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JUDGE KENNETH WILLIAMS

IN THE SUPERIOR COURT OF WASHINGTON FOR CLALLAM COUNTY

DAROLD STENSON,

Petitioner,

vs.

STATE OF WASHINGTON,

Respondent.

) NO. 93-1-00039-1

) PETITIONER'S MOTION FOR
) RECONSIDERATION AND STAY OF
) EXECUTION

FACTS

On the morning of November 21, 2008 this Court heard argument on Mr. Stenson's motion for DNA testing and motion for a stay. On the afternoon of that same day, Robert Shinn walked into the probation department and told his probation officer that he needed to talk to him about Mr. Stenson's case. Mr. Shinn shortly thereafter made a tape recorded interview with the Clallam County prosecutor, Deborah Kelly, and Clallam County Sheriff Ron Cameron. The prosecutor notified the defense that Mr. Shinn had made a statement and e-mailed a digital copy of the tape recorded interview. A copy of the recording has been e-mailed to the Court along with this motion. Exhibit 1.

1 In the interview, Mr. Shinn states that Mr. Stenson has been framed for the
2 murders for which he has been convicted and that the murders were committed as part of
3 an attempt by a group of individuals to steal valuable items belonging to Mr. Stenson,
4 particularly samurai swords. Mr. Shinn states that he learned this information from
5 John Linninger and that the individuals involved in the plan to steal the items included
6 John Linninger, his twin brother Tom, Ennis Caynor, Pat Nelson, Simone Nelson, and
7 Tanya Chapman. He says that the conversation with Mr. Linninger occurred about 8
8 years ago while both men were high on drugs and that he came forward at this time
9 because he learned from a television news story that Mr. Stenson was about to be
10 executed. Mr. Shinn does not know Mr. Stenson. He did not ask the prosecutor or the
11 police for anything in exchange for his statement.

12 I spoke with Deborah Kelly on November 22, 2008. Ms. Kelly told me that the
13 police had located Mr. Linninger and spoken with him. My understanding of what Ms.
14 Kelly told me is that Mr. Linninger stated that while under the influence of drugs he may
15 have made the statements attributed to him by Mr. Shinn but that he denied their truth. I
16 also understood that Mr. Linninger said that he knew Mr. Stenson because he had
17 worked for another person who, like Mr. Stenson, raised rare birds. Ms. Kelly told me
18 that she would send me police reports and/or recordings of the police contact with Mr.
19 Linninger but I have not received any such reports or recordings at this time and thus
20 have only limited knowledge of what Mr. Linninger may have said.

21 My investigator has attempted to determine the criminal records of the persons
22 named by Mr. Shinn. All of the individuals named by Mr. Shinn have extensive
23 criminal records. The records include convictions for possession of stolen property,
24 burglary, drug offenses, and weapons offenses.

1 **ARGUMENT**

2 Petitioner believes that this new information necessitates reconsideration of the
3 DNA motion and the grant of a stay of execution. An individual with no apparent
4 motive to fabricate or connection to Mr. Stenson has come forward and furnished new
5 information which if true is of enormous importance to the question of whether Mr.
6 Stenson committed the murders for which he is due to be executed just a few days from
7 now. He has given this information to the prosecution and police and furnished specific
8 names. Moreover, the person who Mr. Shinn gave him the information has not denied
9 that he did so, although he denies the truthfulness of such information.

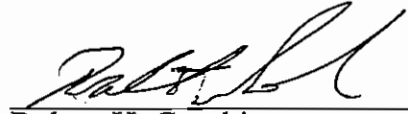
10 The evidence taken in Mr. Stenson's case can be tested to see if the DNA of
11 any of these persons is present. (The defense believes that most if not all of the persons
12 named by Mr. Shinn will have their DNA profiles contained in the Washington State
13 database). If it is present it would be of vital importance to exonerating Mr. Stenson.
14 Additionally there are currently unidentified fingerprints, including an unidentified print
15 on the coffee cup. Again, if prints of any of the persons named by Mr. Shinn are
16 discovered this would be of tremendous importance.

17 The choice is a stark one, whose significance cannot be overstated. If the
18 evidence is tested while Mr. Stenson is alive the results may both save a life and disclose
19 the identity of the real killer or killers. If the evidence is tested after Mr. Stenson is
20 executed, and the results turn out to exonerate Mr. Stenson, the consequences not only
21 for Mr. Stenson but for justice are dire and irrevocable. Ethical and legal considerations
22 alike favor

1 ordering testing and staying the execution until the testing can be performed and the
2 truth learned.

3 DATED this 23rd day of November, 2008.

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5 Respectfully submitted,

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7 _____
8 Robert H. Gombiner
9 Attorney for Darold R. J. Stenson
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CERTIFICATE OF SERVICE

I certify that on November 23, 2008 I sent by e-mail a copy of the foregoing document to Clallam County Prosecuting Attorney Deborah S. Kelly at: dkelly@co.clallam.wa.us; and Special Deputy Prosecuting Attorney Pamela Loginsky at: pamloginsky@waprosecutors.org.


Barbara Hughes

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JUDGE KENNETH WILLIAMS

SUPERIOR COURT OF WASHINGTON FOR CLALLAM COUNTY

DAROLD STENSON,)	NO. 93-1-00039-1
)	
Petitioner,)	
)	(PROPOSED) ORDER GRANTING
vs.)	PETITIONER'S MOTION FOR
)	RECONSIDERATION AND STAY OF
STATE OF WASHINGTON,)	EXECUTION
)	
Respondent.)	
_____)	

THE COURT having considered Darold Stenson's Motion for Reconsideration and a Stay of Execution, and the records and files herein, the Court hereby

ORDERS a stay of execution.

DONE this _____ day of _____, 2008.

 THE HONORABLE KENNETH WILLIAMS
 CLALLAM COUNTY SUPERIOR COURT JUDGE

(PROPOSED) ORDER GRANTING
 PETITIONER'S MOTION FOR
 STAY OF EXECUTION

FEDERAL PUBLIC DEFENDER
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Presented by:
s/ Robert H. Gombiner
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Federal Public Defender's Office
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(PROPOSED) ORDER GRANTING
PETITIONER'S MOTION FOR
STAY OF EXECUTION