hughes, Deputy Public Defenders (Carpenter)  
For State: Thomas D. Perkins, Deputy Attorney General (Freeman-Wilson)  
Wrinkles v. Indiana, 122 S.Ct. 1610 (2002) (Cert. denied)

Wrinkles v. State, 776 N.E.2d 905 (Ind. October 15, 2002) (82S00-0207-SD-407)  
(Indiana Supreme Court Order denying successive PCR)  
5-0 Shepard Opinion; Dickson, Sullivan, Boehm, Rucker concur.

Wrinkles v. State, 915 N.E.2d 963 (Ind. November 03, 2009) (82S00-0905-SD-249)  
Vanderburgh Circuit Court 82C01-94-7-CF-447.

(Indiana Supreme Court Order denying successive PCR regarding stun belt 4-1)

Shepard Opinion; Dickson, Sullivan, Rucker concur; Boehm Dissents to authorize a Successive PCR hearing on the stun belt issue.

**§ 1983:** Wrinkles, et al. v. Davis, 311 F.Supp.2d 735 (N.D. Ind. March 17, 2004)

§ 1983 action by Wrinkles, Lambert, Saylor, and Rastafari challenging 79 day lockdown of death row at Michigan City after inmate was killed, seeking damages and injunction for depriving them of access to telephones, hygiene services, hot meals, exercise, visitors. - Held; All claims dismissed except for possible 8th Amendment violation for confinement without exercise.

**Habeas:** 11-02-01 Notice of Intent to File Petition for Writ of Habeas Corpus filed.

07-25-02 Petition for Writ of Habeas Corpus filed in U.S. District Court, Northern District of Indiana.

Matthew Eric Wrinkles v. Rondle Anderson, Superintendent (IP 01-C- 1668-T/K)

Judge John D. Tinder

For Defendant: Joseph M. Cleary, Rhonda Long-Sharp, Indianapolis

For State: Thomas D. Perkins, Deputy Attorney General (S. Carter)

05-18-05 Writ of Habeas Corpus denied by Judge John D. Tinder.

Wrinkles v. Buss, 537 F.3d 804 (7th Cir. August 12, 2008) (05-2747)

(Appeal of denial of Writ of Habeas Corpus)

Affirmed 3-0; Opinion by Judge Michael S. Kanne .

Judge Ilana Diamond Rovner and Judge Joel M. Flaum concur.

For Defendant: Joseph M. Cleary, Rhonda Long-Sharp, Indianapolis

For State: Andrew K. Kobe, Deputy Attorney General (S. Carter)

Wrinkles v. Levenhagen, 129 S.Ct. 2382 (May 18, 2009) (Cert. Denied)

WRINKLES WAS EXECUTED BY LETHAL INJECTION 12-11-09 AT 12:39 AM CST AT THE INDIANA STATE PRISON, MICHIGAN CITY, INDIANA. HE WAS THE 90TH CONVICTED MURDERER EXECUTED IN INDIANA SINCE 1900 AND 20TH SINCE THE DEATH PENALTY WAS REINSTATED IN 1977.

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