

## DECLARATION OF MATTHEW RUBENSTEIN REGARDING THE APPOINTMENT OF OUT-OF-DISTRICT COUNSEL IN FEDERAL CAPITAL CASES

1. I am an attorney in the federal public defender program specializing in the defense of federal capital prosecutions<sup>1</sup> and I collaborate closely with the Federal Capital Trial Project.<sup>2</sup> I

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<sup>1</sup> I have been representing capital defendants at trial since 1999, exclusively federal capital defendants since 2010, and have tried three capital cases through verdict, lead voir dire in another fifteen capital cases, personally assisted counsel during capital jury selection in eight capital trials, and assisted defense teams and prepared counsel for capital jury selection in six other federal cases. Twenty of these thirty-two cases were federal capital prosecutions. Since 2010 I have been a full-time staff attorney in the federal defender program representing federal capital defendants and assisting federal capital defense teams. In 2025 I joined the Office of the Federal Public Defender for the District of Maryland where I continue my work defending capital defendants in the District of Maryland and in other districts.

I have appeared as counsel in the following federal capital trials (*United States v. Robert Bowers*, No. 2:18-CR-00292 (W.D. Pa. 2023) (jury selection); *United States v. Brendt Christensen*, No. 2:17-CR-20037 (C.D. Ill. 2019) (jury selection); *United States v. Gary Sampson*, No. 01-10384-LTS (D. Mass. 2016) (jury selection); *United States v. Wesley Coonce*, No. 6:10-cr-03029-GAF (W.D. Mo. 2014) (trial); *United States v. Connell C. Williams*, No. 11-0298-F (W.D. Okla. 2013) (jury selection); and *United States v. Larry Lujan*, No. 05-924 RB (D.N.M. 2011) (jury selection)); personally assisted counsel during capital jury selection in the following trials (*United States v. Sayfullo Saipov*, No. 1:17-cr-00722-VSB (S.D.N.Y. 2023); *United States v. Jessie Con-Ui*, No. 3:13-cr-00123-ARC (M.D. Pa. 2017); *United States v. Naeem Williams*, No. 1:06-cr-00079-JMS-KSC (D. Haw. 2014); *United States v. John McCluskey*, No. 1:10-cr-02734-JCH (D.N.M. 2013); *United States v. Alexis Candelario-Santana*, No. 3:09-cr-00427-JAF-1 (D.P.R. 2013); *United States v. Kaboni Savage, et al.*, No. 2:04-cr-00269-MAK (E.D. Pa. 2012); *United States v. Brian Richardson*, No. 1:08-cr-139-CC (N.D. Ga. 2012); and *United States v. Anh The Duong*, No. 01-cr-20154-JF (N.D. Cal. 2010)); and assisted defense teams and prepared counsel for capital jury selection in the following cases (*United States v. John Pearl Smith, III*, No. 3:16-CR-00086-SLG-DMS (D. Alaska 2021) (de-auth and settled prior to trial); *United States v. Jarvis Wayne Madison*, No. 6:17-cr-00015-RBD (M.D. Fla. 2021) (entry of appearance pending when case de-auth and settled prior to trial); *United States v. Brandon Council*, No. 4:17-cr-00866-RBH (D.S.C. 2019); *United States v. Donald Fell*, No. 5:01-cr-00012-GWC (D. Vt. 2018) (appeared as counsel, de-auth and settled prior to trial); *United States v. David Hammer*, No. 4:96-CR-239-JHS (M.D. Pa. 2014) (entry of appearance pending when case proceeded as bench trial); and *United States v. Ritz Williams*, No. 4:08-cr-00070-YK (M.D. Pa. 2013) (entry of appearance pending when case de-auth and settled prior to trial)).

<sup>2</sup> The work of the Trial Project is described in a report prepared by the Subcommittee on Federal Death Penalty Cases, Committee on Defender Services, Judicial Conference of the United States, *Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation* (May 1998), at 28 – 30, [http://www.uscourts.gov/sites/default/files/original\\_spencer\\_report.pdf](http://www.uscourts.gov/sites/default/files/original_spencer_report.pdf) [Perma.cc archive: <https://perma.cc/SU25-GWMV>]. The Subcommittee report “urges the judiciary and counsel to maximize the benefits of the Federal Death Penalty Resource Counsel Project . . . , which has become essential to the delivery of high quality, cost-effective representation in death penalty cases . . . .” *Id.* at 50.

joined the Trial Project in 2010 as a Capital Resource Counsel attorney and was the Director of the Capital Resource Counsel (CRC) project from 2015 to 2025. The Capital Resource Counsel and the Federal Death Penalty Resource Counsel (FDPRC) projects comprise the Federal Capital Trial Project (or “Trial Project”).<sup>3</sup> Established in early 1992, a core function of the Trial Project is to provide consultation, training, and assistance to counsel and courts to improve the quality of representation and the cost-effectiveness of defense services in federal capital prosecution cases. The Trial Project is funded and administered by the Defender Services Office of the Administrative Office of the United States Courts.

2. In my ongoing collaboration with the Federal Capital Trial Project, my responsibilities include reviewing all federal capital prosecutions throughout the United States and overseeing the collection of data on the initiation and prosecution of federal capital cases.<sup>4</sup>

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An update to the Report states: “Many judges and defense counsel spoke with appreciation and admiration about the work of Resource Counsel. Judges emphasized their assistance in recruiting and recommending counsel for appointments and their availability to consult on matters relating to the defense, including case budgeting. Defense counsel found their knowledge, national perspective, and case-specific assistance invaluable.” *Report to the Committee on Defender Services, Judicial Conference of the United States, Update on the Cost and Quality of Defense Representation in Federal Death Penalty Cases* (September 2010) at 63. <https://www.uscourts.gov/sites/default/files/fdpc2010.pdf> [Perma.cc archive: <https://perma.cc/LPH6-K8QB>].

<sup>3</sup> The Trial Project assigns a CRC or FDPRC attorney to work with the defense team in every federal capital eligible case as a “resource counsel.” In their role as resource counsel, the CRC attorneys (full-time salaried federal defender staff) and FDPRC attorneys (part-time contractors) are not counsel of record; rather, they provide advice, assistance, and helpful information and resources to the defense team. In addition to their work as resource counsel, the CRC attorneys often serve as death-qualified “learned” counsel as part of their Project responsibilities; and the FDPRC attorneys are often appointed to serve as “learned” counsel as CJA counsel outside their role with the Project.

<sup>4</sup> In order to carry out the duties entrusted to me, I rely on the data gathered by Kevin McNally who served as Resource Counsel with FDPRC since the inception of the Trial Project in January 1992, served as the Director of FDPRC between 2007 and 2018, and continued overseeing the collection of data on the initiation and prosecution of federal capital cases until 2024 when I took over this responsibility. This information is gathered from a variety of sources including PACER case dockets and case filings, transcripts, the Administrative Office of the United States Courts, Department of Justice press releases, Federal Defender offices and CJA counsel, and information gathered by and received from Federal Capital Trial Project Resource Counsel. This information is regularly updated and checked for accuracy. The Project’s information regarding federal capital prosecutions has been relied upon by the Administrative Office of the United States Courts, by the Federal Judicial Center and by various federal district courts.

3. Pursuant to these responsibilities and my collaboration, I have compiled information in the regular course of the business of the Federal Capital Trial Project regarding the appointment of out-of-district counsel in federal capital cases.

4. There is ample precedent for appointment of out-of-state counsel in federal death penalty cases under the Criminal Justice Act going back as far as 1992. *See e.g., United States v. Cheely*, 790 F. 2d 901, 908-909 (D. Alaska 1992) (appointing out-of-state attorney with capital litigation experience).

5. Out of state counsel have been appointed in numerous federal capital prosecutions in jurisdictions which did not have an established state capital defense bar or had a limited capital

defense bar, such as Alaska,<sup>5</sup> District of Columbia,<sup>6</sup> Hawaii,<sup>7</sup> Idaho,<sup>8</sup> Iowa,<sup>9</sup> Massachusetts,<sup>10</sup> Michigan,<sup>11</sup> Minnesota,<sup>12</sup> New Mexico,<sup>13</sup> New York,<sup>14</sup> North Dakota,<sup>15</sup> Puerto Rico,<sup>16</sup> Rhode

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<sup>5</sup>*United States v. Cheely*, No. 3:92-CR-00073-KS (D. Alaska); *United States v. James Wells*, No. 3:13-CR-00008-RRB-JDR (D. Alaska); *United States v. John Pearl Smith*, No. 3:16-CR-00086-SLG-DMS (D. Alaska) and *United States v. Kevin Glenn Peterson, II & Eraclio Sanchez-Rodriguez* No. 3:23-CR-00090-SLG-KFR (D. Alaska).

<sup>6</sup>*United States v. Zayd Safarini*, No. 1:91-CR-00504-EGS (D.D.C.); *United States v. William Sweeney*, No. 1:98-CR-00329-RCL (D.D.C.); *United States v. Tommy Edelin & Brian Bostic*, No. 1:98-CR-00264-RCL (D.D.C.); *United States v. Kevin Gray, et al.*, No. 1:00-CR-00157-RCL (D.D.C.) (11 defendants); *United States v. Kofi Orleans-Lindsay*, No. 1:00-CR-00440-CKK (D.D.C.); *United States v. Frances Karake*, No. 1:02-CR-256-ESH (D.D.C.); *United States v. Rico Thomas*, No. 1:10-CR-00171-JDB (D.D.C.); *United States v. Ahmed Abu Khatallah*, No. 1:14-CR-00141-CRC (D.D.C.).

<sup>7</sup>*United States v. Renee Beth Smith*, No. 1:97-CR-01151-DAE (D. Haw.); *United States v. Hector Lopez*, No. 1:97-CR-01117-ACK (D. Haw.); *United States v. Richard Lee Tuck Chong*, No. 1:98-CR-00416-ACK (D. Haw.); *United States v. Eugene Boyce*, No. 1:99-CR-00570-SOM-BMK (D. Haw.); *United States v. Lei Shi*, No. 1:02-CR-00116-HG-KSC (D. Haw.); *United States v. Naeem Williams*, No. 1:06-CR-00079-DAE (D. Haw.) and *United States v. Ailsa Jackson*, No. 1:15-CR-00293-SOM-KSC (D. Haw.).

<sup>8</sup>*United States v. Joseph Duncan*, No. 2:07-CR-00023-EJL (D. Idaho).

<sup>9</sup>*United States v. Anousoune Soukarith*, No. 4:95-CR-00078-CRW (S.D. Iowa); *United States v. Ramiro Astello*, No. 3:97-CR-03008-MWB (N.D. Iowa); *United States v. Christopher Kaufman, et al.*, No. 4:97-CR-00092-CRW (S.D. Iowa) (3 defendants); *United States v. Angela Johnson*, No. 3:01-CR-03046-MWB-LTS (N.D. Iowa) and *United States v. Dustin Honken*, No. 3:02-CR-03047-LTS-KEM (N.D. Iowa).

<sup>10</sup>*United States v. Gary Sampson*, No. 1:01-CR-10384-LTS (D. Mass.); *United States v. Brima Wurie*, No. 1:03-CR-10329-PBS (D. Mass.) and *United States v. Dzhokhar Tsarnaev*, No. 1:13-CR-10200-GAO (D. Mass.).

<sup>11</sup>*United States v. Reginald Brown, et al.*, No. 2:92-CR-81127 (E.D. Mich.) (four capital defendants); *United States v. David Lee Bishop*, No. 1:95-CR-00067-RAE (W.D. Mich.); *United States v. Efraim Garcia*, No. 2:97-CR-80727-NGE (E.D. Mich.); *United States v. Derrick Davis and Adelbert Dean*, No. 2:00-CR-80966-PJD (E.D. Mich.); *United States v. Marvin Gabrion*, No. 1:99-CR-00076-RHB (W.D. Mich.); *United States v. Milton Jones, et al.*, No. 2:01-CR-80571-MAG-DAS (E.D. Mich.) (three defendants); *United States v. David Daniel Serra*, No. 2:02-CR81158-AJT (E.D. Mich.); *United States v. Timothy O'Reilly*, No. 2:05-CR-80025-VAR-RSW (E.D. Mich.); *United States v. Deondre Byrd, et al.*, No. 2:06-CR-20335-AJT-DAS (E.D. Mich.) (three defendants); *United States v. Roy Christopher West*, No. 2:06-CR-20185-VAR-VMM (E.D. Mich.) (four defendants); *United States v. Derrick Young, et al.*, No. 2:06-CR-20411-RHC-SDP (E.D. Mich.) (five defendants); *United States v. Narayan Thadani, et al.*, No.

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2:08-CR-20290-GER-VMM (E.D. Mich.) (three defendants); *United States v. Mustafa Abdul-Qadir Al-Din, et al.*, No. 1:11-CR-00097-RJJ (W.D. Mich.) (five defendants) and *United States v. Darel King*, No. 4:24-CR-20265-FKB (E.D. Mich.).

<sup>12</sup>*United States v. Mosiah Wright and Christopher St. Aubyn Headley*, No. 0:99-CR-00086-PAM-AJB (D. Minn.); *United States v. Jeffrey Miller*, No. 0:99-CR-00260-DWF-AJB (D. Minn.); *United States v. Richard Ashton Oslund*, No. 0:03-CR-00151-JRT-FLN (D. Minn.) and *United States v. Tyvarus Lindsey and Rashad Raleigh*, No. 0:10-CR-00015-JNE-JJK (D. Minn.).

<sup>13</sup>*United States v. Benjamin Raymond and Travis Loren Dally*, No. 1:07-CR-00748-MCA (D.N.M.); *United States v. John Charles McCluskey, et al.*, No. 1:10-CR-02734-JCH (D.N.M.) (three defendants); *United States v. Joe Gallegos, et al.*, No. 2:15-CR-04268-KG (D.N.M.) (13 defendants); *United States v. Christopher Garcia and Anthony Cordova*, No. 2:16-CR-01613-JB (D.N.M.) and *United States v. Sheliky Sanchez*, No. 1:25-CR-03574-KWR (D.N.M.).

<sup>14</sup>*See, e.g., United States v. Thomas Pitera*, No. 1:90-CR-00424-RJD (E.D.N.Y.); *United States v. Dandeny Munoz-Mosquera*, No. 1:91-CR-01285-SJ (E.D.N.Y.); *United States v. Darryl Johnson*, No. 1:92-CR-00159-RJA (W.D.N.Y.); *United States v. Tyrone Walker and Walter Diaz*, No. 3:94-CR-00328-TJM (N.D.N.Y.); *United States v. Anthony Tabbita*, No. 1:95-CR-00754-SJ (E.D.N.Y.); *United States v. Jia Wu Chen, et al.*, No. 1:95-CR-00870-ERK (E.D.N.Y.) (four defendants); *United States v. Clarence Heatley*, No. 1:96-CR-00515-MBM (S.D.N.Y.); *United States v. Robert Mateo-Feliz*, No. 1:96-CR-00527-JBW (E.D.N.Y.); *United States v. Eladio Padilla*, No. 1:97-CR-00809-DC (S.D.N.Y.); *United States v. Deric Frank*, No. 1:97-CR-00269-DLC (S.D.N.Y.); *United States v. German Giraldo*, No. 1:97-CR-00342-ARR (E.D.N.Y.); *United States v. Vance Baker*, No. 9:97-CR-00877-DRH (E.D.N.Y.); *United States v. Juan Albeiro Monsalve*, No. 9:97-CR-00791-JS (E.D.N.Y.); *United States v. Rosie Baker*, No. 9:97-CR-00877-DRH (E.D.N.Y.); *United States v. Peter Rollack*, No. 1:97-CR-01293-MGC (S.D.N.Y.); *United States v. Chen Hang San*, No. 1:97-CR-00190-RJW (S.D.N.Y.); *United States v. David Prieto*, No. 1:97-CR-00696-SHS (S.D.N.Y.); *United States v. Daniel Berrios*, No. 7:98-CR-00290-CM (S.D.N.Y.); *United States v. Charles Michael Kee*, No. 1:98-CR-00778-DLC (S.D.N.Y.); *United States v. Victor Sanchez*, No. 1:98-CR-00968-BSJ (S.D.N.Y.); *United States v. Mohamed Rashed Daoud Al'Owhali & Khalfan Khamis Mohamed*, No. 1:98-CR-01023-LAK (S.D.N.Y.); *United States v. Anthony Greco*, No. 1:99-CR-01199-LMM (S.D.N.Y.); *United States v. Jamal Booth*, No. 1:99-CR-00378-VM (S.D.N.Y.); *United States v. Joseph Calco*, No. 1:99-CR-00520-ERK (E.D.N.Y.); *United States v. Michael Swango*, No. 9:00-CR-00728-JM (E.D.N.Y.); *United States v. Julius Williams*, No. 1:00-CR-00237-VM (S.D.N.Y.); *United States v. Derick McAllister*, No. 1:00-CR-00977-JGK (S.D.N.Y.); *United States v. Michael Williams and Elijah Bobby Williams*, No. 1:00-CR-01008-NRB (S.D.N.Y.); *United States v. Guillermo Benitez-Zapata*, No. 00-CR-01313 (E.D.N.Y.); *United States v. Anthony Rodriguez*, No. 1:00-CR-00949-DAB (S.D.N.Y.); *United States v. Carlos Lopez*, No. 1:00-CR-01085-JG (E.D.N.Y.); *United States v. Alan Quinones and Diego Rodriguez*, No. 1:00-CR-00761-JSR (S.D.N.Y.); *United States v. Jose Luis Rodriguez*, No. 2:00-CR-01272-JS (E.D.N.Y.); *United States v. Manuel Roman*, No. 1:01-CR-01110-GEL (S.D.N.Y.); *United States v. Anderson Pena*, No. 1:01-CR-01161-DAB (S.D.N.Y.); *United States v. Armando Molina and Gilberto Caraballo*, No. 1:01-CR-01367-RJD (E.D.N.Y.); *United States v. Freddy Abad*, No. 1:01-CR-00831-GBD (S.D.N.Y.); *United States v. Angel Cordero*, No. 1:01-CR-00074-SAS (S.D.N.Y.); *United States v. Luis Martinez*, No. 1:01-

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CR-00170-JBW (E.D.N.Y.); *United States v. Roberto Martinez-Martinez*, No. 1:01-CR-00307-RPP (S.D.N.Y.); *United States v. Angel D'Angelo*, No. 1:02-CR-00399-JG (E.D.N.Y.); *United States v. Frederick Jackson*, No. 1:02-CR-00756-LMM (S.D.N.Y.); *United States v. Albert Burgos*, No. 1:02-CR-01435-LAP (S.D.N.Y.); *United States v. Larry Williams*, No. 1:02-CR-01372-BSJ (S.D.N.Y.); *United States v. Julian Hall*, No. 1:03-CR-00910-CPS (E.D.N.Y.); *United States v. William Nagatsuka*, No. 1:03-CR-00734-DAB (S.D.N.Y.); *United States v. Aaron Granton*, No. 1:04-CR-00706-DGT (E.D.N.Y.); *United States v. Khalid Barnes*, No. 7:04-CR-00186-SCR (S.D.N.Y.); *United States v. Ronell Wilson*, No. 1:04-CR-01016-NGG (E.D.N.Y.); *United States v. Hisan Lee*, No. 1:07-CR-00003-BSJ (S.D.N.Y.); *United States v. Christian Gerold Tarantino*, No. 2:08-CR-00655-JS (E.D.N.Y.); *United States v. Vincente Carrillo-Fuentes*, No. 1:09-CR-00522-JMA (E.D.N.Y.); *United States v. Thomas Gioeli*, No. 1:10-CR-00240-NG (E.D.N.Y.); *United States v. Christian John and Shaquan Jones*, No. 1:11-CR-00405-FB-CLP (E.D.N.Y.); *United States v. Nicolas Maduro-Moros, et al.*, No. 1:11-CR-00205-AKH (S.D.N.Y.) (3 defendants); *United States v. Jose Alvarenga*, No. 2:12-CR-0063-JFP-WDW (E.D.N.Y.); *United States v. Jonathan Rodriguez and Marquis Wright*, No. 1:15-CR-00445-PAE (S.D.N.Y.); *United States v. Jaime Rivera*, No. 2:17-CR-0050-SJF (E.D.N.Y.); *United States v. Johana Alcantara*, No. 1:21-CR-00093-VM (S.D.N.Y.); *United States v. Jonathan Rodriguez*, No. 1:23-CR-00107-MKB (E.D.N.Y.); *United States v. Andrew Simpson & Devone Thomas*, No. 1:24-CR-00360-EK (E.D.N.Y.); *United States v. Moises Encarnacion*, No. 7:24-CR-00231-KMK (S.D.N.Y.); *United States v. Henry Josue Villatoro-Santos, et al.*, No. 2:25-CR-00209-GRB (E.D.N.Y.) (3 defendants) and *United States v. Precious Arzuaga & Jennifer Quijano* (W.D.N.Y.) (pre-indictment).

<sup>15</sup>*United States v. Alejandrino Angulo Guerrero*, No. 3:03-CR-00090-KES (D.N.D.); *United States v. Alfonso Rodriguez*, No. 04-CR-55-ALL (D.N.D.); *United States v. Michael Alan Petzold*, No. 3:05-CR-00101-RRE-ALL (D.N.D.) and *United States v. Martin Carillo*, (D. ND No. 3:06-CR-00014-RRE (D.N.D.)).

<sup>16</sup>*United States v. Gregorio Aponte-Lazu, et al.*, No. 3:95-CR-00235-DRD (D.P.R.) (6 defendants); *United States v. Jose Ramon Caraballo-Gonzalez, et al.*, No. 3:96-CR-00105-SEC (D.P.R.) (3 defendants); *United States v. Alexander Pinero Sotomayer*, No. 3:99-CR-00139-DRD (D.P.R.); *United States v. Morillo Espinal, et al.* No. 3:97-CR-00026-HL (D.P.R.) (4 defendants); *United States v. Manuel I. Medero-Rosario, et al.* No. 3:96-CR-00001-PG (D.P.R.) (4 defendants); *United States v. Omar Claudio Pantojas*, No. 3:96-CR-00075-CCC (D.P.R.); *United States v. Hanson Wilson-Millan*, No. 3:96-CR-00116-SEC (D.P.R.); *United States v. Ricardo Torres Galindo & Ricardo Guilbe Sanchez*, No. 3:97-CR-00052-DRD (D.P.R.); *United States v. Edgardo I. Mejias-Villalba, et al.*, No. 3:97-CR-00049-JAF (D.P.R.) (3 defendants); *United States v. Luis Antonio Velez-Martinez*, No. 3:97-CR-00191-CC (D.P.R.); *United States v. Victor Manuel Valle-Lassalle, et al.*, No. 3:97-CR-00284-JAF (D.P.R.) (5 defendants); *United States v. Edsel Torres Gomez*, No. 3:98-CR-00072-PG (D.P.R.); *United States v. Luis Gines Perez & Ricardo Melendez Perez*, No. 3:98-CR-00164-DRD (D.P.R.); *United States v. Joel Rivera Alejandro, et al.*, No. 3:99-CR-00044-JAG (D.P.R.) (4 defendants); *United States v. Juan J. Zuniga-Bruno*, No. 3:99-CR-00295-DRD (D.P.R.); *United States v. Angel Bernacett-Cosme*, No. 3: 99-CR-00346-ADC (D.P.R.); *United States v. Jose Ariel Cruz-Rivera*, No. 3:00-CR-00098-PG (D.P.R.); *United States v. Jose Garcia Ortiz*, No. 3:01-CR-00111-DRD (D.P.R.); *United States v. Samuel Santos-Ortiz*, No. 3:01-CR-00623-JAG (D.P.R.); *United States v. Lorenzo Catalan*

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*Roman*, No. 3:02-CR-00117-PG (D.P.R.); *United States v. Yamil Matos-Quinones & Jorge Alberto Ortiz-Feliciano*, No. 3:02-CR-00183-JAG); *United States v. Carlos Ayala-Lopez*, No. 3:03-CR-00055-ADC (D.P.R.); *United States v. Angel Fortez-Garcia, et al.*, No. 3:03-CR-00073-JAF-ALL (D.P.R.) (three defendants); *United States v. Eddie Rodriguez-Berrios, et al.*, No. 3:04-CR-00081-PG-ALL (D.P.R.) (three defendants); *United States v. Lashaun Casey*, No. 3:05-CR-0277-JAG (D.P.R.); *United States v. Edison Burgos-Montes*, No. 3:06-CR-00009-JAG-CVR (D.P.R.); *United States v. Samuel Ortiz-Garcia and Augustin Rodriguez-Adorno*, No. 3:07-CR-00248-FAB (D.P.R.); *United States v. Alexis Candelario-Santana & David Oquendo-Rivas*, No. 3:09-CR-00427-JAF (D.P.R.); *United States v. Jonathan Ortiz-Torres and Angel Santana-Espinet*, No. 3:10-CR-00138-GAG (D.P.R.); *United States v. Luis D. Rivera-Carrasquillo, et al.*, No. 3:12-CR-00200-JAF (D.P.R.) (3 defendants); *United States v. Javier Jiminez-Bencevi*, No. 3:12-CR-00221-JAF (D.P.R.); *United States v. Pedro-Vidal, et al.*, 3:16-CR-00778-GAG (D.P.R.) (5 defendants); *United States v. Javier Ortiz-Nieves*, No. 3:16-CR-00218-GAG (D.P.R.); *United States v. Jose Gautier-Medina, et al.*, No. 3:23-CR-00273-PAD (D.P.R.) (3 defendants); *United States Ronald Aponte-Marquez, et al.*, No. 3:23-CR-00273-PAD (D.P.R.) (4 defendants); *United States v. Javier Santos-Alejandro*, No. 3:25-CR-00330-CVR (D.P.R.); *United States v. Erik Carela-Aguila*, No. 3:25-CR-00422-MAJ (D.P.R.); *United States v. Gabriel Maunez-Ayala*, No. 3:25-CR-00330-CVR (D.P.R.) and *United States v. Jose Martinez-Serrano*, No. 3:24-CR-00133-ADC (D.P.R.).

Island,<sup>17</sup> South Dakota,<sup>18</sup> Tennessee,<sup>19</sup> Vermont,<sup>20</sup> Virgin Islands,<sup>21</sup> Washington,<sup>22</sup> West Virginia<sup>23</sup> and Wisconsin.<sup>24</sup>

6. District judges have also appointed out-of-state counsel when necessary in states which already had a home-grown capital defense bar. Note that a number of these states have since abolished the death penalty (Colorado (2020), Connecticut (2012), Illinois (2011), Maryland (2013), New Jersey (2007), New Mexico (2009), and Virginia (2021)) and as time has passed the skill and experience of the capital defense bar in many jurisdictions has become increasingly limited or non-existent. Out-of-state counsel was appointed in the following states

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<sup>17</sup>*United States v. George Sepulveda, et al.*, No. 1:95-CR-00075-S-DLM (D.R.I.) (five capital defendants) and *United States v. Sammie Sanchez*, No. 1:00-CR-00141-WES-LDA (D.R.I.).

<sup>18</sup>*United States v. Quinterius Charles Chappelle*, No. 5:25-CR-50056-CCT (D.S.D.).

<sup>19</sup>*United States v. Quinton Leavell, et al.*, No. 3:14-CR-00200 (M.D. Tenn.) (two capital defendants) and *United States v. Brian Lackland*, No. 2:25-CR-20122 (W.D. Tenn.).

<sup>20</sup>*United States v. Chris Dean*, No. 2:98-CR-00063 (D. Vt.); *United States v. Donald Fell*, No. 5:01-CR-00012-GWC (D. Vt.); *United States v. Michael Jacques*, No. 2:08-CR-00117 (D. Vt.); *United States v. Theodore Bland*, No. 2:24-CR-00099-WKS (D. Vt.); *United States v. Fabrice Rumama & Samuel Niyonsenga*, No. 2:25-CR-00036-WKS (D. Vt.) and *United States v. Teresa Youngblut*, No. 2:25-CR00015-CR (D. Vt.) (pre-indictment).

<sup>21</sup>*United States v. Richardson Dangleben, Jr.*, No. 3:23-CR-00072-RAM-RM (D.V.I.); *United States v. Enock Cole & Giovanni Smith*, No. 1:23-CR-00016-WAL-EAH (D.V.I.) and *United States v. Rakem Angel Hendrickson*, No. 1:24-CR-00016-WAL-EAH (D.V.I.).

<sup>22</sup>*United States v. Kevin Thissel*, No. 2:24-CR-00138-LK (W.D. Wash.).

<sup>23</sup>*United States v. Ricky Brown, et. al.*, No. 1:98-CR-00034-IMK (N.D.W. Va.) (three defendants); *United States v. Charles Hatten*, No. 8:02-CR-00232-02 (S.D.W. Va.); *United States v. George Lecco and Valeri Friend*, No. 2:05-CR-00107 (S.D.W. Va.); *United States v. Patrick Andrews and Kevin Bellinger*, No. 1:12-CR-00100-IMK-JSK (N.D.W. Va.) and *United States v. Monroe Merrell*, No. 3:20-CR-00046-GMG-RWT (N.D.W. Va.) (pre-indictment).

<sup>24</sup>*United States v. Malkit Singh*, No. 1:03-CR-00052-WCG-AEG (E.D. Wis.) and *United States v. Kevin McCaa*, No. 2:23-CR-00008-PP (E.D. Wis.).



which had a local, robust, capital defense bar including: Alabama,<sup>25</sup> Arizona,<sup>26</sup> Arkansas,<sup>27</sup> California,<sup>28</sup> Colorado,<sup>29</sup> Connecticut,<sup>30</sup> Florida,<sup>31</sup> Georgia,<sup>32</sup> Illinois,<sup>33</sup> Indiana,<sup>34</sup> Kansas,<sup>35</sup>

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<sup>25</sup>*United States v. Eric Robert Rudolph*, No. 2:00-CR-00422-CLS-TMP (N.D. Ala.); *United States v. William Merriweather*, No. 2:07-CR-00243-RDP-JEO (N.D. Ala.); *United States v. Lorenzo Taylor*, No. 1:12-CR-00056-WS-C (S.D. Ala.) and *United States v. Marcus Spanevelo*, No. 4:23-CR-00021-RDP-SGC (N.D. Ala.).

<sup>26</sup>*United States v. Luis Cisneros*, No. 2:03-CR-00730-SRB (D. Ariz.) (four defendants); *United States v. Jared Loughner*, No. 4:11-CR-00187-LAB (D. Ariz.).

<sup>27</sup>*United States v. Antoine Baker*, No. 4:06-CR-00041-GTE (E.D. Ark.).

<sup>28</sup>*United States v. Buford Furrow*, No. 2:99-CR-00838-NM (C.D. Cal.); *United States v. Anh The Duong*, No. 5:01-CR-20154-JF (N.D. Cal.); *United States v. Tyler Davis Bingham, et al.*, No. 2:02-CR-00938-RGK (C.D. Cal.) (5 defendants); *United States v. Petro Krylov*, No. 2:02-CR-00220-SJO (C.D. Cal.); *United States v. Joseph Sablan*, No. 1:08-CR-00259-OWW (E.D. Cal.); *United States v. Samuel Stone*, No. 1:12-CR-00072-AWI-DLB (E.D. Cal.); *United States v. Milton Huff*, No. 5:24-CR-00074-JGB (C.D. Cal.); *United States v. Roberto Carlos Mendez-Cruz, et al.*, No. 2:19-CR-00117-ODW (C.D. Cal.) (4 defendants) and *United States v. Angel Antonio Diaz-Morales, et. Al.* No. 1:22-CR-00232-JLT-SKO (E.D. Cal.) (four defendants).

<sup>29</sup>*United States v. Richard Santiago*, No. 1:10-CR-00164-LTD (D. Colo.) and *United States v. Andrew Sisson*, (D. Colo.) (Pre-Indictment).

<sup>30</sup>*United States v. Azibo and Azikiwe Aquart*, No. 3:06-CR-00160-JBA (D. Conn.).

<sup>31</sup>*United States v. John McCullah* (M.D. Fla.) (Pre-Indictment); *United States v. Michael Thompson*, No. 5:15-CR-00028-WTH-PRL (M.D. Fla.) (Pre-Indictment) and *United States v. Wilber Rosendo Navarro-Escobar*, No. 1:25-CR-20102-RAR (S.D. Fla.).

<sup>32</sup>*United States v. Anthony Battle*, No. 1:95-CR-00528-ODE-RHD (N.D. Ga.) ('2255 action); *United States v. Michael Antonio Natson*, No. 4:05-CR-00021-CDL-GMF (M.D. Ga.) and *United States v. Stacey Dawn Kelley*, No. 4:25-CR-00093-RSB-CLR (S.D. Ga.).

<sup>33</sup>*United States v. James Watts*, No. 4:14-CR-40063-JPG (S.D. Ill.) and *United States v. Brendt Christensen*, No. 2:17-CR-20037-CSB-EIL (C.D. Ill.).

<sup>34</sup>*United States v. Jarvis Brown*, No. 3:06-CR-00014-RLY-WGH (S.D. Ind.); *United States v. Andrew Rogers*, No. 2:16-CR-00018-WTL-CMM (S.D. Ind.) and *United States v. Richard Smith* (S.D. Ind.) (pre-indictment).

<sup>35</sup>*United States v. Marcus Roberson and Virok Webb*, No. 5:11-CR-40078-JAR (D. Kan.).

Kentucky,<sup>36</sup> Louisiana,<sup>37</sup> Maryland,<sup>38</sup> Missouri,<sup>39</sup> Montana,<sup>40</sup> Nevada,<sup>41</sup> New Jersey,<sup>42</sup> New Mexico,<sup>43</sup> North Carolina,<sup>44</sup> Ohio,<sup>45</sup> Oklahoma,<sup>46</sup> Pennsylvania,<sup>47</sup> South Carolina,<sup>48</sup> Tennessee,<sup>49</sup> Texas<sup>50</sup> and Virginia.<sup>51</sup>

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<sup>36</sup>*United States v. Ricky Kelly and Dion Dajuan Neal*, No. 3:11-CR-00033-JGH (W.D. Ky.); *United States v. Jimmy Benge, Gerald Sizemore and Vernon Delph*, No. 6:12-CR-00059-ART-AHI (E.D. Ky.); *United States v. Eugene Slone*, No. 6:12-CR-00028-ART-HAI (E.D. Ky.); *United States v. John Travis Millner*, No. 7:13-CR-00015-ART (E.D. Ky.); *United States v. Anyelle Curtley, Sr.*, No. 3:24-CR-00033-CHB-CHL (W.D. Ky.) and *United States v. DeAngelo Boone*, No. 5:25-CR-00127-GFVT-MAS) (E.D. Ky.) (6 defendants).

<sup>37</sup>*United States v. Thomas Steven Sanders*, No. 1:10-CR-00351-DDD-JDK (W.D. La.); *United States v. Walter Porter*, No. 2:12-CR-00001-MLCF-ALC (E.D. La.) and *United States v. Kelvin Terrell*, No. 5:25-CR-00113-SMH (W.D. La.).

<sup>38</sup>*United States v. Earl Davis*, No. 8:07-CR-00199-RWT (D. Md.); *United States v. Patrick Byers*, No. 1:08-CR-00056-RDP (D. Md.); *United States v. Matthew Hightower*, No. 1:23-CR-00186-SAG (D. Md.); *United States v. Maxwell Ariel Quijano-Casco & Josue Mauricio Lainez*, No. 8:25-CR-00210-DLB (D. Md.) and *United States v. Manuel Erajo Alvarado*, No. 1:25-CR-00028-SAG (D. Md.).

<sup>39</sup>*United States v. Wesley Paul Coonce, Jr.*, No. 6:10-CR-03029-GAF (W.D. Mo.) and *United States v. Anthony Jordan*, No. 4:15-CR-00404-HEA-NAB (E.D. Mo.).

<sup>40</sup>*United States v. Brian Walter Weber and Lincoln Benavides*, No. 9:06-CR-00062-DWM (D. Mont.) and *United States v. Jesus Yeizon Deniz Mendoza*, No. 1:15-CR-00093-SPW (D. Mont.).

<sup>41</sup>*United States v. Richard Friedman and Alfred Mauriello*, No. 2:97-CR-00082-PMP-BA (D. Nev.); *United States v. Darreal Biddle, et. Al*, No. 2:03-CR-00350-LRH-PAL (D. Nev.) (four defendants); *United States v. Corey Thompson*, No. 2:10-CR-00325-PMP-RJJ (D. Nev.); *United States v. Melissa Hack and Ross Hack*, No. 2:12-CR-00063-PMP-RJJ (D. Nev.); *United States v. Jose Luis Reynaldo Reyes-Castillo*, No. 2:19-CR-00103-JCM-VCF (D. Nev.) and *United States v. Cory Spurlock*, No. 3:23-CR-00022-ART-CLB (D. Nev.).

<sup>42</sup>*United States v. Farad Roland*, No. 2:12-CR-00298-ES (D.N.J.); *United States v. Hugo Palencia*, No. 2:13-CR-00615-SRC (D.N.J.) and *United States v. DeShawn Hicks*, No. 1:13-CR-00469-JHR (D.N.J.).

<sup>43</sup>*United States v. John Acosta, et al.*, No. 1:95-CR-00538-MV (D.N.M.) (three defendants); *United States v. Stanley Secatero*, No. 1:98-CR-00546-BB (D.N.M.); *United States v. Larry Lujan*, No. 2:05-CR-00924-RB (D.N.M.); *United States v. Benjamin Raymond and Travis Dally*, No. 1:07-CR-00748-MCA (D.N.M.) and *United States v. Christopher Garcia and Anthony Cordova*, No. 2:16-CR-01613-JB (D.N.M.).

<sup>44</sup>*United States v. Decarlos Dejuan Brown, Jr.*, No. 3:25-CR-00300-KDB-SCR (W.D.N.C.).

7. Such out of district appointments are consistent with Judicial Conference policy. *See, e.g., Guide to Judiciary Policy, Vol. 7A, Appx. 2A*, at 28 (“Model Plan for Implementation and

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<sup>45</sup>*United States v. Antwan Hutchinson*, No. 2:17-CR-00077-MHW (S.D. Ohio).

<sup>46</sup>*United States v. Timothy James McVeigh and Terry Lynn Nichols*, No. 95-MJ-00110-H (W.D. Okla.) (later changed to No. 1:96-CR-00068-RPM (D. Colo.); *United States v. Connell Williams* No. 5:11-CR-00298-F (W.D. Okla.) and *United States v. Johnny R. Jameson, et al.*, No. 4:18-CR-00245-JED) (N.D. Okla.) (5 defendants).

<sup>47</sup>*United States v. Michael Murray*, No. 1:92-CR-00200-SHR (M.D. Pa.); *United States v. Tyrone Tidwell*, No. 2:94-CR-00353-BWK (E.D. Pa.); *United States v. David Paul Hammer*, No. 4:96-CR-00239-JHS (M.D. Pa.); *United States v. Julio Otero*, No. 3:96-CR-00005-TIV (M.D. Pa.); *United States v. Mitch Paster*, No. 4:96-CR-00221-MWB (M.D. Pa.); *United States v. Marek Kowaalski*, No. 4:02-CR-00034-JFM (M.D. Pa.); *United States v. Carlos Ivan Llera-Plaza & Victor Rodriguez*, No. 2:98-CR-00362-JFL (E.D. Pa.); *United States v. Joseph Miner*, No. 2:99-CR-00215-MBC (W.D. Pa.); *United States v. Michael O’Driscoll*, No. 4:01-CR-00277-MM (M.D. Pa.); *United States v. Lawrence Skiba*, No. 2:01-CR-00291-GD (W.D. Pa.); *United States v. Vincent Williams, et al.*, No. 2:01-CR-00512-JCJ (E.D. Pa.) (four defendants); *United States v. Jelani Solomon*, No. 2:05-CR-00385-TFM-ALL (W.D. Pa.); *United States v. Maurice Phillips*, No. 2:07-CR-00549-JCJ (E.D. Pa.); *United States v. Kaboni Savage, et al.*, No. 2:07-CR-00550-RBS (E.D. Pa.) (3 defendants); *United States v. Jesse Con-Ui*, No. 3:13-CR-00123-ARC (M.D. Pa.); *United States v. Kevin Coles, et al.*, No. 1:16-CR-00212-CCC (7 defendants); *United States v. Mark Scott*, No. 2:24-CR-00167-JS (E.D. Pa.) and *United States v. Donte Hunter*, No. 2:25-CR-00305-GAW (E.D. Pa.).

<sup>48</sup>*United States v. Dylann Storm Roof*, No. 2:15-CR-00472-RMG (D.S.C.).

<sup>49</sup>*United States v. Tim Holloway*, No. 3:96-CR-00004-ALL (M.D. Tenn.); *United States v. James Harold Burgett*, No. 2:98-CR-20160-JSG (W.D. Tenn.); *United States v. Marcus Boyd, et al.*, No. 2:99-CR-20244-JPM (W.D. Tenn.) (3 defendants); *United States v. Jamal Shakir, et al.*, No. 3:98-CR-00038 (M.D. Tenn.) (3 defendants); *United States v. Craig Petties*, No. 2:02-CR-20449-JDB (W.D. Tenn.); *United States v. Ommar Hirbin Gomez, et al.*, No. 3:07-CR-00005 (M.D. Tenn.) (3 defendants); *United States v. Christopher David Imes & DeMarco LeWayne Smith*, No. 3:09-CR-00244 (M.D. Tenn.); *United States v. Jerry Dinkins, et al.*, No. 3:11-CR-00012 (M.D. Tenn.) (seven defendants) and *United States v. Chastain Montgomery*, No. 2:11-CR-20044-JPM (W.D. Tenn.).

<sup>50</sup>*United States v. Jaylon Boston*, No. 4:22-CR-00553 (S.D. Tex.); *United States v. Alexandra Elizabeth Nicks*, No. 4:23-CR-00105 (S.D. Tex.) and *United States v. Wilson Jose Ventura-Mejia, et al.*, No. 3:22-CR-00018 (S.D. Tex.) (4 defendants).

<sup>51</sup>*United States v. Carlos David Caro*, No. 1:06-CR-00001-JPJ (W.D. Va.); *United States v. Jorge Avila Torrez*, No. 1:11-CR-00115-LO (E.D. Va.); *United States v. Antonio Johnson*, No. 2:12-CR-00007-JPJ-PMS (W.D. Va.) and *United States v. Brayan Bladimir Alvarado-Mejia*, No. 1:24-CR-00127-MSN (E.D. Va.).

Administration of the Criminal Justice Act”)<sup>52</sup> (<https://www.uscourts.gov/file/vol07a-ch02-appx2apdf> (last accessed January 14, 2026) (Perma.cc archive: <https://perma.cc/4FDF-5NCK>)) (“Appointment of counsel from outside the jurisdiction is common in federal capital cases to achieve cost and other efficiencies together with high quality representation.”); *Report to the Committee on Defender Services, Judicial Conference of the United States, Update on the Cost and Quality of Defense Representation in Federal Death Penalty Cases* (September 2010) (“Spencer Update (2010)”) at 94. (<https://www.uscourts.gov/sites/default/files/fdpc2010.pdf> (last accessed January 14, 2026) (Perma.cc archive: <https://perma.cc/LPH6-K8QB>)) (“Courts should appoint counsel with ‘distinguished prior experience’ in death penalty trials, appeals, or post-conviction representation, even if meeting the standard requires appointing counsel from outside the district in which a matter arises. Appointing such qualified defense counsel generally produces cost efficiencies, including a higher likelihood of a non-trial disposition.”)

8. To declarant’s knowledge, in most federal death penalty cases where out-of-state counsel with capital litigation experience has been requested or recommended by the Federal Public or Community Defender, the district court has appointed out-of-state counsel.

I declare under penalty of perjury under the laws of the United States of America, 28 U.S.C. §1746, that the foregoing is true and correct. Executed January 18, 2026.

/s/ Matthew Rubenstein  
Matthew Rubenstein

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<sup>52</sup> “This ‘Model Plan’ is intended to provide guidance in the implementation and administration of the Criminal Justice Act, as required under 18 U.S.C. § 3006A(b). This reflects the policies of the Judicial Conference of the United States provided in Guide to Judiciary Policy, Vol. 7A, and the Outline of the Defender Services Program Strategic Plan.” Vol. 7A, Appx. 2A at 1.