

DECLARATION OF KEVIN McNALLY REGARDING VIDEOTAPED TESTIMONY

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 Office of Defender Services 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.¹

3. In order to carry out the duties entrusted to us, I maintain a comprehensive list of federal death penalty prosecutions and information regarding district court practices in these cases. I accomplish this by reviewing dockets and by downloading and obtaining indictments, pleadings of substance (including sealed documents), notices of intent to seek or not seek the death penalty, and by telephonic or in-person interviews with experts, defense counsel or consultation with chambers. This information is regularly updated, and is checked for accuracy 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.

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.


4. Videotaped interviews with non-testifying individuals have been shown to the jury in the following federal capital trials: *United States v. Darryl Johnson* (N.D. IL CR No. 96 CR 379) (children); *United States v. Beckford* (E.D. VA CR No. 3:96 CR 66) (family); *United States v. Dhinsa* (E.D. NY CR No. 97-672 (S-3) (ERK)) (children); *United States v. Higgs* (D. MD CR No. PJM-98-0502) (son); *United States v. K. Mohamed* (S.D. NY CR No. S6 98 CR 1023) (witnesses in South Africa); *United States v. Sinisterra and Tello* (W.D. MO CR No. 98-00311-01/05-CR-W-2) (family from Columbia); *United States v. Rodney Moore* (D. DC CR No. 1:00CR00157) (children); *United States v. Quinones and Rodriguez* (SD NY CR No. 00 CR 761) (friends and children); *United States v. Williams* (S.D. NY CR No. 00-CR-1008) (daughter); *United States v. Zacarias Moussaoui* (E.D. VA CR No. 01-CR-455-ALL) (family out of the country); *United States v. Andre Cooper and Jamain Williams* (E.D. PA CR No. 01-CR-512-ALL) (family members); *United States v. McClure* (D. MD CR No. 01-CR-367-ALL) (second grade teacher); *United States v. Iouri Mikhel* (C.D. CA CR No. 02-220 (A)-NM) (wife, uncle and two close friends in Russia because the United States government would not issue visas); *United States v. Petro Krylov* (C.D. CA CR No. 02-220 (A)-NM) (four family members); *United States v. Ishmael Cisneros* (E.D. VA CR No. 04-CR-283-ALL) (former teacher and school custodian); *United States v. Kenneth McGriff* (E.D. NY CR No. 04-966 (ERK) (VVP)) (parent with dementia, unavailable non-family witness, and family witnesses physically unable to attend) and *United States v. George Lecco and Valerie Friend* (S.D. WV CR No. 2:05-00107) (mentally and physically handicapped son (Lecco) and maternal grandmother (Friend)).

5. Videotaped interviews with non-testifying individuals have been shown to the jury in a number of state death penalty trials, such as: Arizona (Roseberry, 210 Ariz. 360, 111 P.3d 402 (2005) (mother); Connecticut (Marrero - grandfather from Puerto Rico) (Correa, Hartford No. CR 91-0406234 - family, friends, neighbors from Columbia) (Griffin, Middlesex No. CR 93-0126985 - grandson); Florida (Rodgers, Ninth Judicial Circuit No. CR 01-238 - brother had difficulty traveling) (Frances, Ninth Judicial Circuit No.

CR 00-16204 - mitigation witnesses from U.S. Virgin Islands); Maryland (Horn - mother); New Jersey (David Jones) (Goumnov, Atlantic Co. - 5 year old niece) (Josephs - witness); New York (Bell, Queens County - younger sibling) (Taylor, Queens County - children) (Alvarez, Westchester County - grandmother and aunt in Honduras who were denied visas).

6. The information detailed herein is maintained in the ordinary course of business of the Federal Death Penalty Resource Counsel Project and is accurate to the best of my knowledge, ability and belief.

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed this 13th day of July, 2007.


Kevin McNally