

**DECLARATION OF KEVIN McNALLY REGARDING THE
APPOINTMENT OF OUT-OF-DISTRICT COUNSEL IN FEDERAL CAPITAL CASES**

1. I currently serve as the Director of the Federal Death Penalty Resource Counsel Project, assisting court-appointed and defender attorneys charged with the defense of capital cases in the federal courts. I have served as Resource Counsel since the inception of the Resource Counsel Project in January, 1992. The Project is funded and administered under the Criminal Justice Act by the Defender Services Office of the Administrative Office of the United States Courts.

2. My responsibilities as federal resource counsel include the monitoring of all federal capital prosecutions throughout the United States in order to assist in the delivery of adequate defense services to indigent capital defendants in such cases. This effort includes the collection of data on the initiation and prosecution of federal capital cases.¹

¹The work of the Federal Death Penalty Resource Counsel 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. www.uscourts.gov/dpenalty/1COVER.htm. 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

3. In order to carry out the duties entrusted to me, I maintain a comprehensive list of federal death penalty prosecutions and information about these cases. I accomplish this by internet news searches, by reviewing dockets and by downloading and obtaining indictments, pleadings of substance, notices of intent to seek or not seek the death penalty, and by telephonic or in-person interviews with defense counsel or consultation with chambers. This information is regularly updated and is checked for accuracy by consulting with defense counsel. 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. There is ample precedent for appointment of out-of-state counsel in federal death penalty cases. I am aware of numerous federal capital cases in which out-of-state attorneys were appointed or otherwise authorized to participate in the defense of the accused under the Criminal Justice Act. *See e.g., United States v. Cheely*, 790

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.”

<http://www.uscourts.gov/FederalCourts/AppointmentOfCounsel/Publications/UpdateFederalDeathPenaltyCases.aspx>

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 do not have a state capital defense bar, such as Alaska,² District of Columbia,³ Hawaii,⁴ Idaho,⁵ Iowa,⁶

²*United States v. Cheely* (D. AK No. A92-073-CR) (3/92); *United States v. James Wells* (D. AK No. 3:13-CR-00008-RRB-JDR) and *United States v. John Pearl Smith* (D. AK No. 3:16-CR-00086-SLG-DMS).

³*United States v. Zayd Safarini* (D. DC No. 91-CR-504-ALL); *United States v. William Sweeney* (D. DC No. 98-CR-0329 (TPJ)); *United States v. Edelin, et al.* (D. DC No. 98-CR-264); *United States v. Kevin Gray and Rodney Moore, et al.* (D. DC No. 1:00-CR-00157); *United States v. Kofi Orleans-Lindsay* (D. DC No. 00-CR-440-ALL), *United States v. Frances Karake* (D. DC No. 02-CR-256-ALL), *United States v. Rico Thomas* (D. DC No. 1:10-CR-00171-JDB) and *United States v. Ahmed Abu Khatallah* (D. DC No. 1:14-CR-00141-CRC).

⁴*United States v. Renee Beth Smith* (D. HI No. 97-CR-01141 HG 01); *United States v. Hector Lopez* (D. HI No. 97-CR-01117 ACK); *United States v. Richard Lee Tuck Chong* (D. HI No. 98-CR-00416 ACK); *United States v. Eugene Boyce* (D. HI No. 99-CR-00570 SOM); *United States v. Lei Shi* (D. HI No. 02-CR-0116), *United States v. Naeem Williams* (D. HI No. 1:06-CR-0079-DAE) and *United States v. Ailsa Jackson* (D. HI No. 1:15-CR-00293-SOM-KSC-1).

⁵*United States v. Joseph Duncan* (D. ID No. 07-23-N-EJL).

⁶*United States v. Anousone Soukarith* (S.D. IA No. 95-CR-78); *United States v. Ramiro Astello* (N.D. IA No. 97-CR-3008 MW); *United States v. Christopher Kaufman, Jamie McMahan and Luis Lua* (S.D. IA No. 97-CR-92-ALL) and *United States v. Angela Johnson and Dustin Honken* (N.D. IA No. 00 CR 3034-MWB).

Massachusetts,⁷ Michigan,⁸ Minnesota,⁹ New Mexico,¹⁰ New York,¹¹

⁷*United States v. Gary Sampson* (D. MA No. 01-CR-10384-ALL), *United States v. Brima Wurie* (D. MA No. 1:03-CR-10329-PBS-ALL) and *United States v. Dzhokhar Tsarnaev* (D. MA No. 1:13-CR-10200-GAO).

⁸*United States v. Reginald Brown, et al.*, (E.D. MI No. 92-CR-81127) (four capital defendants); *United States v. David Lee Bishop* (W.D. MI No. 1:95:CR:67); *United States v. Efrain Garcia* (E.D. MI No. 97-CR-80727); *United States v. Derrick Davis and Adelbert Dean* (E.D. MI No. 00-CR-80966-ALL); *United States v. Marvin Gabrion* (W.D. MI No. 1:99-CR-76); *United States v. Milton Jones, et al.* (E.D. MI No. 01-CR-80571) (three defendants); *United States v. David Daniel Serra* (E.D. MI No. 2:01-M-80792); *United States v. Timothy O'Reilly* (E.D. MI No. 05-80025); *United States v. Deondre Byrd, et al.* (E.D. MI No. 2:06-CR-20335) (three defendants); *United States v. Roy Christopher West* (E.D. MI No. 2:06-CR-20185) (four defendants); *United States v. Derrick Young, et al.* (E.D. MI No. 2:06-CR-20411-RHC-SDP) (five defendants); *United States v. Narayan Thadani, et al.* (E.D. MI No. 2:08-CR-20290-GER-VMM) (three defendants) and *United States v. Mustafa Abdul-Quadir Al-Din, et al.* (W.D. MI No. 1:11-CR-97) (five defendants).

⁹*United States v. Mosiah Wright and Christopher St. Aubyn Headley* (D. MN No. 99-CR-86 (RHI/JMM)); *United States v. Jeffrey Miller* (D. MN No. 99-CR-260(2) DWF/AJB); *United States v. Richard Ashton Oslund* (D. MN No. 03-CR-151 (JMR/FLN)) and *United States v. Tyvarus Lindsey and Rashad Raleigh* (D. MN No. 10-CR-00015).

¹⁰*United States v. Benjamin Raymond and Travis Loren Dally* (D. NM No. 07-CR-748) and *United States v. John Charles McCluskey, Tracy Allen Province and Cassyln Mae Welch* (D. NM No. 10-CR-02734).

¹¹*See, e.g., United States v. Thomas Pitera* (E.D. NY No. 90-CR-0424); *United States v. Dandenny Munoz-Mosquera* (E.D. NY No. 91-CR-1285); *United States v. Darryl Johnson* (W.D. NY No. 92-CR-159-16C); *United States v. Tyrone Walker and Walter Diaz* (N.D. NY No. 94-CR-328); *United States v. Anthony Tabbita* (E.D. NY No. 95-CR-754 (S- 7) (SJ)); *United States v. Jia Wu Chen, et al.* (E.D. NY No. 95-CR-0870) (four defendants); *United States v. Clarence Heatley* (S.D. NY No. 96 CR 515 (MJW)); *United States v. Robert Mateo-Feliz* (E.D. NY No. 96-CR-527-S4); *United States v. Eladio Padilla* (S.D. NY No. 97 CR 809); *United States v. Deric Frank* (S.D. NY No. 97

CR 269 (DLC)); *United States v. Giraldo* (E.D. NY No. 97-342); *United States v. Vance Baker* (E.D. NY No. 97-CR-877); *United States v. Juan Albeiro Monsalve* (E.D. NY No. 97-CR-791 (S-4) (JS)); *United States v. Rosie Baker* (E.D. NY No. 97 CR- 877); *United States v. Peter Rollack* (S.D. NY No. S1 97 CR 1293); *United States v. Chen Hang San* (S.D. NY No. 97-CR-190 (JES)); *United States v. David Prieto* (S.D. NY No. S2-97-CR-696 (SHS)); *United States v. Khalfan Khamis Mohamed* (S.D. NY CR No. S6 98 CR 1023); *United States v. Daniel Berrios* (S.D. NY No. 98-CR-290); *United States v. Charles Michael Kee* (S.D. NY No. 98-CR-778); *United States v. Victor Sanchez* (S.D. NY No. S1 98 CR 968 (BSJ)); *United States v. Mohamed Rashed Daoud Al'Owhali* (S.D. NY No. S6 98 CR 1023) (two capital defendants); *United States v. Anthony Greco* (S.D. NY No. 99 CR 1199); *United States v. Jamal Booth* (S.D. NY No. 99 CR 0378); *United States v. Joseph Calco* (E.D. NY No. 99:CR-520); *United States v. Michael Swango* (E.D. NY No. 00-CR-728); *United States v. Julius Williams* (S.D. NY No. 00-CR-237-3); *United States v. Derick McAlister* (S.D. NY No. 00-CR-977-ALL); *United States v. Michael Williams and Elijah Bobby Williams* (S.D. NY No. 00-CR-1008); *United States v. Guillermo Benitez-Zapata* (E.D. NY No. 00-CR-1313-ALL); *United States v. Anthony Rodriguez* (S.D. NY No. 00-CR-949-ALL); *United States v. Carlos Lopez* (E.D. NY No. 00-CR-1085-ALL); *United States v. Alan Quinones and Diego Rodriguez* (S.D. NY No. 00 CR 0761 (JSR)); *United States v. Jose Luis Rodriguez* (E.D. NY No. 00-CR-1272-ALL); *United States v. Manual Roman* (S.D. NY No. 01 CR 1110); *United States v. Anderson Pena* (S.D. NY No. 01-CR-1161-ALL); *United States v. Armando Molina and Gilberto Caraballo* (E.D. NY No. 01-1367 (S-2) (RJD)); *United States v. Freddy Abad* (S.D. NY No. 01-CR-831); *United States v. Angel Cordero* (S.D. NY No. 01-CR-74-ALL); *United States v. Luis Martinez* (E.D. NY No. 01-CR-170); *United States v. Roberto Martinez-Martinez* (S.D. NY No. S1 01 CR 307); *United States v. Angel D'Angelo* (E.D. NY No. 02-CR-399); *United States v. Frederick Jackson* (S.D. NY No. 02-CR-756); *United States v. Albert Burgos* (S.D. NY No. S4 02 CR 1435 (LAP)); *United States v. Larry Williams* (S.D. NY No. 02-CR-1372 (BSJ)); *United States v. Julian Hall* (E.D. NY No. 03-CR-910 (S-1)(CFS)); *United States v. William Nagatsuka* (S.D. NY No. S2 03 CR 00734), *United States v. Eric Moore* (E.D. NY No. 04-CR-706(S2)(DGT), *United States v. Khalid Barnes* (S.D. NY No. 7:04-CR-00186-SCR), *United States v. Ronell Wilson* (E.D. NY No. 1:04-CR-01016-NGG-ALL), *United States v. Hisan Lee* (S.D. NY No. 1:07-CR-00003-BSJ), *United States v. Christian Gerold Tarantino* (E.D. NY No. 08-CR-655); *United States v. Thomas Gioeli* (E.D. NY No. 1:10-CR-00240-NG), *United States v. Christian John and Shaquan Jones*

(E.D. NY No. 11-CR-405), *United States v. Jose Alvarenga* (E.D. NY No. 2:12-CR-0063-JFP-WDW); *United States v. Jonathan Rodriguez and Marquis Wright* (S.D. NY No. 1:15-CR-00445-PAE) and *United States v. Jaime Rivera* (E.D. NY No. 2:17-CR-0050-SJF).

¹²*United States v. Alejandrino Angulo Guerrero* (D. ND No. C3-03-90-01); *United States v. Alfonso Rodriguez* (D. ND No. 04-CR-55-ALL), *United States v. Michael Alan Petzold* (D. ND No. 3:05-CR-00101-RRE-ALL) and *United States v. Martin Carillo* (D. ND No. 3:06-CR-14).

¹³*United States v. Gregorio Aponte-Lazu, et al.* (D. PR No. 95-235); *United States v. Jose Ram Caraballo-Gonzalez, et al.* (D. PR No. 96-105 (SEC)); *United States v. Alexander Pinero Sotomayer, et al.* (D. PR No. 96-228 (HL)); *United States v. Morillo Espinal, et al.* (D. PR No. 96-026 (HL)); *United States v. Manuel I. Medero-Rosario, et al.* (D. PR No. 96-CR-001 (PG)); *United States v. Omar Claudio Pantojas* (D. PR No. 96-CR-75 (HL)); *United States v. Hanson Wilson-Millan* (D. PR No. 96-CR-116 (SEC)); *United States v. Antonio Baez, et al.* (D. PR No. 97-CR-026 (JAF)); *United States v. Ricardo Torres Galindo, et al.* (D. PR No. 97-CR-52); *United States v. Edgardo I. Mejias-Villalba, et al.* (D. PR No. 97-CR-049 (JAF)); *United States v. Felix Rodriguez Inocencio, et al.* (D. PR No. 97-CR-0191 (CCC)); *United States v. Victor Manuel Valle-Lassalle, et al.* (D. PR No. 97-CR-284 (JAF)); *United States v. Edsel Torres Gomez* (D. PR No. 98-CR-72); *United States v. Luis Gines Perez, et al.* (D. PR No. 98-CR-164 (DRD)); *United States v. Joel Rivera Alejandro, et al.* (D. PR No. 99-CR-044 (SEC)); *United States v. Juan J. Zuniga-Bruno* (D. PR No. 99-CR-295 (DRD)); *United States v. Angel Bernacett-Cosme* (D. PR No. 99-CR-346); *United States v. Jose Ariel Cruz-Rivera* (D. PR No. 00-CR-98 (CCC)); *United States v. Jose Garcia Ortiz* (D. PR No. 01-CR-111-ALL); *United States v. Samuel Santos-Ortiz* (D. PR No. 01-CR-623-ALL); *United States v. Lorenzo Catalan Roman* (D. PR No. 3:02-CR-117-ALL); *United States v. Yamil Matos-Quinones, et al.* (D. PR No. 02-CR-183-ALL); *United States v. Carlos Ayala-Lopez* (D. PR No. 03-CR-55-ALL); *United States v. Angel Fortez-Garcia, et al.* (D. PR No. 03-CR-73-ALL); *United States v. Eddie Rodriguez-Berrios* (D. PR No. 3:04-CR-00081-PG-ALL) (three defendants), *United States v. Lashaun Casey* (D. PR No. 3:05-CR-0277-JAG), *United States v. Edison Burgos-Montes* (D. PR No. 06-CR-009 JAG), *United States v. Samuel Ortiz-Garcia and Augustin Rodriguez-Adorno* (D. PR No. 3:07-

Rhode Island,¹⁴ Tennessee,¹⁵ Vermont,¹⁶ West Virginia¹⁷ and Wisconsin.¹⁸

6. District judges have also appointed out-of-state counsel when necessary in states which already have a home grown capital defense bar, including: Alabama,¹⁹

CR-00248-FAB); *United States v. Alexis Candelario-Santana* (D. PR No. 3:09-CR-00427-JAF), *United States v. David Oquendo-Rivas* (D. PR No. 3:09-CR-00427-JAF), *United States v. Jonathan Ortiz-Torres and Angel Santana-Espinet* (D. PR No. 10-184-015), *United States v. Luis D. Rivera-Carrasquillo and Edwin Espino* (D. PR No. 3:12-CR-00200-JAF), *United States v. Jean Carlos Ramos Pineiro* (D. PR No. 3:12-CR-00200-JAF); *United States v. Javier Jiminez-Bencevi* (D. PR No. 3:12-CR-00221-JAF) and *United States v. Pedro-Vidal, et al.* (D. PR No. 3:16-CR-00778-GAG).

¹⁴*United States v. George Sepulveda, et al.* (D. RI No. 95-CR-075-010-ML) (five capital defendants) and *United States v. Sammie Sanchez* (D. RI No. 00141 L).

¹⁵*United States v. Quinton Leavell, et al.* (M.D. TN No. 3:14-CR-0200) (two capital defendants).

¹⁶*United States v. Chris Dean* (D. VT No. 2:98-CR-00063), *United States v. Donald Fell* (D. VT No. 2:01-CR-12-01) and *United States v. Michael Jacques* (D. VT No. 2:08-CR-117).

¹⁷*United States v. Ricky Brown, et. al.* (N.D. WV No. 3:00CR6); *United States v. Charles Hatten* (S.D. WV No. 8:02-CR-00232-02), *United States v. George Lecco and Valeri Friend* (S.D. WV No. 2:05-CR-00107) and *United States v. Patrick Andrews and Kevin Bellingier* (N.D. WV No. 1:12-CR-00100-IMK-JSK).

¹⁸*United States v. Malkit Singh* (E.D. WI CR No. 03 M 616).

¹⁹*United States v. Eric Robert Rudolph* (N.D. AL CR No. 00-CR-422-ALL), *United States v. William Merriweather* (N.D. AL No. 2:07-CR-243-RDP-JEO) and *United States v. Lorenzo Taylor* (S.D. AL No. 1:12-CR-00056-WS-C).

Arizona,²⁰ Arkansas,²¹ California,²² Colorado,²³ Connecticut,²⁴ Florida,²⁵ Georgia,²⁶

²⁰*United States v. Jared Loughner* (D. AZ No. 11-CR-0187-TUC-LAB).

²¹*United States v. Antoine Baker* (E.D. AR No. 4:06-CR-00041-GTE).

²²*United States v. Buford Furrow* (C.D. CA CR No. 99-838 (A) -RAP), *United States v. Anh The Duong* (N.D. CA No. 5:01-CR-20154JF); *United States v. Barry Bryon Mills, et al.* (C.D. CA CR No. 02-00938-GHK), *United States v. Petro Krylov* (C.D. CA No. 02-220 (A)-NM), *United States v. Joseph Sablan* (E.D. CA No. 08-CR-00259), *United States v. Samuel Stone* (E.D. CA No. 1:12-CR-00072-AWI-DLB) and *United States v. Milton Huff* (C.D. CA 2014).

²³*United States v. Richard Santiago* (D. CO No. 1:10-CR-00164-LTD); *United States v. Andrew Sisson* (D. CO No. _____) (Pre-Indictment).

²⁴*United States v. Azibo and Azikiwe Aquart* (D. CT No. 3:06-CR-160(PCD)).

²⁵*United States v. John McCullah* (M.D. FL No. _____) (Pre-Indictment); *United States v. Michael Thompson* (M.D. FL No. 5:15-CR-00028-WTH-PRL) (Pre-Indictment).

²⁶*United States v. Anthony Battle* (N.D. GA CR No. 1:95 CR 528) (§2255 action) and *United States v. Michael Antonio Natson* (M.D. GA CR No. 4:05-CR-00021-CDL-GMF-ALL).

Illinois,²⁷ Indiana,²⁸ Kansas,²⁹ Kentucky,³⁰ Louisiana,³¹ Maryland,³² Missouri,³³

²⁷*United States v. James Watts* (S.D. IL No. 4:14-CR-40063-JPG) and *United States v. Brendt Christensen* (C.D. IL No. 2:17-CR-20037-CSB-EIL).

²⁸*United States v. Jarvis Brown* (S.D. IN No. EV-06-CR-0014-01-Y/H); *United States v. Andrew Rogers* (S.D. IN No. 2:16-CR-00018-WTL-CMM) and *United States v. Richard Smith* (S.D. IN 2016).

²⁹*United States Marcus Roberson and Virok Webb* (D. KS No. 11-40078-01/08 JAR).

³⁰*United States v. Ricky Kelly and Dion Dajuan Neal* (W.D. KY No. 3:11-CR-33-H); *United States v. Jimmy Benge, Gerald Sizemore and Vernon Delph* (E.D. KY No. 6:12-CR-00059-ART-AHI), *United States v. Eugene Slone* (E.D. KY No. 6:12-CR-00028-ART-HAI) and *United States v. John Travis Millner* (E.D. KY No. 7:13-CR-15-ART).

³¹*United States v. Thomas Steven Sanders* (W.D. LA No. 1:10CR00351) and *United States v. Walter Porter* (E.D. LA No. 2:12-CR-00001-MLCF-ALC).

³²*United States v. Earl Davis* (D. MD No. 8:07-CR-00199-RWT) and *United States v. Patrick Byers* (D. MD No. 08-056).

³³*United States v. Wesley Paul Coonce, Jr.* (W.D. MO 10-03029-01/02-CR-S-GAF) and *United States v. Anthony Jordan* (E.D. MO No. 4:15-CR-00404-HEA-NAB).

Montana,³⁴ Nevada,³⁵ New Jersey,³⁶ New Mexico,³⁷ Ohio,³⁸ Oklahoma,³⁹
Pennsylvania,⁴⁰ South Carolina,⁴¹ Tennessee⁴² and Virginia.⁴³

³⁴*United States v. Brian Walter Weber and Lincoln Benavides* (D. MT No. 06-62-DWM) and *United States v. Jesus Yeizon Deniz Mendoza* (D. MT No. 1:15-CR-00093-SPW).

³⁵*United States v. Richard Friedman and Alfred Mauriello* (D. NV CR No. CR-S-97-0089-PMP (RLH)); *United States v. Darreal Biddle, et. al* (D. NV CR No. CR-S-03-0350-LRH-LRL) (four defendants); *United States v. Corey Thompson* (D. NV No. 2:10-CR-325) and *United States v. Melissa Hack and Ross Hack* (D. NV No. 2:12-CR-00063-PMP-RJJ).

³⁶*United States v. Farad Roland* (D. NJ No. 2:12-CR-00298-ES); *United States v. Hugo Palencia* (D. NJ No. 2:13-CR-00615-SRC) and *United States v. DeShawn Hicks* (D NJ No. 1:13-CR-00469-JHR).

³⁷*United States v. John Acosta, et al.* (D. NM CR No. 95-538-MV) (three defendants), *United States v. Stanley Secatero* (D. NM CR No. 98-546-BB), *United States v. Luis Cisneros, Felipe Cisneros, Paul Eppinger and Angel Rivera* (D. NM CR No. 01-1709 MCA); *United States v. Larry Lujan* (D. NM No. 05-924), *United States v. Benjamin Raymond and Travis Dally* (D. NM No. 07-748) (two defendants) and *United States v. Christopher Garcia and Anthony Cordova* (D. NM No. 2:16-CR-01613) (two defendants).

³⁸*United States v. Antwan Hutchinson* (S.D. OH No. 2:17-CR-00077-MHW).

³⁹*United States v Timothy James McVeigh and Terry Lynn Nichols* (W.D. OK CR No. M-95-110-H) and *United States v. Connell Williams* (W.D. OK No. 5:11-CR-298)

⁴⁰*United States v. Michael Murray* (M.D. PA No. 1-CR-92-200); *United States v. Tyrone Tidwell* (E.D. PA No. 94-CR-353); *United States v. David Paul Hammer* (M.D. PA No. 4-96-CR-239); *United States v. Julio Otero* (M.D. PA No. 3:CR-96-005); *United States v. Mitch Paster* (M.D. PA No. 96-CR-221); *United States v. Marek Kowaalski* (M.D. PA No. 98-CR-014-MW-01); *United States v. Carlos Ivan Llera-Plaza, et al.* (E.D. PA No. 98-CR-362); *United States v. Joseph Miner* (W.D. PA No. 99-CR-215); *United*

7. 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.

8. On November 10, 1993, affiant communicated by facsimile transmission with Mr. Steven Asin, of the Administrative Office of the United States Courts, Defender Services Division, who advised us, and authorized us to inform the Court,

States v. Michael O'Driscoll (M.D. PA No. 4:CR-01-277); *United States v. Lawrence Skiba* (W.D. PA No. 01-CR-291-ALL), *United States v. Vincent Williams, et. al* (E.D. PA No. 01-CR-512-ALL), *United States v. Jelani Solomon* (W.D. PA No. 2:05-CR-00385-TFM-ALL), *United States v. Maurice Phillips* (E.D. PA No. 2:07-CR-00549-JCJ), *United States v. Kaboni Savage, Steven Northington and Lamont Lewis* (E.D. PA No. 2:07-CR-00550-RBS) and *United States v. Jesse Con-Ui* (M.D. PA No. 3:CR-13-123).

⁴¹*United States v. Dylann Storm Roof* (D. SC No. 2:15-MC-00218-BM).

⁴²*United States v. Tim Holloway* (M.D. TN No. 3:96-CR-0004); *United States v. James Harold Burgett* (W.D. TN No. 98-CR-20160- G); *United States v. Marcus Boyd, et al.* (W.D. TN No. 99-CR-20244-G/A); *United States v. Jamal Shakir, et al.* (M.D. TN No. 3:98-CR-00038 (NIXON)), *United States v. Craig Petties* (W.D. TN No. 02-CR-20449-ML); *United States v. Ommar Hirbin Gomez, Walter Hernandez and Escolastico Serrano* (M.D. TN No. 3:07-CR-00005); *United States v. Christopher David Imes, DeMarco LeWayne Smith* (M.D. TN No. 3:09-CR-00244); *United States v. Jerry Dinkins, et al.* (M.D. TN No. 3:11-CR-00012) (seven defendants) and *United States v. Chastain Montgomery* (W.D. TN No. CR 11-20044).

⁴³*United States v. Carlos David Caro* (W.D. VA CR No. 06 CR 00001), *United States v. Jorge Avila Torrez* (E.D. VA No. 1:11-CR-115) and *United States v. Antonio Johnson* (W.D. VA No. 2:12-CR-00007-JPJ-PMS).

that the Defender Services Division regards the appointment of out-of-state counsel with capital litigation experience entirely proper and appropriate under 21 U.S.C. § 848(q)(7) (now 18 U.S.C. §3599(d)) which provides that "for good cause ... [the Court] may appoint another attorney whose background, knowledge, or experience would ... enable him or her to represent the defendant, with due consideration to the seriousness of the possible

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

Executed this 12th day of February, 2017.

/s/ Kevin McNally
Kevin McNally