

DECLARATION OF MATTHEW RUBENSTEIN REGARDING PREPARATION TIME IN CASES AUTHORIZED FOR THE DEATH PENALTY

1. I serve as the Director of the Capital Resource Counsel (CRC) project. The Capital Resource Counsel and the Federal Death Penalty Resource Counsel (FDPRC) projects comprise the Federal Capital Trial Project (or “Trial Project”).¹ 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.² I joined the Trial Project in 2010 as a Capital Resource Counsel and became the Director of the Capital Resource Counsel (CRC) project in 2015. The Trial Project is funded and administered by the Defender Services Office of the Administrative Office of the United States Courts.

2. My responsibilities as the Director of the Capital Resource Counsel Project include the monitoring of all federal capital prosecutions throughout the United States to assist in the delivery of adequate defense services to indigent capital defendants in such cases. This effort

¹ 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.

² 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 [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.

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>].

includes overseeing the collection of data on the initiation and prosecution of federal capital cases.³

3. Pursuant to my responsibilities with the Federal Capital Trial Project, I have compiled the information in Exhibit A regarding proceeding in federal capital cases in the regular course of the business of the Federal Capital Trial Project. Forty-two defendants were authorized for a capital prosecution and began a federal capital trial since 2010. From this group, five cases were excluded from the time calculation because of extended delays in the cases caused by a retrial or the COVID pandemic.⁴

4. The average time between the capital indictment and the authorization of a capital prosecution by the Attorney General is 14 months. The average time between the authorization of a capital prosecution and the start of trial is 28 months. The average time between the capital indictment and the start of trial is 42 months.

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 this 27th day of May 2025.

/s/ Matthew Rubenstein
Matthew Rubenstein

³ 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 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.

⁴ These cases involved a retrial (George Lecco, No. 2:05-CR-00107 (S.D.W. Va.), Ronell Wilson, No. 1:04-CR-01016-NGG (E.D.N.Y.), and Gary Lee Sampson, No. 1:01-CR-10384-LTS (D. Mass.)) and these cases were delayed because of the COVID pandemic (Sayfullo Habibullaevic Saipov, No. 1:17-CR-00722-VSB (S.D.N.Y.), Robert Bowers, No. 2:18-CR-00292-DWA (W.D. Pa.)).

Defendant	Docket No.	Status	Cap. Ind. to Auth.	Auth. to Trial	Cap. Ind. to Trial	Indictment - w Capital Counts	Authorization - Yes	Trial - Voir Dire Start [Sort column]
Phillips, Maurice	E. D. PA No. 2:07-CR-00549-JCJ	Life sentence from jury	20	8	28	9/12/2007	5/6/2009	1/4/2010
Argueta, Antonio Roberto	D. MD No. 8:05-CR-00393-DKC	Life sentence from jury	13	32	45	4/3/2006	5/8/2007	1/12/2010
Duong, Anh The	N.D. CA No. 5:01-CR-20154-JF	Life sentence from jury	32	69	101	9/26/2001	5/13/2004	2/23/2010
Umana, Alejandro Enrique Ramirez	W.D. NC No. 3:08-CR-00134-RJC	Death Sentence - Clemency	3	18	21	6/23/2008	9/23/2008	3/22/2010
Lecco, George*	S.D. WV No. 2:05-CR-00107	Death Sentence - Motion for New Trial Granted by Judge - Life Sentence by Jury				10/18/2005	8/16/2006	4/5/2010
Garcia, Edgar Baltazar	E.D. TX No. 1:09-CR-00015-MAC-KFG All	Death Sentence - Clemency	1	14	15	1/21/2009	2/13/2009	4/6/2010
Snarr, Mark	E.D. TX No. 1:09-CR-00015-MAC-KFG All	Death Sentence - Clemency	1	14	15	1/21/2009	2/13/2009	4/6/2010
O'Reilly, Timothy	E.D. MI No. 2:05-CR-80025-VAR-RSW	Life sentence from jury	20	43	63	3/3/2005	11/1/2006	6/8/2010
Basciano, Vincent	E.D. NY No. 1:05-CR-00060-NGG	Life sentence from jury	26	47	73	1/26/2005	4/2/2007	3/1/2011
Aquart, Azibo	D. CT No. 3:06-CR-00160-SRU	Death Sentence Reversed - Authorization Withdrawn	32	26	58	6/6/2006	1/29/2009	4/6/2011
Lujan, Larry	D. NM No. 2:05-CR-00924-RB	Life sentence from jury	27	47	74	4/27/2005	7/12/2007	6/20/2011
Richardson, Brian	N.D. GA No. 1:08-CR-00139-CC-CCH	Life sentence from jury	8	39	46	4/15/2008	12/2/2008	2/27/2012
Burgos-Montes, Edison	D. PR No. 3:06-CR-00009-JAG-CVR	Life sentence from jury	18	58	75	1/12/2006	6/27/2007	4/16/2012
Merritt, Robert	E.D. PA No. 2:07-CR-00550-RBS	Acquittal	23	20	43	4/8/2009	3/14/2011	11/6/2012
Northington, Steven	E.D. PA No. 2:07-CR-00550-RBS	Life sentence from jury	23	20	43	4/8/2009	3/14/2011	11/6/2012
Savage, Kaboni	E.D. PA No. 2:07-CR-00550-RBS	Death Sentence - Clemency	23	20	43	4/8/2009	3/14/2011	11/6/2012
Candelario-Santana, Alexis	D. PR No. 3:09-CR-00427-JAF	Life Sentence Reversed - Life Sentence	16	7	23	2/28/2011	7/8/2012	1/28/2013
Casey, Lashaun	D. PR No. 3:05-CR-00277-JAG	Life sentence from jury	23	67	90	8/17/2005	7/17/2007	2/4/2013
Williams, Connell C.	W.D. OK No. 5:11-CR-00298-F	Guilty plea at trial	7	10	17	9/7/2011	4/17/2012	2/11/2013
Wilson, Ronell*	E.D. NY No. 1:04-CR-01016-NGG	Death Sentence Reversed - Death Sentence 2 - Intellectually Disabled				11/17/2004	8/2/2005	4/3/2013
Jimenez-Bencevi, Xavier	D. PR No. 3:12-CR-00221-JAF	Life sentence from jury	8	4	13	3/23/2012	12/7/2012	4/15/2013
Abrar, Shani Nurani	E.D. VA No. 2:11-CR-00034-RBS-DEM	Life sentence from jury	13	14	27	3/8/2011	4/17/2012	6/4/2013
Beyle, Abukar Osman	E.D. VA No. 2:11-CR-00034-RBS-DEM	Life sentence from jury	13	14	27	3/8/2011	4/17/2012	6/4/2013
Salad, Ahmed Muse	E.D. VA No. 2:11-CR-00034-RBS-DEM	Life sentence from jury	13	14	27	3/8/2011	4/17/2012	6/4/2013
McCluskey, John Charles	D. NM No. 1:10-CR-02734-JCH	Life sentence from jury	16	18	34	9/29/2010	1/26/2012	7/22/2013
Williams, Naeem	D. HI No. 1:06-CR-00079-DAE	Life sentence from jury	7	89	95	2/15/2006	9/8/2006	1/28/2014
Torrez, Jorge Avila	E.D. VA No. 1:11-CR-00115-LO	Death Sentence - Clemency	8	25	34	5/26/2011	2/9/2012	3/11/2014
Coonce, Wesley Paul	W.D. MO No. 6:10-CR-03029-GAF	Death Sentence - Clemency	16	33	49	4/7/2010	7/22/2011	4/28/2014
Hall, Charles Michael	W.D. MO No. 6:10-CR-03029-GAF	Death Sentence - Clemency	16	33	49	4/7/2010	7/22/2011	4/28/2014
Sanders, Thomas Steven	W.D. LA No. 1:10-CR-00351-DDD-JDK	Death Sentence - Clemency	20	25	45	11/18/2010	8/1/2012	8/18/2014
Briseno, Juan	N.D. IN No. 2:11-CR-00077-PPS-APR	Life sentence from jury	21	22	43	6/2/2011	3/6/2013	1/12/2015
Tsarnaev, Dzhokhar	D. MA No. 1:13-CR-10200-GAO	Death Sentence - Death row - Appeal	7	12	19	6/27/2013	1/30/2014	1/15/2015
Sampson, Gary Lee*	D. MA No. 1:01-CR-10384-LTS	Death sentence - reversed - death sentence 2 - died before execution				10/24/2001	11/19/2002	9/14/2016
Roof, Dylann Storm	D. SC No. 2:15-CR-00472-RMG	Death Sentence - Death row - 2255	10	6	16	7/22/2015	5/24/2016	11/28/2016
Con-ui, Jessie	M.D. PA No. 3:13-CR-00123-ARC	Life sentence from jury	15	31	46	6/25/2013	10/2/2014	4/24/2017
Jones, Ulysses	W.D. MO No. 6:10-CR-03090-DGK	Life sentence from jury	0	60	60	10/3/2012	10/4/2012	9/25/2017
Cramer, Christopher Emory	E.D. TX No. 1:16-CR-00026-MAC-ZJH	Death Sentence - Clemency	1	26	25	3/3/2016	2/4/2016	4/2/2018
Fackrell, Ricky Allen	E.D. TX No. 1:16-CR-00026-MAC-ZJH	Death Sentence - Clemency	0	25	25	3/3/2016	3/4/2016	4/2/2018
Christensen, Brendt A.	C.D. IL No. 2:17-CR-20037-CSB-EIL	Life sentence from jury	4	16	20	10/3/2017	1/19/2018	6/3/2019
Council, Brandon Michael	D. SC No. 4:17-CR-00866-CRI	Death Sentence - Clemency	6	18	24	9/20/2017	3/21/2018	9/9/2019
Saipov, Sayfullo Habibullaevic*	S.D. NY No. 1:17-CR-00722-VSB	Life sentence from jury				11/21/2017	9/28/2018	10/11/2022
Bowers, Robert*	W.D. PA No. 2:18-CR-00292-DWA	Death Sentence - Death row - Appeal				10/31/2018	8/26/2019	4/24/2023
Note: * designates cases not included because of extended delay caused by either retrial or COVID.								
		Average Months	14	28	42			