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SUPERIOR COURT OF WASHINGTON FOR CLALLAM COUNTY

DAROLD STENSON,)	NO. 93-1-00039-1
)	
Petitioner,)	
)	MOTION FOR ORDER REQUIRING
vs.)	PRESERVATION OF EVIDENCE
)	
STATE OF WASHINGTON,)	
)	Noted for: October 17, 2008 at
Respondent.)	1:30 p.m.
)	
_____)	

Petitioner Darold Stenson, a death sentenced defendant, requests that this Court order that any evidence that is in the State’s possession or control that is related to the investigation or prosecution of Mr. Stenson in this case be preserved during the pendency of Mr. Stenson’s motion for DNA testing and any appeal that arises out of it, regardless of whether Mr. Stenson has currently requested DNA testing of that particular evidence.

On August 21, 2008, Mr. Stenson moved this Court for an order for DNA testing of enumerated items pursuant to RCW 10.73.170, the Fifth, Eighth and Fourteenth Amendments to the United States Constitution, and Article 1, sections 3 and 14 of the Washington State Constitution. In the interests of justice, and to ensure the integrity of

1 the evidence that is the subject of this pending motion, Mr. Stenson asks that this Court
2 enter an order requiring the preservation of the evidence in the condition in which it was
3 found, pending the final resolution of this action.

4 As set forth in Mr. Stenson's Motion for DNA testing, the advances in DNA
5 testing and technology since the time of Mr. Stenson's trial have been great. The
6 evidence needs to be reexamined with modern forensic methods. Any DNA test results
7 showing the presence of an unexplained other person would point toward such a person
8 as the real perpetrator, and Mr. Stenson's death sentence and conviction would be called
9 into doubt.

10 Because the preservation of the evidence is critical to the motion, Mr. Stenson
11 respectfully asks this Court to order the State to preserve all evidence that is in the
12 State's possession or control that is related to the investigation or prosecution of Mr.
13 Stenson in this case during the pendency of Mr. Stenson's motion for DNA testing and
14 any appeal that arises out of it.

15 DATED this 3rd day of October, 2008.

16 Respectfully submitted,

17 _____
18 Robert H. Gombiner
19 Attorney for Darold Stenson

20 _____
21 Sheryl Gordon McCloud
22 Attorney for Darold Stenson

1 **CERTIFICATE OF SERVICE**

2 I certify that I mailed, by U.S. Mail, first class, a copy of the foregoing
3 document to Deborah S. Kelly, Clallam County Prosecuting Attorney at 223 East Fourth
4 Street, Suite 11, Port Angeles, Washington 98362, on October 3, 2008.

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8 Robert H. Gombiner
9 Attorney for Darold Stenson
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