



PAUL D. CONNICK, JR.
DISTRICT ATTORNEY
TWENTY-FOURTH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STEPHEN T. WIMBERLY
FIRST ASSISTANT
DISTRICT ATTORNEY

200 DERBIGNY STREET
GRETN, LA. 70053
PHONE: (504) 368-1020

April 21, 2006

Martin A. Stern
Robert Markle
Adams and Reese, LLP
4500 One Shell Square
New Orleans, Louisiana 70139

RE: *State v. Patrick Kennedy*
No. 05-KA-1981

Dear Counselors:

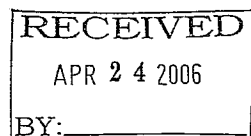
Enclosed please find a copy of the State's *Sentence Review Memorandum* in the above referenced case.

Sincerely,


Juliet Clark
Assistant District Attorney

JLC

Enclosure



IN THE
SUPREME COURT
FOR THE
STATE OF LOUISIANA

NO. 2005-KA-1981

STATE OF LOUISIANA,
APPELLEE

VERSUS

PATRICK KENNEDY,
APPELLANT

APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT IN AND
FOR THE PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 98-1425,
DIVISION "O", THE HONORABLE ROSS LADART, JUDGE PRESIDING.

RULE 28 CAPITAL SENTENCE REVIEW MEMORANDUM

PAUL D. CONNICK, JR.
DISTRICT ATTORNEY
24TH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

JULIET CLARK #23451
TERRY BOUDREAUX
ASSISTANT DISTRICT ATTORNEYS
24TH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

RECEIVED
APR 24 2006

IN THE
SUPREME COURT
FOR THE
STATE OF LOUISIANA

NO. 2005-KA-1981

STATE OF LOUISIANA,
APPELLEE

VERSUS

PATRICK KENNEDY,
APPELLANT

APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT IN AND
FOR THE PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 98-1425
DIVISION "O", THE HONORABLE ROSS LADART, JUDGE PRESIDING.

RULE 28 CAPITAL SENTENCE REVIEW MEMORANDUM

MAY IT PLEASE THE COURT:

The Office of the District Attorney submits the following in compliance with Louisiana Rule 28, Section 4: 1) a list of each first degree murder case in the Twenty-Fourth Judicial District in which sentence was imposed after January 1, 1976 as required by Rule 28, Section 4(b)(I); and 2) a list of each capital rape case¹ in which sentence was imposed after August 15, 1995.

1.) The following is a list of each First Degree Murder case in the Twenty-Fourth Judicial District in which sentence was imposed after January 1, 1976.

- (1) **State of Louisiana vs. Willie J. Marse, Jr.**
Docket No. 77-1689 Division "A"
Crime Convicted: Manslaughter
Sentence: 21 years
State v. Marse, 365 So.2d 1319 (La. 1978)

Ola Mayeux, Willie Marse's former girlfriend, was approaching the door of her home when Willie Marse pulled up in front of her house. Fearing Marse, Ola Mayeux left her home

¹ Included in the listing are those cases which were instituted or initially prosecuted as capital cases, where the State subsequently noticed its intention not to seek a capital verdict, and which resulted in a plea of guilty to the charge of aggravated rape of a juvenile under twelve, or trial on the charge of aggravated rape of a juvenile under twelve.

and called the police. The police went to Marse's residence in order to talk with him. Marse, refusing to cooperate, locked himself in his house and began to curse and threaten the officers. When Marse opened the door slightly, an officer saw him with a rifle in his hand. In an effort to knock the weapon from Marse's hand, the officer hit the door. As Marse forced the door closed, the officer's fist went through the door, knocking a hole in the door. Marse stuck the rifle barrel through the hole in the door, opened fire, and mortally wounded an officer.

On August 2, 1977, Willie J. Marse was indicted for the crime of first degree murder of Merlin Brume. On October 29, 1977, the jury returned a verdict of guilty of manslaughter. His conviction and sentence were affirmed.

- (2) **State of Louisiana vs. James A. Andrews**
Docket No. 77-1834 Division "G"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Andrews, 369 So.2d 1049 (La. 1979)

On the evening of August 8, 1977, defendant was playing football with Herbert Harris and other neighborhood teenagers in Marrero. At some point, defendant and Harris began to argue, apparently over who was the better football player, but no physical fight took place. However, defendant announced that he was going home to retrieve his tennis shoes. A short while later, defendant returned, armed with a knife, walked up to Harris and stabbed him fatally in the heart. Defendant then left the scene, but was later arrested.

Andrews was tried and found guilty of first degree murder. Andrews was sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. On March 5, 1979, Andrews' conviction and sentence were affirmed.

- (3) **State of Louisiana vs. Kevin Manieri and Sheldon Manieri**
Docket No. 77-2253 Division "C"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Manieri, 378 So.2d 931 (La. 1979)

The defendants Kevin and Sheldon Manieri and Tim Mosely went to the residence of Cheryl Black for the purpose of purchasing marijuana. The eleven year old victim, Chris Black, admitted the defendants into his house where they learned that the victim's mother was at work. Kevin Manieri, having smoked marijuana at the house on a previous occasion, telephoned the victim's mother to inquire about a purchase, but the phone call ended with a request by Ms. Black that they leave the house. Defendants left the house and went to a neighborhood park where

Timothy Mosely overheard them discussing "something about killing something or someone." Mosely testified that the three returned to the Black residence, where they were again admitted by the victim, on the pretense of needing to use the bathroom. Mosely further testified that after gaining entrance, Kevin Manieri came out of the bathroom with a rubber hose which he used to strangle Chris Black. The other boys ransacked the house in search of marijuana. In order to appear as though a robbery had occurred Kevin Manieri broke the back door upon leaving the house.

On October 14, 1977, Kevin and Sheldon Manieri were indicted for first degree murder. The jury returned a unanimous verdict of guilty as charged against both defendants. The jury recommended that the defendants be sentenced to life imprisonment without the benefit of parole, probation or suspension of sentence. On December 13, 1979, both defendants' convictions and sentences were affirmed.

(4) **State of Louisiana vs. Anthony Riggins**
Docket No. 77-1342 Division "K"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Riggins, 388 So.2d 1164 (La. 1980)

Anthony Riggins murdered Peter M. Davenhauer, an unarmed 68 year old man, while he was in the process of closing his place of business located in Gretna, Louisiana. A witness testified that Davenhauer never carried any type of weapon on his person. Riggins shot the victim approximately four times with a .38 caliber handgun. Davenhauer fell to the ground after the first shot. Riggins then stood over Davenhauer and shot him in the face and head until the gun was empty. There was an eye-witness who testified to the shooting at the trial. Riggins later told Karl Lewis about the shooting and left the gun with Lewis. Lewis concealed the gun at his home. The gun was found and used as evidence. Riggins was arrested while under his house.

Anthony Riggins was indicted for first degree murder, tried and found guilty as charged. On November 23, 1977, defendant was sentenced to life imprisonment. On September 10, 1980, defendant's sentence and conviction were affirmed.

- (5) **State of Louisiana vs. Winston Love**
Docket No. 78-774 Division "G"
Crime Convicted: First Degree Murder
Sentence: Life
Remanded, New Conviction: Manslaughter
Remanded, New Sentence: 21 Years
State v. Love, 410 So.2d 1045 (La. 1982)

At approximately 6:00 a.m. on December 10, 1977, the body of the victim was found lying in front of an apartment on Warren Street in Kenner, Louisiana. The victim, who had been shot once in the head, was identified as David Epperson. Investigation by the police led them to the Who Cares Lounge, where interviews with lounge employees and patrons revealed that the victim had left the bar earlier that morning, at about the same time as defendant. A lounge employee, Bonnie Lamkin, recalled being introduced to Love that morning by a longtime customer named Steve Henthorne. Henthorne had asked Lamkin to place Love's pistol behind the bar and was given permission to do so himself. On the afternoon after Epperson's murder, Lamkin checked the cabinet where Henthorne had placed the pistol and it was no longer there. Defendant's former girlfriend testified that Love had blood on his clothing when he came home on the morning of December 10, 1977. Another of defendant's girlfriends testified that in February of 1978 Love told her that he had once killed a man.

Winston Love was found guilty of first degree murder and sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. On March 1, 1982, the Supreme Court reversed and remanded Love's conviction and sentence. Subsequently, Love pled guilty to manslaughter.

- (6) **State of Louisiana vs. Richard E. Butler**
Docket No. 78-1329 Division "C"
Crime Convicted: Manslaughter
Sentence: Five Years
State v. Butler, 388 So.2d 1164 (La. 1980)

On the evening of May 26, 1978, the defendant Richard Butler was at Aaron's Lounge in Harvey. Present that evening was also the defendant's brother-in-law, Joseph Tate. Three eye-witnesses testified at trial that they observed the defendant engage in a scuffle with Tate, and shoot him in the head at close range, killing him. The defendant was arrested on May 27, 1978, after having been advised of his Miranda warnings. A search of defendant's car pursuant to a search warrant produced the weapon used in the shooting. After arriving at the Jefferson Parish Sheriff's Office, defendant was again advised of his rights, and after he signed the standard rights

form, the defendant made an oral statement to the police admitting the shooting, but denying that it was intentional.

On September 29, 1978, a bill of indictment was filed charging the defendant with first degree murder. At trial the defendant took the stand in his own defense admitting there was an argument between himself and the victim, but denying the shooting.

On November 9, 1978, a jury of twelve returned a verdict of guilty of manslaughter after approximately three hours of deliberations. Butler's conviction and sentence were affirmed September 10, 1980.

(7) **State of Louisiana vs. Benjamin Berry**
Docket No. 78-2151 Division "B"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Berry, 430 So.2d 1005 (La. 1983)

On January 30, 1978, at approximately 11:15 a.m., Benjamin Berry walked into a Metairie Bank and Trust Company, drawing a gun. The defendant shot at the policeman on security guard duty, Robert Cochran. Shots were fired: one hit the policeman in the arm, causing him to fall to the floor, and a subsequent shot was fired into the back of his head. At the time of the shooting, there were approximately twelve people in the bank. Deputy Cochran did fire one shot with his service revolver, which struck defendant. The defendant was seen running out the bank after the shooting. After an investigation, a warrant was obtained to search the body of the defendant. The search revealed one spent pellet taken from the defendant's back. Deputy Cochran subsequently died from a bullet wound to the head.

On September 5, 1978, a grand jury indictment was filed charging the defendant with first degree murder. The three aggravating circumstances returned under La.Cr.P. art. 905.4 were: offender engaged in the perpetration of armed robbery; the victim was a policeman engaged in lawful duties; more than one person's life was in danger. The defendant took the stand in his own defense, alleging that he did in fact plan an armed robbery, but that the police officer was not intentionally shot.

Benjamin Berry's conviction and sentence were affirmed on appeal and on June 7, 1987, he was executed.

- (8) **State of Louisiana vs. Henry Moses and Joseph Wilson**
Docket No. 78-2490 Division "F"
Crime Convicted: First Degree Murder
Sentence: Life
Remanded, New Conviction: Manslaughter
Remanded, New Sentence: 37 Years
State v. Wilson, 404 So.2d 968 (La. 1981)

The incident took place on Sunday, September 17, 1978, at the Oakwood Shopping Center in Gretna. The victim and approximately eighteen other males had gathered in the shopping center. Most of these individuals belonged to a group known as the King of Kegs. The group was drinking beer and generally conversing among themselves. Wilson and Moses were also in the parking lot when a confrontation took place between them and the group of white men, in the course of which defendants pulled out their guns and fired several shots. One of the bullets struck the victim, fatally wounding him. Immediately thereafter, some of the men in the group severely beat Moses, and ran over Wilson with a van for the ostensible purpose of self-defense, or arrest, or both.

Wilson and Moses were indicted, tried and convicted of first degree murder and sentenced to life imprisonment. On September 28, 1981, the Supreme Court reversed and remanded the convictions and sentences of both defendants. After remand, both defendants entered pleas of guilty and were sentenced as multiple offenders.

- (9) **State of Louisiana vs. Reginald Smith**
Docket No. 78-2600 Division "A"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Smith, 391 So.2d 1182 (La. 1980)

The victim, Conrad Saluto, and three companions had driven into the crowded parking lot of the Courtyard Lounge in Marrero near Barataria Boulevard on the service road which runs parallel to the West Bank Expressway. According to testimony adduced at trial, one of the victim's companions was parking his car in the parking lot, and the victim and his two other friends were standing near a parked car at the corner of the parking lot. As they were talking, they heard what sounded like gunshots coming from the service road area. They immediately began running away from the direction in which the shots were fired. The victim was shot once in the back and died en route to the hospital. None of the victim's friends saw the assailant.

There was one eyewitness to the shooting, Mark Alley, who was driving on the West Bank Expressway, and was stopped for a red light when he heard a gunshot. He looked toward

the source of the sound and saw a man with a gun standing in the service road area facing the lounge parking lot. A second man was running toward Barataria on the service road. The man with the gun fired two additional shots in the direction of the parking lot, and the man running stopped and looked back toward the parking lot. The pair began running down Barataria across the West Bank Expressway directly in front of Alley's truck. At first Alley followed the pair to a food store parking lot. He abandoned his pursuit when he saw a sheriff's unit, which he followed to the hospital.

Smith was indicted, tried and found guilty of first degree murder and sentenced to death. The knowing creation of risk of death or great bodily harm to more than one person was indicated as the aggravating circumstance. Smith died of natural causes in January of 1983.

(10) **State of Louisiana vs. Paul C. Hartman**
Docket No. 78-2928 Division "I"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Hartman, 388 So.2d 688 (La. 1980)

On December 4, 1978, the defendant stopped at the Tiki Lounge in Jefferson Parish to talk to his ex-girlfriend, Linda Creppel. When he entered the lounge, he saw Ms. Creppel dancing with Johnny Schwartz. The defendant, angered by his observation, started an argument with Ms. Creppel and Schwartz. After hostile words were exchanged, the defendant went to get his knife from his truck and returned to the bar. The argument continued and an altercation ensued between the defendant and Schwartz. During the struggle, the defendant fatally stabbed Schwartz. Hartman was convicted of first degree murder and sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. His conviction and sentence were affirmed on September 3, 1980.

(11) **State of Louisiana vs. William Barnes**
Docket No. 79-1376 Division "B"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Barnes, 414 So.2d 711 (La. 1982)

The victim was sitting in his car in a parking lot when all of a sudden another car, with the defendant William Barnes and codefendant Junior Bazile in it, pulled beside him. Barnes walked to the victim's car, pulled out a revolver and "executed" him. The first shot smashed the car window and the second shot was fired as the defendant placed the gun on the man's chest. A cab driver happened to be passing the scene, heard a shot and as he looked up, he saw defendant

thrust his arm into the driver's side of the vehicle and fire a second shot. The victim died of a bullet through the heart. The eyewitness radioed a description of the killers to the police and followed the fleeing defendants until the police actually stopped the getaway car. The cab driver never lost sight of the defendants in the chase. The arrest was made by the police in hot pursuit of the defendant. The crime occurred on May 20, 1979, requiring prosecution under the statute which was in effect prior to the repeal of the first degree murder statute by Acts 1979, no. 74, effective June 29, 1979. The eyewitness specifically testified he witnessed the incident from about 100-125 feet from the scene. He also positively identified defendant as the killer.

Barnes was found guilty of first degree murder and after two hours of deliberations without any indication of deadlock, was sentenced to serve life imprisonment without benefit of parole, probation or suspension of sentence. On November 21, 1981, Barnes' conviction and sentence were affirmed.

(12) **State of Louisiana vs. David C. Raymond**
Docket No. 79-2336 Division "B"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Raymond, 412 So.2d 107 (La. 1982)

Melvin Guidry, a clerk at Coulon's Hardware Store, testified that David C. Raymond entered the store and asked Donald Coulon, the owner of the store, for an 18-shot pistol. The defendant pulled out a .38 special, pointed the gun at Donald Coulon's face, and demanded bullets for a .45 Browning automatic. Melvin Guidry testified that the defendant said, "If you don't give it to me, I'll shoot you," when Donald Coulon did not surrender the ammunition. Donald Coulon then rushed the defendant, Melvin Guidry attempted to grab the gun, and the gun went off. Donald Coulon was mortally wounded. Melvin Guidry, who was also shot, fled and sought help across the street. Melvin Guidry positively identified the defendant as the assailant. Raymond was indicted, tried and found guilty as charged. Killing while engaged in a felony and intent to kill more than one person were the two aggravating circumstances.

He was sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. On April 14, 1982, Raymond's conviction and sentence were affirmed by per curiam.

(13) **State of Louisiana vs. Charles Lane**
Docket No. 79-2841 Division "G"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Lane, 414 So.2d 1223 (La. 1982)

On September 28, 1979, the Gretna Police Department responded to a request to proceed to 928 Porter Street, Gretna, in reference to an aggravated battery. Upon arrival at the residence they found Frances Arwood badly beaten, extremely burned, mutilated and, for all intents and purposes, clinically dead. She was immediately transferred to West Jefferson Hospital in a comatose state. Shortly thereafter she was transferred to Charity Hospital's burn unit where she remained for approximately two months before she died.

The evidence revealed that Robert Sawyer and Charles Lane returned to the above stated residence on the morning of September 28, 1979, after they had been drinking the night before. At the residence they met Cynthia Shano, who was Robert Sawyer's common law wife, and the victim, who was a friend of Shano's and also the babysitter of Shano's two children: Wayne, age four and Troy, age two.

Sometime that morning an argument ensued between Sawyer and Arwood and Arwood was administered a beating by Sawyer. Tempers cooled for a short period of time, but Sawyer, for whatever reason, began punching and kicking the victim over all parts of her body. At this point Lane also began to participate in the attack. Ms. Arwood, after having been severely beaten by both defendants, was ordered into the bathroom to clean up. When she refused to get into the tub, Sawyer gave her a karate kick to the chest whereupon she was knocked against the side wall of the tub and she fell into the tub. Lane then lifted her from the bathtub and undressed her. Sawyer went into the kitchen with Shano after he told Lane to watch the woman in order that she might not escape. Lane did so, closed the door and raped Arwood as she was lying semiconscious in the tub. About fifteen minutes later, after Sawyer became impatient as to what was taking Arwood so long to clean up, he proceeded into the bathroom with a coffee pot of scalding hot water and poured the same over the victim's head with some Tide detergent. Lane began dunking the woman's head under the water that was drawn into the tub and he also began punching her in the face. Sawyer yanked Ms. Arwood out of the tub by her hair, when she resisted Sawyer again gave her a karate kick into the chest causing the victim to smash her head on the wall next to the bathtub, never to regain consciousness.

She was then moved from the bathtub by Sawyer, who grabbed her by the scalp and Lane, who held her feet, and dropped her face down on the floor in the hallway. At this point, Sawyer began beating Ms. Arwood's nude body with a thick belt while he was walking on her back; and Lane had begun kicking Ms. Arwood in the ribs. Finally, after repeated requests of Ms. Shano to leave Ms. Arwood alone, Ms. Arwood was dragged into the living room and placed on a sofa bed. While on the sofa bed, Ms. Arwood was once again raped by Charles Lane and subsequently set on fire by Sawyer during the course of Lane's act. The police arrived on the scene shortly thereafter upon the request of Mrs. Champagne, Shano's sister, who had arrived on the scene to relay a message to Ms. Shano about their mother.

Charles Lane was tried and found guilty of first degree murder and sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. On May 17, 1982, the Supreme Court affirmed the conviction and sentence of Charles Lane.

(14) **State of Louisiana vs. Robert Sawyer**
Docket No. 79-2841 Division "G"
Crime Convicted: First Degree Murder
Sentence: Death
Sawyer v. Louisiana, 104 S.Ct. 1719
Sawyer v. Louisiana, 103 S.Ct. 1223
State v. Sawyer, 422 So.2d 95

Robert W. Sawyer was charged with the first degree murder of Frances Arwood, this crime occurring on September 28, 1979. After trial by jury, he was sentenced to death on September 19, 1980.

On October 18, 1982, the Supreme Court affirmed the conviction and sentence of Robert Sawyer. Defendant's conviction and sentence were affirmed by the U.S. Supreme Court, and in March of 1993, defendant was executed by lethal injection.

For a complete factual recitation of the case, please refer to the facts of the immediate preceding case of Charles Lane, No. (13).

In addition, the State would respectfully submit that three aggravating circumstances were found by the jury, to wit:

1. the defendant was engaged in the perpetration of aggravated arson;
2. the defendant had a prior conviction for an unrelated murder;
3. the offense was committed in an especially cruel manner.

(15) **State of Louisiana vs. Tyronne Lindsey**
Docket No. 80-200 Division "I"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Lindsey, 428 So.2d 420 (La.
1983), 543 So.2d 886 (La. 1989);
Lindsey v King, 769 F.2d 1034 (5th Cir. 1985)

On the evening of December 19, 1979, at approximately 7:30 p.m., John Knoph and Steven Birks were preparing to exit the Oakwood Shopping Center located in Jefferson Parish. The two men had just exited the mall and were walking in the parking lot toward their car when they heard muffled screams behind them. Sensing that something was wrong, the men began walking back toward the mall. They isolated the direction of the scream to a narrow space between two parked cars. The passenger door on one of the cars was opened and facing them. As they watched, the head of a man, later identified as that of Tyronne Lindsey, popped up and was visible through the passenger door window. Suddenly, the man ducked down and ran toward the back of the car and then began running down the parking aisle. Then a woman, later identified as the victim, stood and ran from the same spot. Knoph, assuming the woman was not seriously injured, began running down the next aisle parallel to the man and Birks ran between parked cars to get into the same aisle as the man. The man then turned and pointed a pistol at Knoph. Knoph and Birks retired from the chase and the man escaped. When they returned to examine the woman, they discovered that she had been shot in the back.

The woman, Earline Kidner, died of a gunshot wound to the back on December 29, 1979. Based on a photographic lineup identification by Knoph, Lindsey was arrested for murder. Edward Beckendorf of the Jefferson Parish Sheriff's Office obtained a statement from Tyronne Lindsey in which he admitted his complicity in a scheme to rob Oakwood Shopping Center patrons but claimed that someone named "Sidney" shot Earline Kidner.

At trial, defendant presented an alibi defense, attempting to show that he was at his girlfriend's apartment on the evening of the murder.

On September 8, 1981, defendant's conviction was affirmed but the sentence was vacated and remanded for resentencing. On remand to the Twenty-Fourth Judicial District Court, Lindsey was again sentenced to death. On February 23, 1983, that sentence was affirmed. The Supreme Court recently denied writs on defendant's state application for post-conviction relief.

His federal habeas corpus petition has recently been stayed pending exhaustion of new claims in state court.

On August 13, 1985, the United States Court of Appeals for the Fifth Circuit reversed and remanded and ordered Lindsey a new trial. Lindsey was retried, found guilty as charged and sentenced to death. This sentence was affirmed by the Louisiana Supreme Court on May 1, 1989. On April 7, 2004, he was resentenced to life pursuant to Atkins v. Virginia, 536 U.S. 304, 122 S.Ct. 2242 (2002).

(16) **State of Louisiana vs. Kenneth Sharp**
Docket No. 80-566 Division "H"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Sharp, 418 So.2d 1344 (La. 1982)

Kenneth Sharp, Jr., left his residence to watch the residence of Joseph G. Bobinger and Bernadine Bobinger, although he carefully parked quite a distance away. Because of a marital breakup, Betty Sharp and her children had taken up residence with her brother and sister-in law, the victims.

Eventually Sharp's surveillance led him to the bushes outside the victims' home. When Betty Sharp opened the door to allow her children to exit for a Mardi Gras parade, she spotted the defendant hiding in the bushes; he came to the door and then literally forced his way in. Like so many times in the past, the discussion turned to argument over the marital situation and the defendant became hostile and was asked to leave. Seeing the defendant's mounting rage and his refusal to leave, Betty Sharp went to summon the Bobinger's who were resting in their den. Upon struggling with the defendant, Betty Sharp had spotted a knife lying where the defendant had previously sat.

The Bobingers' attempt to get the defendant to leave resulted in the defendant stabbing them to death; Bernadine Bobinger first then Joseph Bobinger.

Police and emergency units arrived shortly thereafter. Betty Sharp named her husband Kenneth J. Sharp as the assailant and he was arrested outside a Time Saver store a short while later.

Kenneth Sharp was convicted of first degree murder and subsequently sentenced to life imprisonment. On July 2, 1982, the Supreme Court affirmed the conviction and sentence of Kenneth Sharp.

(17) **State of Louisiana vs. William Tuckson**
Docket No. 80-2132 Division "K"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Tuckson, 414 So.2d 360 (La. 1982)

In the early morning hours of July 13, 1980, defendant broke into a truck parked about two blocks from the apartment of his girlfriend's mother. He popped a small side window with a screwdriver to unlock the door. He then reached under the seat of the truck and found a pistol but did not check whether it was loaded or not. Defendant stole a ring, an eight track tape and a C.B. radio which he loosened with pliers. While still in the truck, he heard someone holler. Defendant then jumped from the truck as James Johnson entered the truck. He ran around the front of the truck to scare Johnson. He saw Johnson leaning over as if reaching under the seat at which time defendant fired into the front driver's window of the truck. After shooting the gun, defendant picked up the goods which he had removed from the truck and ran to his girlfriend's mother's apartment. Once there, he undressed and fell asleep on the couch.

The police learned that William Tuckson had been seen running from the area shortly after the gunshot was heard. The police were led to the girlfriend's mother's apartment where they knocked on the door with a normal rap. They were freely admitted to the apartment where they found defendant sleeping on the couch. Defendant was advised that he was under investigation for the murder of Johnson and orally recited his rights. After defendant was handcuffed, he was taken to police headquarters, where he signed a waiver of rights form, declined the presence of a lawyer, and gave a taped inculpatory statement.

After defendant was removed from the apartment, the police obtained permission from the lessee, Gwendolyn Walker, to search. They retrieved the .38 caliber pistol, the screw driver, the pliers, and a man's ring. Defendant's clothing, which he put on to go to the police station, was later obtained as evidence.

On December 9, 1980, William Tuckson was found guilty of first degree murder and sentenced to life imprisonment. On May 17, 1982, the Supreme Court set aside the conviction of first degree murder and remanded for the entry of guilty of second degree murder. The sentence was affirmed.

(18) **State of Louisiana vs. Jimmy Robinson**
Docket No. 80-2360 Division "C"
Crime Convicted: First Degree Murder
Sentence: Death
Remanded, New Conviction: First Degree Murder
Remanded, New Sentence: Life without benefit of parole,
probation or suspension of sentence
State v. Robinson, 421 So.2d 229 (La. 1982)

On August 5, 1980, defendant and Keith Stewart knocked at the door of the apartment of Mrs. Joyce Waites, who managed an apartment complex. They told Mrs. Waites that they wanted to apply for a job, but they left when she advised that there were no positions available. Approximately thirty minutes later, Mrs. Waites answered another knock at the door and was confronted by the same two men, who drew guns and demanded money. When Mrs. Waites pointed to her purse, defendant placed a gun against her head and told her to lie on the floor.

Defendant held the gun to Mrs. Waites' head, while Stewart search the house for valuables. Mrs. Waites warned that her husband was coming home for lunch soon and begged them to leave, but they did not do so. When her husband arrived, defendant and Stewart used the gun to require him to lie on the floor next to Mrs. Waites. Defendant then made Mrs. Waites accompany him upstairs to search for more money. When they came back downstairs, defendant again told her to lie on the floor next to her husband.

Mrs. Waites told defendant that she could not stop shaking and asked for a cigarette, which defendant gave her. At defendant's instruction, she place her head on the floor and closed her eyes. When she heard a shot, she looked up and started screaming when she saw that her husband had been shot. Defendant placed the gun against her head and told her to shut up or she would be next. Shortly thereafter, defendant and Stewart left the apartment. They took the stolen money and fled in the Waites' car.

Mr. Waites died of a gunshot wound to the head. Later the same day, defendant was arrested and confessed to the shooting, but claimed that the gun went off accidentally. Defendant admitted, however, that the hammer of the gun was cocked prior to the shooting.

On August 22, 1980, a grand jury indictment was filed against defendants Jimmy Robinson and Keith Stewart for the first degree murder of Garland Waites, Jr.

On January 5, 1981, Jimmy Robinson was tried separately before a jury and found guilty as charged. On January 8, 1981, the jury recommended that the defendant be sentenced to death, finding the following aggravating circumstances:

1. the offender was engaged in the perpetration of aggravated burglary;
2. the offender has a significant prior history of criminal activity;
3. the offender knowingly created a risk of death or great bodily harm to more than one person;
4. the offense was committed in an especially heinous, atrocious or cruel manner;
5. the victim was an eyewitness to a crime alleged to have been committed by defendant.

On October 18 1982, the Supreme Court affirmed the conviction, but set aside the sentence, remanding the matter for the trial court to conduct a new sentencing hearing.

On remand the defendant was sentenced to life.

(19) **State of Louisiana vs. Keith Stewart**
Docket No. 80-2360 Division "C"
Crime Convicted: Second Degree murder
Sentence: Life
State v. Stewart, 437 So.2d 872 (La. 1983)

Keith Stewart was indicted for first degree murder of Garland Waites. Stewart was tried separately before a jury and found guilty of second degree murder and sentenced to life imprisonment without benefit of parole, probation or suspension of sentence.

On September 2, 1983, Stewart's conviction and sentence were affirmed in a per curium opinion.

For a full detailed description, please see the facts recited immediately above in No. (18).

(20) **State of Louisiana vs. Johnny Taylor**
Docket No. 80-2388 Division "D"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Taylor, 422 So.2d 109 (La. 1982)

The victim, David Vogler, received a telephone call around 8:45 p.m. from a black male about an automobile which Vogler had placed for sale in the parking lot of Barker's in Kenner, Louisiana. Vogler left his home in his Cadillac to show the red 1976 Buick Regal to the inquirer. Around 12:45 a.m., Mrs. Vogler went to the parking lot in search of her husband along with her

sister and her sister's boyfriend. The red Buick was missing; the Cadillac was parked in the lot. Mrs. Vogler looked in the Cadillac window and saw her husband's coat on the front seat. She saw two police cars stopped in the lot and asked the officers if they had seen the Buick. They assured her that they would be on the lookout for it. Mrs. Vogler then returned to her mother's house where she spent the night. At 9:00 o'clock the next morning she returned to the parking lot with her brother-in-law, Larry Huesman. Huesman looked inside the Cadillac and saw blood on the upholstery. Fearing foul play, Huesman dropped Mrs. Vogler off and called the police. He met Officer Averett back at the parking lot and gave the officer Mrs. Vogler's extra set of keys. When Officer Averett opened the trunk, he saw the body of David Vogler. An autopsy revealed that David Vogler died from multiple stab wounds.

Defendant was subsequently arrested for an unrelated auto theft and incarcerated in Butler, Alabama. Two statements were given by Taylor; neither statement satisfactorily explained how the accused came into possession of the Buick Regal. The defendant's finger and palm prints were taken. These prints, along with those taken from the Cadillac, were sent to the FBI. The two sets of prints matched the partial palm print from the outside trunk lid based on forty points of identification. Sample of hair taken from defendant during the interview showed similar characteristics to the hair found in the Cadillac.

Johnny Taylor was charged with the first degree murder of David J. Vogler and was subsequently sentenced to death. On October 18, 1982, the Supreme Court affirmed the conviction and sentence of Johnny Taylor. Johnny Taylor was executed February 29, 1984.

(21) **State of Louisiana vs. Glenn M. Moore**
Docket No. 80-2561 Division "C"
Crime Convicted: Second Degree Murder
Sentence: Life
State v. Moore, 412 So.2d 108 (La. 1982)

The victim died as a result of a bullet wound in the left chest which severed the aorta of the heart causing Clarence Lanis to bleed to death in a matter of seconds. In addition, evidence was submitted indicating the defendant not only killed Clarence Lanis but he also shot Diane King, who was sitting in the car with Lanis and who was wounded in the leg.

Diane King, the second target, testified that Moore was indeed the man who shot and killed the victim and also shot at her. She had known Moore prior to the shooting. She testified that Moore was standing by the passenger window by the driver's side when he shot the deceased

and then her in both legs. She further testified she had lived with the defendant from March until June, 1980.

Diane King also testified that Moore had telephoned prior to the trial and threatened her that he would kill her if she told the police that he did it. He offered her \$1400.00. She described how Moore had laid in wait for the victim.

Glenn Moore was charged by grand jury indictment on September 19, 1980, for the first degree murder of Clarence R. Lanis. On January 21, 1981, Moore was found guilty of second degree murder and sentenced to serve life imprisonment without benefit of parole, probation, or suspension of sentence. Glenn Moore's conviction and sentence were affirmed by the Louisiana Supreme Court without opinion.

(22) **State of Louisiana vs. James Smith**
Docket No. 80-2995 Division "H"
Crime Convicted: Second Degree Murder
Sentence: Life
State v. Smith, 416 So.2d 1301 (La. 1982)

On February 8, 1980, Mr. Kenneth Dabog was at home at approximately 11:20 p.m. when a neighbor, Mr. Roger Allemand, telephoned him to say that someone was breaking into the home of another neighbor, Mr. Herman Hunter. Mr. Allemand instructed Mr. Dabog to meet Mr. Allemand at the neighboring house. Upon arriving, Mr. Dabog then heard Mr. Allemand yelling, "He ran out. He is coming out the back door." Mr. Dabog overheard a body fall against the Herman house. He also heard six to eight gunshots fired. Roger Allemand fell to the ground. Mr. Dabog shouted "come out," while holding a gun. The defendant, Henry James Smith, then came out, carrying a gun. The police were subsequently called and the defendant was arrested pursuant to a search warrant of his residence. Once the defendant was in custody and had been given his Miranda warnings, he gave a voluntary statement to police after having conferred with his step-father. This statement said that he shot at random during the breaking and entering of Herman's home, after he himself had been shot. The defendant gave a voluntary statement to police after repeated Miranda warnings as well as opportunity to confer with his step-father, implicating himself in the breaking and entering of the home of Mr. Herman, as well as the shooting itself. There was ample testimony both at the Motion To Suppress as well as at trial that there was no coercion, threats or promises made to the defendant during questioning. Mr. Allemand subsequently died of a gunshot wound to the lung.

On October 31, 1980, Henry James Smith, 16, was charged with the first degree murder of Roger Allemand. On March 12, 1981, the defendant was found guilty of second degree murder and was sentenced to life imprisonment on April 16, 1981. On May 26, 1982, the Supreme Court affirmed his conviction and sentence.

(23) **State of Louisiana vs. Sabrina Parks**
Docket No. 80-3493 Division "C"
Crime Convicted: Second Degree Murder
Sentence: Life
State v. Parks, 422 So.2d 1164 (La. 1982)

The facts reveal that defendant's husband, Jimmy Parks, had been working for Stone Oil Company. On December 25, 1980, he returned to Gretna and was paid. On the same day, defendant's lover, David Carbo, executed Jimmy Parks, took his paychecks from him and gave the checks to defendant, who cashed them the next day. Defendant and Carbo had an agreement that they would split the proceeds of any insurance policy on the victim. Testimony revealed that defendant fully assisted Carbo in the scheme to kill her husband. Jimmy Parks died as a result of a gunshot wound to the back of the head.

Following a three day trial by jury, defendant Sabrina Parks was convicted of second degree murder and, on June 5, 1981, defendant was sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. On December 10, 1982, the Supreme Court affirmed the conviction and sentence of Sabrina Parks.

(24) **State of Louisiana vs. David B. Carbo**
Docket No. 80-3493 Division "C"
Crime Plead: Second Degree Murder
Sentence: Life

On October 26, David Carbo was charged with the first degree murder of Jimmy Parks. On June 5, 1981, defendant plead guilty to second degree murder and was sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. He was a co-defendant with Sabrina Parks, above

For a full detailed description, please see the facts recited immediately above in No. (23).

(25) State of Louisiana vs. Juan A. Dupiere
Docket No. 81-573 Division "M"
Crime Convicted: Second Degree Murder
Sentence: Life

Testimony reveals that defendant was at a party at the home of Joseph Mangerchine (who was indicted on first degree murder charges along with defendant), where a substantial quantity of alcohol and drugs were consumed. During the course of the evening, Juan Dupiere asked Joseph Mangerchine if he would assist him in committing an armed robbery. Mangerchine agreed, and even secured a gun for the purpose. Eventually the two ended up in Mangerchine's car on Jefferson Highway, and pulled into the Model Motel. At that point, defendant exited the car and went inside. Within seconds, according to the testimony of Mangerchine, Dupiere came running out, jumped into the car, and told Mangerchine that he had to shoot the manager inside the motel.

Testimony also revealed that the two left the scene, but returned a little later in a different car to see what was going on. Mangerchine went into the motel and found the victim dead on the floor. He then stole money from the cash register, picked up the gun, and went outside to make a phone call. Seeing a policeman across the street, he and defendant went to tell him about the victim, alleging that they had come to get a room at the motel. Mangerchine and Dupiere gave statements to police at this time (December 22, 1980) each using the same story.

Later, on February 5, 1981, after further investigation, defendant was arrested by police. Defendant signed a waiver of rights form and gave a statement to police blaming the whole incident on Mangerchine.

Under indictment for first degree murder, the defendant was tried and convicted unanimously of second degree murder on October 20, 1981. On September 9, 1982, the Supreme Court affirmed the conviction and sentence of defendant Juan Dupiere.

(26) State of Louisiana vs. Joseph Mangerchine
Docket No. 81-573 Division "M"
Crime Convicted: Manslaughter
Sentence: 21 Years

An indictment was filed against Joseph Mangerchine and co-defendant on February 20, 1981, charging them with the first degree murder of Theodore Martson. As a result of a plea bargain arrangement, Mangerchine pled guilty to manslaughter and armed robbery, and testified that the defendant Juan Dupiere actually was the person who shot the victim. On October 19,

1981, Joseph Mangerchine entered a plea to manslaughter and was sentenced to 21 years at hard labor.

For a full detailed description, please see the facts recited immediately above in No. (25).

(27) State of Louisiana vs. Herman Billiot
Docket No. 82-665 Division "H"
Crime Convicted: Second Degree Murder
Sentence: Life
State v. Billiot, 421 So.2d 864 (La. 1982)

A homicide was committed by defendant Herman Billiot and his codefendant John O. Shilling. Through the testimony of two female eyewitnesses, it was proven that Billiot, Shilling and another unidentified male were out on the town visiting various Gretna and Marrero nightspots. Late in the evening they met with Pamela LeBlanc at one of these nightspots and still later met with Stephanie (Penny) Plaisance at another nightspot. This group went to yet another bar where Ms. LeBlanc met the victim, James Stache. After they had all consumed some unknown quantity of beer, the party of six left in Shilling's automobile traveling towards Lafitte. The unidentified male passed out in the car and remained unconscious for the remainder of the night.

On the way to Lafitte, in the early predawn hours, Shilling stopped his automobile twice, presumably so he and the others could answer the call of nature. The first place he stopped was too well lit and there were too many people nearby watching another car on fire. Shilling then drove down the road a little further and stopped a second time. The victim, with the help of the defendants, got out of the car and walked about ten feet from the side of the vehicle. Billiot and Shilling began to beat and kick the victim, both pulling knives to cut and stab him. The defendants beat the victim senseless and robbed him of \$30.00. Billiot and Shilling then returned to the others and drove away to Shilling's residence in Lafitte, leaving the victim for dead on the side of the road. Soon after arriving at this residence, Shilling and Billiot left the two women and returned to the scene of the initial attack to find Shilling's lost knife. When they arrived, they found the missing knife and the victim, still alive, trying to hitchhike.

The defendants put the victim into their automobile and drove a little further down the road to a more secluded spot. There they dragged the victim from the back seat and out to the edge of a bayou; each of them punching the victim in the throat, Billiot first, then Shilling,

whereupon Shilling then slit the victim's throat with his knife; pushed his head under water and stood on him until the victim eventually drowned. The defendants returned to Shilling's residence to pick up the two women and take them home, telling them how they had finished off the victim. Shilling also threatened the women with death if they told anyone about the killing.

Herman Billiot was tried by a jury for the first degree murder of James Stache. Billiot was convicted of second degree murder and sentenced to life imprisonment. The Supreme Court affirmed Billiot's conviction and sentence on October 18, 1982.

(28) **State of Louisiana vs. John O. Shilling**
Docket No. 81-665 Division "H"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Shilling, 440 So.2d 110 (La. 1983)

On July 27 and 28, 1981, John Shilling was tried for the first degree murder of James Stache. On July 29, 1981, he was convicted of first degree murder and on September 4, 1981, sentenced to life imprisonment. On October 17, 1983, the Louisiana Supreme Court affirmed defendant's conviction and sentence.

For a complete factual recitation, please see the facts related under No. (27) immediately above.

(29) **State of Louisiana vs. Lane C. Nelson**
Docket No. 81-3248 Division "A"
Crime Convicted: First Degree Murder
Sentence: Death
Remanded, New Conviction: Second Degree Murder
Remanded, New Sentence: Life without benefit of parole,
probation or suspension of sentence
State v. Nelson, 459 So.2d 510 (La. 1984)

A traffic accident occurred on Interstate 10 in Madison County, Florida. Lane C. Nelson was arrested for operating a motor vehicle under the influence of alcoholic beverages and taken to jail. In the course of doing his paperwork on the accident report, Trooper Melgaard engaged Nelson in general conversation and inquired about the ownership of the vehicle. Nelson said he had borrowed the rented automobile from a friend in Louisiana to go to the store, and Trooper Melgaard suspected that the car might be stolen. During the course of the conversation Nelson volunteered: "Looking at me, you do not think I would kill anybody?" At this point, Trooper Melgaard broke off the conversation and summoned Officer William Pheil, who gave

Nelson his Miranda rights. After those rights were fully explained and Nelson signed a waiver, the officer began to question him about his startling statement.

Nelson had been hitchhiking to New Orleans, when he was picked up by Beauvais Randall in Bankine, Louisiana. Randall, apparently a transvestite, was dressed like a woman. After Nelson told Randall that he had no money, Randall offered to pay Nelson for a photography session at Randall's apartment in New Orleans. Following an early morning arrival at Randall's apartment, the two men took a nap, and Randall showed Nelson magazine illustrations of women in bondage positions which he wished duplicated. Randall was trussed in ropes and Nelson took Polaroid photographs. During a break, Nelson received twenty dollars from Randall and purchased cigarettes, a pint of vodka, and two six packs of beer. Before Nelson left for the store, he retied Randall who performed oral sex on Nelson. Subsequently, there were approximately three hours of photography with Randall dressed in a woman's black slip and high heels. Randall then assumed men's clothes and the two went to a pizza parlor where Nelson drank beer. After they returned to Randall's apartment, Randall asked Nelson to tie him up again before Nelson left to do some laundry.

While doing the laundry, Nelson decided that he would leave in Randall's rented Mercury with Randall's money. When he announced his plan to Randall, the latter began to scream. Nelson then stabbed Randall repeatedly with an eight inch knife which had been in Randall's suitcase, took sixty-five or seventy dollars from Randall's jeans, and drove off in the Mercury. He intended to drive to Florida but went west instead of east and spent the night at a rest stop about one hundred miles from New Orleans, Nelson then retraced his steps to New Orleans and continued on to Florida where he picked up hitchhiker Wilhelm. Nelson told Wilhelm about what had happened to Randall because he "had to tell someone."

Lane C. Nelson was indicted, tried and found guilty of first degree murder and the jury recommended a sentence of death, finding as the aggravating circumstance that Nelson committed murder while engaged in the perpetration of an armed robbery. His conviction and sentence were affirmed on appeal on October 15, 1984. Defendant's application in state court for post-conviction relief was denied. Prior to Nelson's death sentence being carried out, his conviction was reversed and the matter remanded for retrial. He was subsequently convicted of

second degree murder and given a sentence of life in prison without benefit of parole, probation or suspension of sentence.

(30) **State of Louisiana vs. Louis J. Cruz**
Docket No. 81-3523 Division "K"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Cruz, 455 So.2d 1551 (La. 1984)

The badly decomposed body of twenty-two year old Susan Todorov was discovered floating in the Mississippi River in Jefferson Parish near Gretna. The body, clad only in a bra and blouse, was found about 30 feet from shore near a barge dock and other property owned by the J.W. Stone Oil Company. On the batture, between the levee and the water's edge, were a pair of underpants, a shoe, a matchbook from Gatsby's Lounge and a pack of Winston cigarettes, Cruz's brand. On a wharf nearby, there was a woman's silver chain minus its diamond pendant. Police observed footprints and drag marks, four to five feet down to the river. The clothing, shoe, and chain were identified as Todorov's; a set of diamond earrings and a watch she was wearing when last seen were missing.

Todorov was last seen alive leaving Gatsby's Lounge in Gretna with Louis Cruz, the defendant, on the evening of July 19. There was evidence that Todorov, Jo Alice Fitzhenry and Luis Cruz were smoking marijuana that evening. Jo Alice, Todorov and defendant went to Todorov's fiancé's Trans Am together and Jo Alice put her brown purse, containing her wallet and house keys, under the passenger seat in the front of the car.

A Jefferson Parish detective, Officer Rees, saw Todorov, Jo Alice and Cruz standing by the Trans Am outside Gatsby's at about two in the morning. Later, Todorov left the lounge and Cruz walked out behind her. Officer Rees testified that Todorov and Cruz got into the orange Trans Am and drove away.

Cruz was next seen at 6:00 a.m. at the Sahara Lounge in Belle Chasse. A barmaid recognized him when she reported for work and also noticed an orange Trans Am parked nearby. Michael Bellamy testified that he saw Cruz about 9:00 a.m. in Belle Chasse when Cruz gave Bellamy a ride in an orange Trans Am, which he claimed was a "company" car. Sometime during the ride, Bellamy noticed an object under his feet which he found to be a brown lady's purse that had come from under the passenger's seat.

Later that day, credit card purchases were recorded in Gretna, Biloxi and Pascagoula on the accounts of both Susan Todorov and her fiancé. The manager of a shoe store in Biloxi recalled the sale. He picked out defendant's photograph from a line-up and made a positive in-court identification of Cruz as the man who had used the credit card.

Between 10:30 and 11 p.m. on the evening of Thursday, August 20, Jo Alice was at home putting her child to bed when she heard a noise. She looked up and saw Cruz standing outside at an opened unscreened window. He shook a set of keys, which she recognized as her own, and told her, "I'm going to kill you like I killed her." Jo Alice saw an orange Trans Am parked outside. She screamed and ran into the room where her sister and brother-in-law were sleeping. When Jo Alice returned with her brother-in-law to the window where she had seen Cruz, both he and the Trans Am were gone.

Officer Dunn and a New Orleans detective arrested Cruz and charge him with the murder of Susan Todorov. Cruz was tried and found guilty as charged. The jury was unable to reach a verdict at the sentencing hearing and Cruz was sentenced to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence. The case was remanded to the trial court for consideration of Cruz's Motion for New Trial based on alleged new evidence. A hearing on the new trial was heard and denied in district court. Cruz's conviction and sentence were affirmed.

(31) **State of Louisiana vs. James Flowers**
Docket No. 81-3950 Division "J"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Flowers, 509 So.2d 588 (La.App. 5 Cir. 1987)

A seventy year old widow who lived alone was brutally murdered in her home. The physical evidence indicated that she had been severely beaten, strangled and raped during a burglary. The assailant had broken a window and ransacked the house. Whether any of her property had been taken could not be determined immediately, however.

The next day an anonymous caller telephoned the Gretna Police Department and furnished information linking the defendant with the murder. According to the officer, the tip was to the effect that James Flowers, a black male, could be found in the area of Jefferson and

Hamilton Streets driving a small white Chevette-type car containing one black male passenger and something taken from "that lady that was murdered on Jefferson Street yesterday."

At trial Flowers stated that he never entered the victim's home and that his participation in the crime was limited to helping the sixteen year old codefendant gain entrance into the home. The victim's screams caused the two defendants to seek shelter along a nearby railroad track, where approximately eighty dollars was divided. Flowers stated that he and his codefendant parted company with Flowers returning to his home as the codefendant returned to the victim's house. Within thirty minutes the two were reunited along the railroad tracks and at this point, according to Flowers' statement, the jewelry which Officer Michel seized had been given to Flowers for safe-keeping.

The victim had extensive patterned abrasions and markings around her neck which matched the pattern in the soles of James Flowers' tennis shoes. The victim's jaw was broken, her teeth were knocked loose, and she had several broken ribs. The victim also suffered a massive hemorrhage to the neck. The autopsy report stated that death resulted from a subdural hematoma which in turn was a result of the severe trauma to her head.

Sherry Kirkland, a forensic biologist for the Jefferson Parish Sheriff's Office, stated that as a result of blood and vaginal swab tests, it was determined that Mrs. Malmstrom was raped by a person with type "O" blood. Furthermore, Flowers and Grant both had type "O" blood.

A true bill of indictment was returned against Flowers for the first degree murder of Madeline Malmstrom. Olin Grant's indictment was later amended to the charge of manslaughter. Flowers was found guilty of first degree murder with a recommendation for the death penalty by the jury. That conviction and sentence were affirmed on appeal.

On January 8, 1986, the United State Fifth Circuit Court of Appeal remanded the case for new trial. On August 1, 1986, defendant was found guilty of first degree murder and sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. That sentence and conviction were affirmed on May 1, 1987.

(32) **State of Louisiana vs. Robert Lee Butler**
Docket No. 82-2184 Division "C"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Butler, 462 So.2d 1280 (La.App. 5 Cir. 1985)

During the early morning hours of May 29, 1982, both David Cruz, the man who was fatally shot that night, and Robert Butler, the accused in this case, happened to park their separate cars in the lot outside the Four Palms Lounge on David Drive in Metairie and to enter the nightclub. Cruz apparently went to the Four Palms Lounge to greet his friend Sal Soleto, who was playing in the band there. Robert Butler, it seems, just stopped by for a drink.

Robert Butler, who was prone to homicidal, irrational rages, became furious because the bartender of the Four Palms Lounge, Deborah Revere, was drinking with a customer and so failed to serve Butler his drink as promptly as he wanted. Butler cursed and verbally abused the bartender, threatening to have the lounge closed down that very night, and Ms. Revere referred him to the owner of the lounge, Mitchell Beard. When Beard heard Butler's enraged curses and threats he simply shrugged and told the accused to do whatever he thought was necessary. Madder than ever, Butler abruptly walked out of the lounge.

Mitchell Beard and Sal Soleto, who were curious as to what Butler would do when he left the lounge, followed the accused out and stood at the entrance to see what would happen. They watched Butler go to the trunk of his white car, take out a gun, and then get in his car. While this was happening David Cruz, having finished his chat with Sal Soleto, walked out of the lounge and across the parking lot to his own car. Keith Landry, who had just come to the lounge and was getting some cigarettes out of his vehicle, saw Butler say something to Cruz, whereupon Cruz turned and exclaimed to Landry, "This guy is going to shoot me." Then, while Beard, Soleto, and Landry watched in horror and disbelief, they heard a shot. Cruz staggered, called out, "He shot me," and fell to the ground mortally wounded.

Beard and Soleto got Butler's license number, and as he sped out of the parking lot the accused fired three more shots, one of which struck the maintenance man, Fred Jeffries, in the leg.

Defendant was found guilty of first degree murder and was sentenced to life imprisonment. Defendant Butler's conviction and sentence were affirmed on appeal January 14, 1985.

(33) **State of Louisiana vs. Leslie Lowenfield**
Docket No. 82-3478 Division "N"
Crime Convicted: First Degree Murder (3 counts);
Manslaughter (2 counts)
Sentence: Death (3 sentences); two sentences of 21 years
to run consecutively on manslaughter convictions.
Lowenfield v. Louisiana, 107 S.Ct. 13
State v. Lowenfield, 495 So.2d 1245

On August 13, 1982, Sheila Thomas, her daughter, Thomas' parents and Thomas' boyfriend were shot to death in the kitchen of the home Thomas had been sharing with her parents. Several State witnesses testified that a romantic relationship between Thomas and defendant had come to an unhappy end some months before the crime. Several witnesses testified that defendant had continuously threatened and harassed Thomas after the breakup; one witness testified to threats made by defendant on the evening before the murders. Another witness testified that defendant had admitted to the killings in a telephone conversation. Certain physical evidence linking defendant to the crime was seized from defendant's apartment: among other items, the murder weapons were found in defendant's apartment.

Defendant himself testified and presented an alibi defense: defendant testified that he had been in Florida on the day the crime occurred.

At the sentencing hearing the State offered evidence that defendant had one previous conviction. The state also offered evidence that Thomas had filed criminal charges against defendant shortly before the crime occurred.

The three sentences of death imposed on defendant were supported by the aggravating circumstance that defendant intentionally created a risk of death or great bodily harm to more than one person.

Lowenfield was indicted, tried and found guilty. On December 2, 1985, the Louisiana Supreme Court affirmed defendant's convictions and sentences. Lowenfield's conviction and sentence were affirmed by the U.S. Supreme Court on January 13, 1988. Lowenfield was subsequently executed in the electric chair.

(34) **State of Louisiana vs. David M. Patterson**
Docket No. 83-2502 Division "J"
Crime Convicted: Second Degree Murder
Sentence: Life
State v. Patterson, 464 So.2d 811 (La.App, 5 Cir. 1985)

The evidence at the trial revealed that the victim left her home in Texas on June 30, 1983, for the purpose of traveling to New Orleans to visit her son. Somewhere along the way, the victim picked up Patterson and McFall, who were hitchhiking to Florida. The trio drank beer en route to the victim's destination.

The victim exited Interstate Highway 10 to make a phone call. Upon completing the call, she agreed to drive the hitchhikers back to the Interstate. As the victim was driving back to the Interstate, one of the hitchhikers, later identified as Patterson, pulled out a knife, held it against the victim's throat and told her he was going to take her car. The victim stopped the car in the roadway and attempted to escape. However, she was prevented from doing so by Patterson who grabbed her arm as she got out of the car. As Patterson held her, McFall then stabbed the victim with a knife eight times. There is some medical evidence indicating the victim may have been stabbed with two different knives. The victim was able to break free and run a short distance from the car before collapsing. Patterson and McFall then placed the victim back in the car.

David Patterson was indicted for first degree murder. On January 12, 1984, Patterson was found guilty of second degree murder and sentenced to life imprisonment without benefit of parole, probation or suspension of sentence. On February 11, 1985, Patterson's conviction and sentence were affirmed. Defendant's federal habeas corpus application was denied.

(35) **State of Louisiana vs. Roy McFall**
Docket No. 83-2502 Division "K"
Crime Convicted: First Degree Murder
Sentence: Life
State v. McFall, 464 So.2d 845 (La.App. 5 Cir. 1985)

Roy McFall was indicted for the first degree murder of Theresa Diane Power. He was tried by a twelve person jury and found guilty as charged to life imprisonment without benefit of parole, probation or suspension of sentence. On February 11, 1985, defendant's conviction and sentence were affirmed.

For a full description, please see the facts recited immediately above in No. (34).

(36) **State of Louisiana vs. Daniel Washington**
Docket No. 83-2867 Division "F"
Crime Convicted: Second Degree Murder
Sentence: Life

Daniel Washington, the defendant, Larry Stevenson, and two other men were gambling during the early morning of August 30, 1983. Wardell Elliot saw the dice game on his way to the grocery store. When Elliot returned from the store, he stopped to watch until the game broke up. Elliot returned to his apartment.

In the meantime, at approximately 9:45 or 10:00, Jacqueline Lackey, who lived with Elliot, heard an argument outside. Lackey looked out and observed Washington, Stevenson, another male, and Langella Benefield, Washington's girlfriend. Washington and Stevenson were arguing because Washington wanted the money that he had lost in the dice game returned. Lackey observed Washington threaten Stevenson with a gun and heard Benefield saying, "Shoot him, Danny. Shoot him." Lackey saw Washington shoot Stevenson, take money from Stevenson's pocket, and give the money to Benefield who then fled. Lackey woke Elliot who went to the window. Elliot observed Washington getting up from Stevenson's body with a gun in his right hand and an unidentifiable object in his left.

Washington testified and presented witnesses who stated that he left the dice game, argued with Benefield, and left for his sister's house. His sister verified that Washington was at her home shortly before 9:00 a.m. However, his sister left the house at approximately 9:30 or 9:45 and she could not verify whether or not Washington remained in the house.

Washington also testified that he only lost \$200.00 of his own money and \$110.00 which he borrowed from Benefield. Washington also denied shooting Stevenson. However, Elliot testified that Washington admitted losing \$1,100.00 or \$1,200.00 to Stevenson. Furthermore, Benefield testified that she did not loan Washington money, that he lost about \$1,500.00, and that she saw him shoot Stevenson. Benefield admitted going to the defense attorney's office two days after the crime and confessing to the murder and she also admitted to hiding the gun after Washington gave it to her.

On October 7, 1983, Washington was indicted for first degree murder. On May 16, 1984, the jury returned a verdict of guilty of second degree murder and defendant was sentenced to life imprisonment without benefit of parole, probation or suspension of sentence.

(37) **State of Louisiana vs. Charles E. Dean, Jr.**
Docket No. 84-2151 Division "N"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Dean, 487 So.2d 709 (La.App. 5 Cir. 1986)

On the night of July 10, 1984, Charles Dean had a few drinks, and sniffed a quantity of cocaine. Then, sometime after midnight, on July 11, 1984, he placed about a dozen guns, plenty of ammunition, some cocaine, and some clothes in his car and drove to the house at 509 Marguerite Drive, Metairie, where his mother, Harriet Dean, and his sister Janice Dean, were living. Dean shot his mother at close range between the eyes, execution style, and then shot his sister Janice in the back of the head, apparently as she was trying to flee. Dean then departed, leaving the kitchen, where his mother's body was found. Also found were cocaine paraphernalia consisting of plastic bags, straws, and funnels. He drove around the metropolitan area for a few hours. Around six o'clock that morning, coming out of a steep curve, he crashed his car into the front of the house of Ms. Linda Stinson, where he was found and subdued by Louisiana State Troopers and a New Orleans police officer, whom he startled when he exclaimed, "No one can help me now. I just killed my mother and sister."

Defendant was charged by grand jury indictment with two counts of first degree murder. Prior to trial, count two was severed by the State and defendant proceeded to trial by jury. He was found guilty as charged and the jury recommended a sentence of life imprisonment without benefit of parole, probation, or suspension of sentence. On April 14, 1986, defendant's conviction and sentence were affirmed.

(38) **State of Louisiana vs. Samuel Rollins**
Docket No. 84-2702 Division "H"
Crime Convicted: Second Degree Murder
Sentence: Life

Paula Camardelle and Darren Beauregard, who were living in the same apartment with Fernando Arboleda and others on the date of the slaying, testified that on the afternoon of August 29, 1984, two black men came to the apartment to ask Arboleda about marijuana. Although Paula, during the present trial, identified Samuel Rollins as the gunman, she was not positive of her identification of Rollins and admitted that at a photographic lineup. Following the present offense she had positively identified another person as the gunman. At the photographic lineup which the investigating officer later displayed to him, Beauregard was able to identify Stanley

Veal's picture as representing the robber who was not armed and who went back to the kitchen, but was unable to identify Rollins' photograph. However, Beauregard made a positive in-court identification of Rollins as the person who fatally shot Arboleda.

Beverly Williams testified that she knew Fernando Arboleda. She was also acquainted with Stanley Veal and Samuel Rollins, known to her as Poppa. Ms. Williams saw Stanley Veal, who told her not to tell on her, and also saw Samuel Rollins, who called her while she was standing on her porch, came over, and said, "I know you're not going to tell." When the witness asked Rollins why he did it, the accused contended that Arboleda had pulled a gun on him first. Ms. Williams positively identified Samuel Rollins as the person about whom she had been speaking.

Stanley Veal testified that on the afternoon of August 29, 1984, he, James Sims, and Samuel Rollins drove to Fernando Arboleda's residence to get some weed. While Sims stayed in the car, Veal and Rollins went to Arboleda's apartment, knocked on the door, and when Arboleda opened it, pushed their way in. Rollins pulled out a gun, and Veal, as instructed by the accused, went back to the kitchen to look for weed, which he was unable to find. He saw Rollins and Arboleda arguing and wrestling. When Rollins started shooting, Veal ran out of the apartment, and as he fled he heard more shots. He got in the car with Sims, as did Rollins, and they drove off. Veal noticed that Rollins had blood all over his shirt and hands, and that he had a gun in his shirt. Rollins said, "I killed him, I had to shoot him, Bra. I had to shoot him. He got what the fuck he deserved. I had to kill him." Then Veal identified the accused as the man who shot Arboleda.

James Sims, known as Barry, had also originally been charged with the murder of Fernando Arboleda, but had, like Veal, cooperated with the State, and had been allowed to plead guilty to accessory after the fact to the present armed robbery.

Samuel Rollins was found guilty of second degree murder and sentenced to life imprisonment at hard labor without benefit of parole, probation or suspension of sentence. His sentence was affirmed on appeal December 16, 1985.

- (39) **State of Louisiana vs. Thomas Medford**
Docket No. 84-2705 Division "J"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Medford, 489 So.2d 957 (La.App. 5 Cir. 1986)

Thomas Medford and Kenneth McCullough forced their way at gunpoint into the home of George and Arlynn Plaisance and their two children. A neighbor, Albert Alonzo, and his son Marty came to the aid of the Plaisance family. During a struggle Medford fired three shots at Marty, missing, and shot Albert Alonzo in the forearm and hip. When Marty pinned Medford, McCullough came to Medford's aid and shot Marty in the shoulder and Albert in the head. McCullough and Medford then fled the Plaisance home.

Albert Alonzo died as a result of the gunshot wound to the head. Without a doubt, Medford's actions evidenced a specific intent to kill or inflict great bodily harm upon more than one person.

Medford was indicted for first degree murder and on June 28, 1985, the jury returned a verdict of guilty as charged. Defendant was sentenced to life imprisonment without benefit of parole, probation, or suspension of sentence. On May 12, 1986, defendant's conviction and sentence were affirmed.

- (40) **State of Louisiana vs. Kenneth McCullough**
Docket No. 84-2705 Division "J"
Crime Convicted: First Degree Murder
Sentence: Life

Kenneth McCullough was indicted along with his co-defendant Thomas Medford for first degree murder. On May 20, 1989, McCullough was found guilty as charged. He was sentenced to life without benefit of parole, probation, or suspension of sentence.

For a full description, please see the facts recited immediately above in No. (39).

- (41) **State of Louisiana vs. Carolyn Moore**
Docket No. 85-147 Division "C"
Crime Convicted: Second Degree Murder (two counts)
Sentence: Life (two consecutive terms)
State v. Moore, 498 So.2d 82 (La.App. 5 Cir. 1986)

Mark Miller and Carolyn Moore had driven around the Westbank area searching for a place of business to rob when they decided on the Lapalco Boulevard Allstate office as a safe target. After the defendants had gained entrance to the office, both victims were robbed of cash

and jewelry; it was defendant Miller who shot each victim twice as defendant Moore exited the Allstate office to start the couple's car.

Miller and Moore were arrested and charged by the Jefferson Parish Grand Jury with the first degree murders of Wilbert Laiche and Jack Couret during the course of an armed robbery. The cases were severed for trial and on November 14, 1985, Carolyn Moore was tried and found guilty on an amended indictment of two counts of second degree murder and sentenced to serve two life terms to run consecutively without benefit of probation, parole, or suspension of sentence. Moore's sentence was affirmed on appeal November 10, 1986.

(42) State of Louisiana vs. Mark W. Miller
Docket No. 85-147 Division "D"
Crime Plead: Second Degree Murder (2 counts)
Sentence: Life (two consecutive counts)

Mark Wayne Miller was indicted with two counts of first degree murder during the course of an armed robbery. On August 19, 1985, Miller pleaded guilty to both counts of first degree murder and was sentenced to two consecutive life terms.

For a full description, please see the facts recited immediately above in No. (41).

(43) State of Louisiana vs. Glen Keith Weiland
Docket No. 85-380 Division "L"
Crime Convicted: First Degree Murder
Sentence: Death
Remanded, New Conviction: Manslaughter
Remanded, New Sentence: 21 Years At Hard Labor
State v. Weiland, 562 So.2d 950

On October 28, 1985, Glen Weiland beat up one of the victim's, Ida Boudoin, his girlfriend. On October 29, 1985, as Ida Boudoin and Paul Sahuque, Ida's former husband, were walking across a parking lot, the defendant jumped out and stabbed her seven times with a bayonet. He also stabbed Paul Sahuque at that time. Ida Boudoin died in the ambulance on the way to the hospital and Paul Sahuque was placed in intensive care.

On November 14, 1985, Glen Weiland was charged by grand jury indictment with first degree murder. The defendant was tried by jury and was found guilty as charged. On June 13, 1986, the jury sentenced the defendant to death. The jury found one aggravating circumstance under La. C.Cr.P. art. 905.4: that the offender knowingly created a risk of death or great bodily harm to more than one person. The mitigating circumstances presented at trial were as follows: no significant prior history of criminal conduct, emotional distress from his girlfriend's infidelity,

the intoxicated state of the defendant which led to increased emotional distress, and that the murder was neither cruel nor vicious.

On April 6, 1987, the Louisiana Supreme Court reversed Weiland's first degree murder conviction and on May 7, 1987, the State's rehearing was denied. On retrial, the State amended the indictment to second degree murder. After jury trial, the defendant was convicted of manslaughter and sentenced to twenty-one years at hard labor. The sentence and conviction were affirmed on May 16, 1990.

(44) **State of Louisiana vs. Ralph Deer, Jr.**
Docket No. 86-2005 Division "A"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Deer, 519 So.2d 271 (La. App. 5th Cir. 1988).

Ralph Deer, Jr., on June 28, 1986, committed an armed robbery of a store clerk at a Time Saver Store "to get a little extra money." He committed the robbery with a twelve gauge shotgun. He entered the store with trigger cocked and pointed the gun at the clerk's head. The clerk was shot in the head and died. Deer, according to a friend who drove them away, said that Deer seemed upset that he shot the clerk for eleven dollars. Deer testified that he shot the clerk but that the gun discharged accidentally. He was tried on a plea of not guilty and not guilty by reason of insanity. He was convicted of first degree murder but the jury was unable to unanimously agree on a sentence. Thus, a life sentence was imposed.

(45) **State of Louisiana vs. Robert Tassin**
Docket No. 86-3579 Division "B"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Tassin, 536 So.2d 402.

Around five-thirty or six o'clock on the afternoon of November 5, 1986, tugboat captain Edward Martin and his friend and deckhand Alvia Wayne Stagner received their paychecks at the Harmony Street Wharf in New Orleans, drove over the bridge to Schnell's restaurant and bar on the Westbank, and cashed their paychecks. They proceeded to the nearby Shady Lady Lounge, where for several hours they drank beer, played pool and quarters, and talked to a lady named Sheila Mills.

When Eddie Martin and Wayne Stagner were leaving the Shady Lady Lounge in Martin's Thunderbird, Sheila Mills came up and asked Martin if he wanted to buy some cocaine. Martin said yes, and let Sheila Mills get in the front seat between him and Stagner.

After stopping by a bar to look for drugs without success, Martin, at Sheila's direction, drove to the house of Robert and Georgina Tassin at 529 Larossini in Westwego. While the two men waited in Martin's car, Sheila went in the Tassin residence. After a while she came back with Robert and Georgina Tassin, whom she introduced to Martin and Stagner.

The Tassins did not have any cocaine, but would try to get some. They climbed in the back seat of the Thunderbird, Robert Tassin sitting directly behind Eddie Martin. Sheila said they should go to the Tres Vidas Apartments. When they arrived there, the Tassins and Sheila went in and came back to report that "the guy wasn't there, that he was back at the Tassin's house." As a matter of fact, Robert Tassin had gotten a gun from a friend of his, Darryl Macaluso, who lived there.

It was now around midnight. They started back to the Tassin's house. Right before the Lapalco bridge, Sheila asked Martin to pull over because she felt sick and wanted to get out of the car. She directed Martin off the road and under the bridge. Sheila, under a prearranged plan, then got out, ostensibly to be sick, leaving Martin and Stagner in the front seat of the car and the Tassins in the back.

Suddenly, as Stagner reached for his cigarettes on the dashboard, he saw a red flash and felt a sting as a bullet came through his back and lodged in his left lung. Stagner turned, looked over his left shoulder, and saw Robert Tassin shoot Eddie Martin three times in the back of his head and neck.

Stagner immediately opened the car door and jumped out, and as he did so Robert Tassin shot Stagner in the left leg. Stagner, his leg bleeding badly, and blood on his shirt, managed to run by Sheila Mills, who was standing behind the car, and up to the end of the Lapalco bridge. The traffic light was red. Stagner made it to the center of the road, where he sat down. A car came by with a flat tire, and Stagner asked the occupants to call the police, saying that he had been shot, and that the captain of his tugboat had also been shot and might be dead. Then Stagner passed out.

He was taken to West Jefferson Hospital, placed in intensive care, and treated for his wounds, which, though very serious, were not fatal. A day or so later Stagner gave a statement to the police officers who were investigating the incident, and, riding in an ambulance, directed them to the Tassins' home.

Meanwhile, the Tassins and Sheila Mills pulled Eddie Martin's body out of the car. After checking it for money, they left the body in a ditch near the Lapalco bridge. They next ran Martin's Thunderbird into Bayou Signette, also known as the Westwego Canal, which was opposite the Tassins' house, and went into hiding. When Robert Tassin realized that Wayne Stagner was recovering from his wounds, Tassin turned himself in.

Robert Tassin, his wife Georgina, and Sheila Mills were indicted by the Jefferson Parish Grand Jury for the first degree murder of Edward Martin during the commission of an armed robbery. The indictment was later amended so as to charge only armed robbery in the case of Georgina Tassin and Sheila Mills, and they were severed from this case.

Robert Tassin was tried, found guilty of first degree murder, and sentenced to death. His conviction and sentence were affirmed by the Supreme Court on December 12, 1988. Defendant has a writ application pending in this court.

(46) **State of Louisiana vs. Julius Martin**
Docket No. 87-1382 Division "D"
Crime Convicted: Manslaughter
Sentence: 21 Years
State v. Martin, 566 So.2d 987

Julius Martin was tried in the 24th Judicial District Court for first degree murder in April, 1988. The jury unanimously returned a lesser, responsive verdict: guilty of manslaughter. Martin was sentenced to 21 years.

The victim, Carl Williams, was tied up, doused with gasoline and set on fire on December 19, 1987. He died 10 days later of pneumonia.

(47) **State of Louisiana vs. Jerrald Wilson**
Docket No. 87-1286 Division "C"
Crime Convicted: First Degree Murder (two counts)
Sentence: Life (two counts)
State v. Wilson, 631 So.2d 1213

Sometime during the night and early morning hours of March 30 and 31, 1987, defendant Jerrald Wilson and Tom Gormin left the River Ridge Bar and returned to the home Gormin shared with his mother. On March 31, 1987, Wilson drove to Baton Rouge and New Iberia in Gormin's vehicle. About noon on March 31 the police found the bodies of Tom Gormin and his mother, Joan Gormin, in their home in River Ridge. Tom had been stabbed numerous times and was found in the kitchen. He was clad only in his briefs. A shirt containing spots of the defendant's blood covered Tom's face. Joan Gormin had been strangled and stabbed. A "T"-

shaped incision was carved in her abdomen. Her body was found clad in night clothes in a spare bedroom. Evidence showed that a footprint that matched the defendant's tennis shoe was found in some of the blood covering the floor of the house. Pubic hair matching the defendant's was found in two bedrooms, including the one in which Mrs. Gormin's body was found. Large butcher knives were found in the kitchen sink.

Defendant testified that he was a dancer and a male prostitute. He stated that he had been hired by Tom Gormin to perform oral sex in exchange for \$20.00. Defendant testified that he and Gormin went back to Gormin's house and that he fell asleep after the sexual encounter. Wilson claimed to have been awakened by Tom Gormin standing over him with a butcher knife. Wilson claimed that he and Gormin wrestled over the knife and that he got the knife away from Gormin. Wilson testified that he stabbed Tom in the neck. Wilson further testified that he and Tom continued to fight, during which time Wilson stabbed Tom numerous times with several knives. The defendant denied any knowledge of how Mrs. Gormin died. He stated he found her body after killing Tom and checked to see if she was still alive. He then fled in Tom's vehicle and was arrested in New Iberia.

Defendant was convicted of two counts of first degree murder for the murders of Tom and Joan Gormin. Defendant was sentenced to two life sentences for these crimes. On November 4, 1994, the Supreme Court affirmed defendant's conviction and sentence.

(48) State of Louisiana vs. Richard Powell
Docket No. 89-1283 Division "M"
Crime Convicted: Manslaughter
Sentence: 21 years

On November 7, 1982, Edna Zalaya was raped and murdered in her Jefferson Parish apartment. On April 6, 1989, Vernon Williams was indicted for the first degree murder of Edna Zalaya. Also indicted was Richard Powell, who later pled guilty to manslaughter and testified for the State. At trial, Powell testified that he was in Williams' presence and watched Williams on the night of November 7, 1982, as Williams raped and murdered the victim. Powell, who had once been found incompetent to proceed, testified as to the medication he was taking during the trial. Several doctors testified regarding Powell's mental condition.

Various pieces of evidence were taken from the crime scene, including sperm recovered from the victim's anus, pantyhose, and some towels. The sperm found in the victim's anus was

found to have the same DNA as the defendant Williams. The sperm on the pantyhose and towels did not match Williams, Powell, or the victim's boyfriend. Several witnesses testified at trial that they remembered seeing Williams and Powell together during the fall of 1982. A neighbor of the victim testified that she heard a black male voice in the victim's apartment on the night of the murder. Another neighbor testified that she had seen a black man leaving the victim's apartment the night of the murder, although she could not identify Williams as that man.

On November 21, 1991, Williams was tried by jury and convicted of first degree murder. The jury recommended a life sentence. A motion for new trial was filed by the defense and granted by the trial judge. The State thereafter filed a motion to recuse the judge, which was denied by the court. A motion to reconsider was also denied.

The State sought writs from the Fifth Circuit Court of Appeal, which were granted. The Fifth Circuit remanded the case for a random allotment of the motion to recuse. The hearing on the motion to recuse was held and the motion was granted; on the same day, however, the Supreme Court granted defendant's writ, reversed the Fifth Circuit, and reinstated the trial court's denial of the motion to recuse. The State's application for rehearing was denied.

The State thereafter set the case for trial. Williams filed a motion to quash based on prescription, which the trial court granted. The State appealed that ruling and the Fifth Circuit affirmed. On June 3, 1994, the Supreme Court denied the State's application for supervisory writs. The case against Williams was subsequently thrown out.

Powell was indicted for the first degree murder of Edna Zalaya. The charges were later reduced to manslaughter and the defendant pled guilty.

(49) **State of Louisiana vs. Bernis Brown**
Docket No. 90-3893 Division "E"
Crime Convicted: First Degree Murder (2 counts)
Sentence: Life without benefit of parole,
probation or suspension of sentence on each
count to run concurrently.

On August 20, 1990, Bernis Brown shot and killed Isaac Edward Lilley and Danny Dugas while perpetrating an armed robbery of both men. The incident occurred outside Guy's Cue Club on Westbank Expressway.

Brown was drinking with friends and decided to steal a vehicle. He saw two men standing outside Guy's Cue Club leaning on a truck and approached them. He asked one for a

ride and was told no. Brown then demanded the keys to the truck to which he was met with angry commands to leave. Brown then pulled out his .38 special and shot both men. He then removed the keys to the truck from one of the fallen men and took the truck.

Mr. Brown was later picked up by police, read his rights and gave a full confession. He pled guilty to two counts of first degree murder. He was properly Boykinized on the record. He received life without benefit of parole, probation, or suspension of sentence on each count to run concurrently. Mr. Brown has since filed a pro se appeal.

(50) **State of Louisiana vs. Brian Bibb**
Docket No. 91-2875 Division "D"
Crime Convicted: First Degree Murder (2 counts)
Attempted First Degree Murder
Sentence: Life (2 counts)
State v. Bibb, 626 So.2d 913

In the early morning hours of June 3, 1991, Sandra Bibb slept. She was awakened by the attempts of her husband to kill her by stabbing and cutting her with a knife. Just before the attack began he woke Sandra up and told her that he was going upstairs to sleep with Christopher. She replied, "Okay." The defendant's speech and appearance were normal. He then asked Sandra if she was okay and she said yes. With his left hand he brushed her hair off of her forehead and put his hand over her mouth and nose. He clamped her nose shut so she could not breathe and pushed down hard on her mouth with the palm of his hand so that she could not scream. He then shoved her face into the pillow. While he cut and stabbed her she fought momentarily and then went limp. When she did this he stopped and left her. Sandra struggled to get away. She fumbled with a key to unlock the door but dropped it in a puddle of her blood. She also pushed a security alarm system on her wall. She exited through a kitchen window, which set off an audible alarm, and ran to a neighbor's house. Getting no response she went to another neighbor's house where she remained until an ambulance and police arrived. She was taken to East Jefferson General Hospital. Brian Bibb was charged with the first degree murder of his two children Christopher, age 5, and Catherine, age 2.

Sandra testified at trial that she observed the defendant in the kitchen with a bottle of Dimetapp. She asked what he was doing and he replied that he was taking Dimetapp because he did not feel well. She asked if he needed anything and he replied that he did not. He looked and acted normally according to Sandra.

Dr. Susan Garcia performed the autopsies on the children. She observed numerous cuts on Christopher including cuts to the base of his neck, his hands and below his rib cage. One cut had completely severed his trachea. This caused the child to bleed to death. She also noted that all of the wounds were irregular, indicating that the child was obviously moving when the wounds were inflicted. She also opined that the wounds to Christopher's hands were defense wounds. That is, they were received while trying to protect himself. An examination of the child's lungs revealed what Dr. Garcia referred to as an aspiration pattern. Christopher inhaled blood because of the severed trachea.

Catherine also suffered wounds to the base of her neck, numerous wounds to her right hand, one to her left hand (defense wounds) and several wounds to her shoulder. Her trachea was also completely cut. Additionally, Catherine's jugular was severed. Like her brother, Catherine's lungs revealed that she had aspirated blood prior to dying. Dr. Garcia also noted what she described as hesitation marks on Catherine's neck.

The police officers who responded found the doors locked; they entered the house through the window left open by Mrs. Bibb when she exited. There was blood in the kitchen and in the master bedroom. The defendant did not respond to the police. After several attempts the police succeeded in forcing the door open. A large piece of furniture had been wedged against the door in an attempt to prevent it from being opened. The police found the bodies of Christopher and Catherine. The defendant, nude, was laying face down on the floor. His arms were against his body and his fists were clenched. A knife was found near the defendant's hand with the blade across Christopher's neck. The defendant kept his eyes closed and squinched them tight whenever the officers spoke. There were wounds on the defendant's body.

The defendant was transported to St. Jude Hospital for treatment. He was seen there by Dr. Jacqueline Kirby. She observed that his wounds included those to his neck, arms and a partially collapsed lung. He was in no distress and she saw no need to intubate him. His blood pressure was normal. She described him as being oriented and as responding appropriately to her requests. He made no response, however, when she asked him what had happened.

The defense presented their case, arguing that the defendant was insane at the time the crime was committed. Various doctors and other witnesses testified as to the defendant's mental condition. On rebuttal, the State presented several witnesses. The nurse who treated Bibb at the

emergency room testified that Bibb showed no remorse and did not cry. He did not ask for a Bible, priest, or minister. He did, however, state that he wanted to see a lawyer. Other witnesses also testified as to the defendant's competency. The final witness on rebuttal was Dr. Robert Davis, who testified that, based on his examination of the defendant, that Bibb was not psychotic. Davis opined that Bibb knew the difference between right and wrong when he murdered his children.

After hearing closing arguments and receiving the court's charges the jury deliberated and then returned with verdicts of guilty as charged. The next day the sentencing hearing was held. The jury was unable to arrive at a verdict and the court subsequently sentenced the defendant to two life sentences. On February 13, 1992, the defendant was sentenced, on each count, to life imprisonment at hard labor without benefit of parole, probation or suspension of sentence. The sentences were ordered to be served consecutively.

On April 8, 1992, counsel for the parties were summoned before the court. The court advised them that the court had been made aware of allegations regarding possible misconduct between a juror and a deputy sheriff assigned to chaperon the jury while sequestered at a hotel. The court gave defense counsel a copy of the report prepared by the Sheriff's Office as a result of its investigation into the allegations. Counsel for defendant attached a copy of this report to his brief. The State provided the court with a copy of another report prepared relative to these allegations.

Defendant filed a Motion For A New Trial which the court, after securing jurisdiction, denied.

Defendant's sentences and conviction were conditionally affirmed by the Fifth Circuit on November 10, 1993, and the case was remanded to the trial court for an evidentiary hearing. Writs were denied by the Supreme Court on September 16, 1994. On July 24, 1997, on remand from the Fifth Circuit Court, the district court denied the defendant's motion for a new trial.

(51) State of Louisiana vs. Glen Seals
Docket No. 91-4031 Division "E"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Seals, 684 So.2d 368 (La. 1996)

Raymond Feeney, a cab driver, was working on the night of July 26, 1991. Earlier that evening, Feeney went to his house and spoke with his wife. At that time, Feeney had a large sum of cash in his possession for the purpose of paying the rent on his cab. Feeney left his house and subsequently stopped at a convenience store for dinner. The defendant, Glen Seals, was also at the convenience store, and he hired Feeney to drive him to an address. Upon arriving at the address, Feeney noted that it was in a high crime and crack house area. Seals then gave Feeney another address, also in a high crime and crack area. This happened several times. Each time, upon arrival, Seals gave Feeney another address. Eventually Seals gave Feeney an address in New Orleans.

When the cab arrived in New Orleans, Feeney told Seals to pay his fare and get out of the cab. Seals produced a gun and shot Feeney five times. Seals then drove the cab to Jefferson Parish on the Earhart Expressway. Seals stopped on the Earhart Expressway, robbed Feeney of his money, pushed Feeney onto the side of the road, and stole Feeney's cab. Seals then drove to his sister's house in New Orleans, parking the cab a short distance away from his sister's residence. At his sister's house, Seals cleaned up and changed clothes. He then called another cab and asked to be taken to a Jefferson Parish address along a similar route as the one he had instructed Feeney to take.

The Jefferson Parish Sheriff's Office found Feeney along the Earhart Expressway. Feeney, who was still alive, gave a statement in which he described his assailant. Feeney described a young black male in a red cap. This description, along with a description of Feeney's cab, was broadcast on the police radio. Ed Merida, an off-duty detective with the Sheriff's Office, heard the description on the radio but did not hear the name of the cab company. He saw a cab in which a young black male wearing a red cap was a passenger, and stopped the cab. Seals, who was the passenger, was found to be in possession of bloody clothing and bloody money. After being advised of his Miranda rights, he admitted shooting Feeney, albeit accidentally. Seals denied robbing the victim.

At trial, the State relied on the following aggravating circumstance: the offender was engaged in the perpetration of an armed robbery.

The jury found the defendant guilty of first degree murder and recommended a sentence of death. His conviction and sentence were affirmed. On September 7, 2000, the district court vacated the sentence and granted Seals a new trial because although the court ordered a sanity hearing on Seal's competency one was never held. This court denied the state's writ application. He is currently awaiting retrial.

(52) **State of Louisiana vs. Joel Durham**
Docket No. 92-0960 Division "H"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Durham, 673 So.2d 1103 (La.App. 5th Cir. 1996)

On the night of February 8, 1992, Joel Durham and Lester Ibesa went for a ride, taking along with them Ibesa's gun. The two discussed committing an armed robbery of a business in order to obtain money. Durham and Ibesa went to one business establishment, which was closed. The two men then went to a McDonald's on Severn Avenue in Metairie. Ibesa was supposed to go inside the McDonald's and commit an armed robbery, but refused when the two men arrived. Durham went inside the McDonald's and robbed Leo Kern, the manager of the restaurant. After surrendering the cash, Kern begged Durham not to shoot him. In front of Kern's fiancé and other patrons of the restaurant, Durham then shot Kern at point blank range. While leaving the restaurant, Durham pointed the gun at another restaurant employee but did not shoot. Durham and Ibesa then went out drinking with two women, using the money taken from Kern.

Before trial, Ibesa pled guilty to a reduced charge and testified against Durham. Both Ibesa and Durham had given inculpatory statements to the police after having been given Miranda warnings. Durham was found guilty of first degree murder and sentenced to life imprisonment. The aggravating circumstance alleged by the State was: offender engaged in the perpetration of an armed robbery. His conviction and sentence were affirmed on appeal.

(53) **State of Louisiana vs. Lester Ibesa**
Docket No. 92-0960 Division "H"
Crime Convicted: One count Armed Robbery;
One count accessory after the fact to first
degree murder.
Sentence: Count one, ten years; Count two, five years;
The Sentences are to run consecutively.

Lester Ibesa was indicted with Joel Durham for the first degree murder of Leo Kern. For

a complete recitation of the facts of this case, see Number (51) above. Prior to trial, Ibesa pled guilty to one count of armed robbery of Leo Kern and one count of accessory after the fact to the first degree murder of Leo Kern.

(54) State of Louisiana vs. James W. Mysinger
Docket No. 92-3600 Division "J"
Crime Convicted: First Degree Murder
Sentence: Life without benefit of parole, probation or suspension of sentence.

James Mysinger was a security guard assigned to work at the Comfort Inn in Kenner. On June 1, 1992, Mysinger left the Comfort Inn and traveled a short distance to the Holiday Inn in Kenner. He had been assigned to work at the Holiday Inn from time to time and knew the manager there. He also knew the manager would be alone that night and went to rob him. Upon seeing the manager and speaking to him, Mysinger shot him in the back and in the back of the head. He then stole approximately \$1000.00 from the cash drawer.

After shooting the victim, Mysinger drove to Clarksville, Tennessee, where his mother lived. On the way, he used the money from the robbery to buy a Cobra CB radio.

Mysinger was picked up in Tennessee that day, was advised of his rights and gave a full confession. He was extradited to Louisiana and on January 28, 1993, plead guilty to one count of first degree murder.

(55) State of Louisiana vs. Robert Bates
Docket No. 94-5355 Division "P"
Crime Convicted: First degree murder
Sentence: Life without benefit of parole, probation or suspension of sentence.

Bates was employed by the Racetrack gas station in Harvey. Bates decided to rob another employee of Racetrack who was making a cash drop for Racetrack in the night depository at Whitney Bank on Lapalco. This drop occurred during business hours. As Bates attempted to rob the other employee, he fired several shots. Some of these shots entered the bank, one striking a customer who was waiting to speak to a bank officer. The customer died at the scene.

A plea agreement was struck, whereby several charges were dismissed and Bates pled guilty to first degree murder. He was sentenced to life.

(56) **State of Louisiana vs. Manuel Ortiz**
Docket No. 92-6496 Division "B"
Crime Convicted: First Degree Murder (two counts)
Sentence: Death (two counts)
State v. Ortiz, 96-1609 (La. 10/21/97)

On October 23, 1992, Cheryl Mallory and Tracie Williams Ortiz were murdered in the Kenner Apartment of Tracie Williams Ortiz. An investigation was conducted by the Kenner Police Department, resulting in the arrest of Manuel Ortiz, the husband of one of the victims. The evidence introduced at trial showed that Ms. Ortiz died as the result of being stabbed and Ms. Mallory had been shot. An attempt had been made to make the scene look as if a burglary had occurred. Manuel Ortiz was indicted on two counts of first degree murder.

The evidence at trial consisted of physical evidence obtained at the scene and of the testimony of various witnesses. Several weeks prior to the murders, Manuel Ortiz purchased a knife similar to the one used to murder his wife. The knife purchased by Ortiz was so rare as to be virtually unique. In addition, a witness testified that, several weeks prior to the murder, Ortiz asked him to murder a black female in Kenner in order that Ortiz could receive the insurance money. A few months prior to the murders, Ortiz had insured his wife for \$950,000.00.

The defendant took the stand in both the guilt and penalty phases of his trial. Ortiz denied hiring a hitman to kill his wife and presented an alibi defense, claiming to have been out of the country when the murders occurred. The actual gunman in the case has not been arrested. Ortiz was found guilty of two counts of first degree murder and was sentenced to death on both counts on January 31, 1995.

The aggravating circumstances relied on by the State in this case were:

1. the offender offered or has been offered or has given or received anything of value for the commission of the offense
2. the offense was committed in an especially heinous, atrocious, or cruel manner.
3. the offender knowingly created a risk of death or great bodily to more than one person.

Defendant's conviction and sentence were affirmed.

(57) **State of Louisiana vs. Vernon K. Ledet**
Docket No. 97-0311 "G"
Crime Convicted: First degree murder
Sentence: Life imprisonment

On March 23, 1994, Gretna Police officers responded to a neighbor's call for help in locating Thelma Herbert. Police officers entered Herbert's house in Gretna, Louisiana, to find the house ransacked with clothes and furniture strewn about. The body of Thelma Herbert was found in her bedroom. She had been beaten about the head and throat. Police officers seized items from the scene and logged them in evidence.

Police interviewed the defendant, Vernon K. Ledet, in response to information obtained from Herbert's neighbors that Ledet had been harassing Herbert. After the interview, Ledet turned over the clothes and shoes he had been wearing the day Herbert was murdered. DNA testing showed that a spot of his blood was found on Herbert's bra and her blood was found on the bottom of his pants and shoes. Ledet was convicted of first degree murder and sentenced to life imprisonment. The court of appeal affirmed. This court denied writs. State v. Ledet, 01-2451 (La. 9-30-02), 825 So.2d 1185.

(58) **State of Louisiana vs. Julius Lucky**
Docket No. 94-4525 Division "E"
Crime Convicted: First degree murder; Attempted first degree murder; Aggravated Battery
Sentence: Death
State v. Lucky, 96-1687 (La. 4/13/99), 750 So.2d 801, cert denied 120 S.Ct. 1429 (2000).

Julius Lucky and Vashon Kelly worked at a grill and daiquiri shop in Metairie. Two of their co-workers included Letitia Fageot and Bonnie Giambalvo. After closing the establishment at approximately 12:20 a.m. on August 6, 1994, all four workers remained in the establishment. Giambalvo was playing a video poker machine as the others closed up. Lucky and Kelly remained at the shop that night, though they usually left upon its closing.

While playing poker, Ms. Giambalvo felt a sharp pain in the back of her head and collapsed. Lucky was standing immediately behind and to the right side of Miss Giambalvo just prior to the gunshot. She awoke several minutes later and found Miss Fageot dead in a pool of her own blood. Lucky and Kelly were no longer on the premises.

Lucky had been arrested previously for (3) felonies and (1) misdemeanor and was on parole for burglary and attempted first degree murder at the time of this incident. Kelly also had been previously arrested, though with no convictions.

Kelly was picked up and gave police an inculpatory statement naming Lucky as the one who shot the two girls. Kelly said Lucky chased Miss Fageot, then stood over her while he shot her in the head.

Lucky was picked up and also gave police an inculpatory statement. He stated he brought the weapon to work to kill Fageot, as she had reprimanded him earlier for trying to touch her buttocks and "clowning" around on the job. He further stated that he shot Giambalvo because he did not want her to see him shoot Fageot. After shooting Giambalvo, Lucky chased down Fageot; she dropped to her knees and begged for her life. Lucky then shot her once in the back of the head at point blank range.

Julius Lucky was found guilty of the crime of first degree murder, attempted first degree murder and aggravated battery and was sentenced to death. His conviction and sentence were affirmed. State v. Lucky, 96-1687 (La. 4-13-99), 750 So.2d 801, cert denied 120 S.Ct. 1429 (2000).

(59) **State of Louisiana vs. Edward Irvin Harris**
Docket No. 94-6147 Division "P"
Crime Convicted: First Degree Murder, (two counts)
Sentence: Death

On October 14, 1994, Edward Irvin Harris was a passenger in a brown Buick Regal when he spotted two people walking down Betty Street in Marrero, Louisiana with whom he had a prior history, Mister Gordon and Tymara Frazier. Harris drew his pistol and shot at the two pedestrians multiple times, striking each several times.

An officer on patrol in the area came upon the scene soon thereafter and spoke with several witnesses. Frazier was pronounced dead at the scene. Gordon was transported to West Jefferson Hospital where, in the presence of witnesses, made a dying declaration that "Irvin" shot him.

In a photographic line-up which included Harris' photo, several of the eyewitnesses picked Harris out as the one who shot Frazier and Gordon. Family and friends of Gordon also positively identified "Irvin" as Edward Harris.

Harris was found guilty of two counts of first degree murder and sentenced to death. On June 21, 2002, this court reversed his conviction and death sentence and remanded for a new trial.

- (60) **State of Louisiana vs. Allen Snyder**
Docket No. 95-5114 Division "H"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Snyder, 98-1078 (La. 4/14/99), 750 So.2d 832
State v. Snyder, 98-1078 (La. 4-14-04), 874 So.2d 739.

During the early morning hours of August 16, 1995, Howard Wilson and Mary Snyder were talking in Wilson's parked car in front of Snyder's mother's residence. Allen Snyder, Mary's estranged husband, was across the street, hiding behind a vacant house trailer with a knife. Allen came out of hiding, walked up to the vehicle, opened the driver's door and began to cut and stab Wilson with the knife. As Wilson attempted to drive off, the car struck a fire hydrant, causing the street to flood. Wilson, who managed to escape from the car at that time, ran down the street and collapsed from his injuries. Allen remained in the car and began cutting and stabbing Mary. When a witness, Gwen Williams, approached the vehicle and asked Allen what he was doing, Allen ran down the street.

Wilson, suffering from stab wounds to the face, neck, shoulder and chest, died several hours later. Mary, suffering from lacerations to her neck, face and arm, was able to identify her estranged husband, Allen, as the attacker.

Allen Snyder gave an inculpatory statement to the police after he was given his Miranda warnings. On August 28, 1996, he was found guilty for first degree murder and the jury recommended the death penalty. On August 22, 1997, Allen Snyder was sentenced to death after the trial court denied defense counsel's motion for a new trial. On appeal this Court remanded for a hearing on the issue of his competency to be tried.

- (61) **State of Louisiana vs. Teddy Chester**
Docket No. 96-2598 Division "K"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Chester, 97-2790 (La. 12-1-98), 724 So.2d 1276
cert denied, 528 U.S. 826, 120 S.Ct. 75, 145 L. Ed.2d 64 (1999)

In the early morning hours of December 27, 1995, John Adams, a cab driver for King Cab Co., responded to a passenger pickup in a low income area. A couple of hours later, the cab was

found on the side of the road with its lights on and the driver's door open. Adams, slumped behind the steering wheel, had been robbed and shot in the back of the head.

Three months later, the police received information of Teddy Chester and Elbert Ratcliff's involvement in the robbery and murder of Adams. The sister of Chester's girlfriend informed police that she had overheard Chester telling his girlfriend that he had robbed and shot a cabdriver. When questioned by the police Chester admitted that he was at the scene of the crime, but stated that Ratcliff was responsible for the shooting of Adams. Ratcliff, however pointed the finger at Chester. The police arrested Chester when they found Chester's baseball cap spattered with Adam's blood. Ratcliff was also arrested when his fingerprints were found on the business cards belonging to Adams.

At Chester's trial, it was determined that he was the gunman because of the blood spattered baseball cap. He was found guilty of first degree murder and sentenced to death. On appeal, his conviction and sentence were affirmed. [Note: The charges against Ratcliff were reduced to second degree murder; he was convicted of second degree murder and sentenced to life imprisonment. See State v. Ratcliff, 98-101 (La. App. 5 Cir. 2/23/99), 731 So.2d 357, writ denied, 99-1112 (La. 9/3/99), 747 So.2d 541.

(62) **State of Louisiana vs. Barry Pascual**
Docket No. 96-1139 Division "F"
Crime Convicted: First Degree Murder
Sentence: Life without the benefits of
Probation and parole
State v. Pascual, 98-1052 (La. App. 5 Cir. 3/30/99)
735 So.2d 98.

On February 5, 1996, Kenner Police Department officers were summoned to the residence of Michael Mitchell concerning a shooting. Upon arrival the officer observed a young man, Brett Squatrito, lying face up on the front porch of the residence. Mr. Squatrito was bleeding profusely from the mouth. A blue vehicle was located in front of the residence with the driver side window shattered and a red blood-like substance on the steering column, the driver seat and door. The officers learned that Michael Mitchell was a passenger in the vehicle along with Mr. Squatrito at the time of the incident.

Upon questioning Mr. Mitchell, the officers learned that Mr. Squatrito and Mr. Mitchell left the Chateau Supermarket after playing video games and headed home. While stopped at an intersection, they noticed a white Camaro with two young men in it. Mr. Squatrito pulled up

behind the Camaro and revved his engine to see if the young men wanted to race. Mr. Squatrito followed the Camaro for a little while trying to get it to race. Midway down the street, the Camaro stopped and the passenger stuck a gun out of the window. Mr. Squatrito put his vehicle in reverse and began driving the wrong way down the one way street. The Camaro pursued, also going the wrong way down the one-way street.

As Mr. Squatrito reached Mr. Mitchell's house, he drove up onto the yard. The Camaro pulled up next to Mr. Squatrito's vehicle. The passenger reached over the hood of the Camaro and fired three shots at Mr. Squatrito's vehicle. The driver side window shattered and Mr. Squatrito and Mr. Mitchell got out of the vehicle and began running towards Mr. Mitchell's residence. Mr. Squatrito collapsed on the front porch. Mr. Squatrito died of a single gunshot wound to the left side of his back.

The officers observed a large amount of shattered glass in the street. A bullet fragment was located among the shattered glass. These facts indicated to the officers that Mr. Squatrito's vehicle was in the street at the time of the shooting. Several neighbors were able to give a description of the occupants in the white Camaro. Another officer on his way home from work heard the broadcast of the shooting over the Kenner Police Department frequency. The officer advised Kenner Police that a similar drive-by incident occurred earlier that evening involving the same vehicle. The victim in this earlier incident was able to positively identify the driver as Derrick Sonnier and was able to positively identify the passenger as Barry Pascual from photo lineups. The Kenner Police Department recovered the white Camaro. Mr. Mitchell positively identified it as the one that Mr. Squatrito followed and from which the shots were fired.

An arrest warrant was obtained for Barry Pascual on February 6, 1996. On December 3, 1997, a jury found Barry Pascual guilty of first degree murder. On December 19, 1997, Barry Pascual was sentenced to life imprisonment without benefit of probation and parole.

(63) **State of Louisiana v. Damon Thibodeaux**
Docket No. 96-4522 Division "O"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Thibodeaux, 98-1673 (La. 9/8/99), 750 So.2d 916
cert denied 120 S.Ct. 1969 (2000)

On July 19, 1996, Jefferson Parish Sheriff officers were summoned to the Champagne residence concerning a missing juvenile. The officers met with Dawn Champagne, the mother of

the missing person, Crystal Champagne (age 14). Mrs. Champagne reported that Crystal had last been seen on July, 19, 1996 around 5:15 p.m. near her apartment complex.

Officers began interviewing Crystal's friends and relatives. A friend said that she saw Crystal walking toward the shopping center alone and did not appear to be in any kind of distress. Family members suggested that the police officers talk to Damon Thibodeaux.

The family reported that Damon Thibodeaux was a friend and relative who had recently entered their lives after living in another state for several years. Damon reportedly spent the night in the family residence the night before Crystal's disappearance. The two were expected to go roller blading on the day in question.

While the defendant was being interviewed on July 20, 1996, the body of Crystal Champagne was discovered near the Huey P. Long Bridge in Bridge City, Louisiana. Her body was found laying on an asphalt surface with her shirt and bra pulled up around her neck and her shorts and panties pulled down around her ankles. Contusions were visible in the right eye, nose and mouth areas. A red plastic ligature was wrapped and tied around her neck. The time of death was pronounced as twenty-four hours earlier.

A polygraph test given to the defendant showed deception regarding the death of Crystal Champagne. Upon questioning, the defendant admitted that he had picked up Crystal from the shopping center in his vehicle, and that he had traveled to Harvey before proceeding to the Mississippi River Bridge area where Crystal's body was found. The defendant claims to have gone to this area for consensual sex with Crystal. As they began to have sexual intercourse, Crystal began complaining about the pain and wanted to stop. The defendant became angry and struck her several times. The defendant continued to have intercourse with Crystal; she continued to resist. The defendant placed his hands around her throat in an attempt to calm her down. He squeezed her neck for fifteen to twenty minutes as he continued to rape her. As Crystal gasped for air, the defendant continued to squeeze her throat until he ejaculated.

At this point, the defendant obtained some wire from his vehicle, placed it around Crystal's neck and secured it tightly until she could not breathe. The defendant claimed to have snapped during this incident and returned to the Champagne residence to participate in the search for Crystal.

A jury unanimously found Damon Thibodeaux of first degree murder on October 3, 1997. On October 4, 1997, the jury returned a verdict of death. On October 24, 1997, Damon Thibodeaux was sentenced to death. This Court affirmed his conviction and sentence.

(64) **State v. Ulysses Jones, Jr.**
Docket No. 96-6462 Division "G"
Crime Convicted: First Degree Murder
Sentence: Life Imprisonment
State v. Jones, 99-1185 (La.App. 5 Cir. 9-22-00),
769 So.2d 708.

After robbing an E-Z Serve convenience store at 3101 Veterans Boulevard in Jefferson Parish, at approximately 6:35 a.m. on October 5, 1996, the defendant, Ulysses Jones, Jr., drove away in a small, dark-colored car with cash and a bottle of Crazy Horse beer he stole. Convenience store employees called "911" with a description of the robber and the car he had been driving. Deputy James Clarius, who was patrolling nearby, stopped Jones in a small dark colored car. When the deputy attempted to put handcuffs on Jones, Jones started scuffling and obtained the deputy's gun. Jones shot Deputy Clarius with his own gun, ran to his car and drove away. A distinctive watch found at the scene linked Jones to the shooting.

Two convenience store employees picked Jones' picture from a photographic line-up as the E-Z Serve robber. Because he fit the broadcast description of the deputy's killer, Jones voluntarily appeared at the police station to give a statement. Jones told police that he had been with his girlfriend at the time of the shooting. He denied owning the distinctive watch although he admitted his father had a similar watch. He denied having anything to do with Deputy Clarius' murder.

Investigation uncovered the fact that early on the morning of the crime, Kenner Police Officer Keith Seals received a phone call from his girlfriend's brother, Ulysses Jones. He also talked to his girlfriend, who asked him about the murder of the deputy although she had never asked him about his work before. A search warrant was obtained and executed for the apartment where Jones lived. In a flower bed outside the apartment, police found a full, unopened bottle of Crazy Horse beer in an E-Z Serve plastic bag. In a search of the area by the canal bank next to the apartment, police found a plastic bag which contained Deputy Clarius' handgun. Inside the apartment, \$338 in cash was found hidden. It was determined that approximately \$319 was stolen from the E-Z Serve.

Witnesses positively identified the watch found at the crime scene as one which had belonged to Jones' father and which Jones habitually wore. Witnesses testified that Jones and his family members were attempting to contact law enforcement personnel through their friends immediately after the shooting. Jones' girlfriend denied that Jones had been with her at the time of the shooting. The jury unanimously found Jones guilty of first degree murder of Deputy Clarius. The jury deadlocked on sentencing and the trial judge imposed a sentence of life imprisonment. His conviction and sentence were affirmed.

(65) **State v. Emmett Taylor**
Docket No. 97-1142 Division "G"
Crime convicted: First Degree Murder
Sentence: Death
State v. Taylor, 99-1311 (La. 1/17/01), 781 So.2d 1205

On February 18, 1997, Emmett Taylor entered the Rhodes Pharmacy in Harvey, La. at approximately 11:50 a.m. Inside the pharmacy was the 83 year old pharmacist, Joseph Sunseri, and the 69 year old clerk, Marie Toscano. Taylor asked Toscano for a certain product. When she was unable to find it, she asked Sunseri to help Taylor. When Sunseri attempted to help Taylor, Taylor placed a .38 caliber revolver at Sunseri's side and demanded money. Sunseri told Toscano to give Taylor the money out of the cash register. Instead, Marie Toscano tried to run to the back of the store. Taylor followed her and shot her in the back of the head before she could unlatch the door. In addition to eyewitness testimony, the state presented Taylor's confession. Although Taylor initially gave an alibi statement, he ultimately admitted to trying to rob the store. Taylor claimed the shooting was an accident. On May 21, 1998, he was found guilty of first degree murder. On May 22, 1998, the jury recommended the death penalty, finding as aggravating circumstances that the crime was committed during the perpetration of an armed robbery, that the victim was sixty-five years old or older and that the defendant had previously been convicted of an unrelated armed robbery. On July 17, 1998, Taylor was formally sentenced to death after the trial judge denied defense counsel's motion for new trial.

(66) **State v. Ryan Matthews**
Docket No. 97-3780 Division "M"
Crime Convicted: First Degree Murder
Sentence: Death

On April 5, 1997, Tommy Vanhooose was working in his convenience store in Bridge City, Louisiana. Late in the afternoon, an armed gunman wearing a ski mask entered the store

and demanded money. Vanhooose was known for having large quantities of cash because he cashed paychecks for Avondale Shipyard workers. The victim refused to give the gunman any money and the gunman shot Vanhooose several times. As the gunman fled the store, he stopped at the cash register near the door, lifted his mask and tried to obtain money from the register. He then left the store, firing shots toward a witness, Candice Meza. The gunman fled to a waiting car at the corner and jumped in through the open passenger window. The car then sped down the street.

Two witnesses, cousins Brent Cheramie and Dale Blanchard, were driving around the same corner. They saw the defendant dive into the car. Cheramie, who was driving, followed the car down the street. Both he and Blanchard saw that the defendant was the passenger and another young black man was the driver. Cheramie could not keep up with the speeding car but did see the defendant throw something from it. Cheramie dropped off Blanchard, went back, and retrieved the ski mask. Cheramie again attempted to follow the defendant by another route but was unsuccessful in catching up, although he did see the car gain. Both Cheramie and Blanchard described the car to police.

Later that night, police stopped a car that matched the description. Travis Hayes was driving; the defendant was the passenger. Cheramie and Blanchard were taken to the scene. Cheramie positively identified the defendant, Ryan Mathews, as the gunman. He told police he saw the defendant take off the ski mask as he dove into the car. Neither witness identified Hayes. Both Hayes and Mathews were taken to the detective bureau and gave statements. Hayes initially denied any knowledge of the robbery and shooting but eventually admitted to driving the defendant to the scene and fleeing after the defendant ran out of the store. Hayes denied any knowledge of the robbery and shooting. The defendant gave several statements. Mathews denied any knowledge of the incident but admitted being in the area prior to the robbery.

Candice Meza made a tentative identification of Mathews as the person she saw flee from the store and shoot at her. Both Hayes and Mathews were indicted for first degree murder. The state reduced the charge against Hayes to second degree murder and he was convicted as charged.

Mathews was tried for first degree murder. Cheramie repeated his identification of the defendant. Candice Meza positively identified the defendant at trial. She said that her previous tentative identification of the defendant was actually a positive identification but that she had

been too afraid to tell the detective. The jury found Mathews guilty as charged. The jury found two aggravating circumstances: the defendant created the risk of death to more than one person and the killing occurred during the perpetration or attempted perpetration of an armed robbery. Mathews was sentenced to death. While his appeal was pending a motion for a new trial was granted.

**(67) State of Louisiana vs. Douglas Shoemake
Docket No. 97-3840 Division "M"
Crime Convicted: First Degree Murder, guilty plea
Sentence: Life**

On April 14, 1997, David Lamar Shoemake of 448 Gerrie Court, Avondale, La., made a 911 call when he arrived home from work and discovered his wife, Fay Shoemake, dead on the kitchen floor and covered with blood. Jefferson Parish Sheriff's deputies responded to the call and were escorted by David Shoemake to the kitchen. EMS was immediately requested but the victim did not show any signs of life. Investigation revealed that the victim had been shot once by a shotgun in the left temple with an exit wound in the right rear of her head. The pellet continued out of the rear window and into the back yard. The scene showed that the victim had been involved in some type of physical altercation prior to the shooting because the kitchen furniture was in disarray. The victim's purse was missing, as well as the family's 1995 Ford pick-up truck.

Police later learned that the victim and David Shoemake had a son named Douglas, who had been residing with them for several years due to a drug habit and other problems. Through a neighborhood canvas and interviews, police learned that Douglas Shoemake argued with his mother at the residence about repaying money and then shot her. Douglas Shoemake fled the scene but was later apprehended at a Winn Dixie store in Westwego, La. while attempting to cash one of his mother's checks taken during the incident.

On May 11, 1998, Douglas Shoemake withdrew a plea of not guilty and tendered a plea of guilty as charged to first degree murder. On January 22, 1999, Douglas Shoemake was sentenced to life in prison without benefit of parole, probation or suspension of sentence.

(68) **State of Louisiana vs. Elzie Ball**
Docket No. 96-4222 Division "C"
Crime Convicted: First Degree Murder
Sentence: Death

Around ten in the morning on May 15, 1996, Elzie Ball entered The Pub Lounge. For a couple of hours, he sat at the bar socializing with the bar owner and a few others and having a few drinks. Around 12:45 p.m., after bar owner left, Ball produced a revolver and pointed to the head of a patron. After forcing the patron into the restroom, Ball demanded money from the barmaid. While the robbery was in progress, Bernard Scorsone, a Budweiser deliveryman, entered the lounge. Seeing the robbery taking place, Scorsone, attempted to disarm Ball but was shot by Ball two times. Scorsone, with gun shot wounds to the back and arm, ran outside of the bar where he collapsed and died. Moments later, Ball ran out of the bar and drove off in his vehicle. A witness was parked across the street eating his lunch when he heard what sounded like gun shots. Seeing Ball hurriedly run out of the bar and get into his vehicle, the witness decided to follow him in his vehicle. A few minutes later, he lost him.

Days later, an anonymous source provided the police with Ball's name as the potential suspect in the homicide and robbery. The descriptions the source gave concerning Ball and his vehicle fit the descriptions given by the witnesses of the crime. With this information and the positive photo identification of Ball by the witnesses, the police apprehended and arrested Ball.

On May 23, 1997, Ball was convicted of first degree murder and was sentenced to death.

(69) **State of Louisiana vs. Lawrence Jacobs**
and Roy Bridgewater
Docket No. 96-7161 Division "H"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Jacobs, 99-1659 (La. 6/29/01), 789 So.2d 1280,
State v. Bridgewater, 00-1529 (La. 6-21-02), 823 So.2d 877.

On October 31, 1996 Jefferson Parish Sheriffs officers were summoned to Nelson Beagh's residence in Marrero, Louisiana to investigate a double homicide. Mr. Beagh and his mother, Della, had been found murdered by Mr. Nelson's mother-in-law, Marilyn Williams. Mrs. Williams had arrived at the Beagh's residence to perform some housekeeping tasks when she discovered the murdered bodies in the master bedroom.

As officers began to investigate, it became apparent that the Beagh residence had been burglarized. Mr. Beagh's minivan was missing from the driveway. One of the double car

garage doors was opened. The door leading from the garage to the main house s open. The bathroom in the master bedroom had been ransacked. A large, multi-drawerred, jewelry box had been emptied of its contents and the drawers were placed atop a wicker basket nearby.

Costume jewelry was found scattered throughout the residence. The kitchen cabinets were open; a bowl usually containing keys, hardware and coins was empty. Vertical blinds covering the rear door in the living room were partially torn down. Mr. Beaugh's younger son's room showed extensive activity. Articles were thrown onto the floor, small trinket boxes were opened and thrown onto the bed and the mattress had been partially removed from the box spring. During the investigation of the Beaugh's residence the officers learned that a neighbor, Ms. Brenda Menard, had called the police concerning two suspicious males in the neighborhood. Ms. Menard gave the police a statement and could positively identify the men. The officers received a call concerning a fire. Officers discovered a burning briefcase containing a deposit Mr. Beaugh's bank account. The minivan was found nearby. The officers were able to obtain several fingerprints from the minivan. The officers also learned at this time that another similar burglary had occurred on October 30, 1996. The suspect in this earlier case fit the description provided by Ms. Menard. The suspect was identified as Lawrence Jacob. The officers were able to match the fingerprints lifted from the minivan with Lawrence Jacobs.

On November 1, 1996, Kenneth Bridgewater was arrested on unrelated charges. Mr. Bridgewater advised the officers that his brother, Roy Bridgewater, and Lawrence Jacobs had spent the night at Mr. Bridgewater's residence on October 30, 1996, the night before the murders at the Beaugh's residence. The officer found that Roy Bridgewater closely fit the description of the second suspect Ms. Menard had identified.

On November 1, 1996, an arrest warrant was obtained for Lawrence Jacobs for two counts of first degree murder and one count of aggravated burglary. On November 2, 1996, Roy Bridgewater surrendered himself to Jefferson Parish Second District Officers. On November 3, 1996 Lawrence Jacobs surrendered to police .

A jury found Lawrence Jacobs guilty of first degree murder on April 18, 1998. On May 18, 1998, Lawrence Jacobs was sentenced to death. Roy Bridgewater was convicted in a separate trial on October 31, 1998. He was sentenced to death on November 11, 1998. On appeal, this Court reversed Jacobs' conviction and sentence due to reversible error in voir dire.

Bridgewater's conviction was reduced to second degree murder on January 15, 2002. Rehearing was granted his first degree conviction was reinstated and the death sentence reimposed.

(70) **State v. Jarrell Neal**
Docket No. 98-3238 Division "D"
Crime convicted: First Degree Murder
Sentence: Death
State v. Neal, 00-0674 (La. 6/29/01), 796 So.2d 649,
2001 WL 74332

On March 31, 1998, at approximately 11:45 p.m., Zannie Neal and his brother Jarrell Neal forced their way into a side door at 1333 S. Wilson in Kenner, Louisiana. Zannie was armed with a revolver and Jarrell was armed with an AK-47. Waiting outside in a black Toyota 4-Runner was Arthur Darby. Inside 1333 S. Wilson was Greg Vickers, who was there to purchase crack cocaine from Fergus Robinson. After entering the residence, Zannie hit Vickers with the revolver and the gun discharged. At that time, Jarrell opened fire with the AK-47. Vickers was shot numerous times in the torso and fell just inside the threshold of a door. Robinson and Claudette Hurst, a woman who was also in the residence, ran into a front room where Carl Duncan and Keinna Porter were located and closed the door. Both Zannie and Jarrell tried to enter the room but the Robinson and Duncan were holding the door shut from inside. Jarrell fired several times through the door, killing Robinson and wounding Duncan in his right arm. Both Vickers and Robinson were pronounced dead on the scene with multiple gunshot wounds. The others who were present in the residence were not injured, including two women and three children. Zannie and Jarrell fled on foot through the side door.

As Zannie and Jarrell fled the scene, they approached a parked vehicle. Seneca Johnson and Larry Osborne were sitting outside in the vehicle. As he exited the residence, Jarrell continued to fire the AK-47, hitting Johnson in her buttock and leg.

Off-duty deputy Derrick McGee observed a black Toyota 4-Runner parked on Ivy near its intersection with S. Wilson. Shortly afterwards, Deputy McGee heard numerous gunshots coming from the 1300 block of S. Wilson. He saw the Toyota driving east on Ivy toward Little Farms Avenue. The vehicle ran a stop sign and turned west onto Park Avenue. The vehicle turned south again onto Tudor Avenue and proceeded to Jefferson Highway.

The Toyota turned west when it reached Jefferson Highway and ran the red light at Filmore Avenue. Deputy Harold Bourgeois pulled in back of the vehicle and activated his

overhead emergency lights. The Toyota speeded up and turned north onto Taylor Avenue. As the Toyota headed north on Taylor Avenue towards Airline Highway, officers observed the passenger, later identified as Jarrell Neal, firing at both units that were in pursuit. Upon reaching Airline Highway, Jarrell either jumped or fell out of the Toyota onto Airline Highway with the AK-47 still in his hands. Officers McGee and Bourgeois apprehended him.

Meanwhile, the Toyota continued across Airline Highway on Taylor and struck a tow truck that was parked on the side of the road. The driver, later identified as Arthur Darby, exited the vehicle and fled on foot. He was subsequently arrested by K-9 officers. Another passenger, Zannie Neal, remained in the rear seat of the vehicle and was apprehended at that time.

As a result of their actions, Arthur Darby, Zannie Neal and Jarrell Neal were arrested and each charged with two counts of first degree murder, two counts of attempted first degree murder of a police officer and five counts of attempted second degree murder. Darby testified for the state after pleading guilty to two counts of manslaughter and receiving a sentence of 20 years. Zannie Neal's trial is presently pending. The state brought Jarrell Neal to trial on two counts of first degree murder. On March 1, 1999, Jarrell Neal was convicted of both counts of first degree murder and sentenced to death. On June 4, 1999, Jarrell Neal was formally sentenced to death.

(71) State of Louisiana vs. Titrus Davis
Docket No. 99-5533 Division "E"
Crime Convicted: First Degree Murder
Sentence: Life

On June 20, 1999, the body of Jermain Cosse was found in Jefferson Parish. The post mortum revealed that the victim had died as the result of manual strangulation. There was duct tape around the victim's hands and neck. The investigation led them to Ryan Lawrence who said that he and the victim got into a red car driven by Titrus Davis on June 18, 1999. Davis and Cosse were in the front seat and Lawrence and Michael Williams were in the back. After driving around to different clubs, Titrus Davis pulled a sawed off shotgun out and told the victim to "give it up" and took his shoes and wallet. Davis then bound and gagged the victim with duct tape. Williams then bound Lawrence's hands with duct tape while Lawrence was held at gunpoint.

Davis then drove to a canal at the end of Manhattan Blvd., at which time Davis strangled the victim to death with a shoestring. Williams aided in the process briefly, but the assault lasted

for many minutes. Once they believed that the victim was dead, Davis and Williams dumped the body in the nearby canal. They then proceeded to another location where Davis told Lawrence that if he was arrested that Lawrence and his family would be killed. After interviewing Lawrence, the detectives obtained a search warrant for Davis' home and he was arrested there on June 27, 1999. Davis gave a statement and advised that he killed the victim because he had slept with Davis' retarded cousin.

(72) **State of Louisiana vs. Elton Cowart**
Docket No. 99-5664 Division "C"
Crime Convicted: First Degree Murder
Sentence: Life

In July, 1999, Darian Burse was killed during the commission of an armed robbery at the Beechgrove Apartments on the Westbank of Jefferson Parish. The police investigation indicated that the victim was accosted by three men --- one acted as a lookout (never apprehended); one rifled through his pockets demanding money (Moses Beverly); and one shot him several times fatally wounding him (Elton Cowart).

The trials of Cowart and Beverly were severed. On November 29, 2000, Elton Cowart was tried on the charge of First Degree Murder. The jury found him guilty as charged but a life sentence was imposed when the jury could not unanimously agree on a verdict. Cowart was sentenced to life imprisonment on February 12, 2001.

(73) **State of Louisiana vs. Larry Harris and Leon Williams**
Docket No. 00-2434 Division "G"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Harris, 03-1297 (La.App. 5th Cir. 3-30-04),
871 So.2d 599.

On February 22, 2000, the defendants ambushed Vanessa Mack, her cousin Melinda Wheeler James and a friend, Ronald Lewis, as they left the Sport Palace bar on Jefferson Highway in Jefferson Parish, Louisiana. Larry Harris had dated Vanessa Mack for a year and a half but she had ended the relationship a few months before the shooting. Larry Harris and Leon Williams were friends who worked together. Vanessa Mack, the intended target, was shot five times but recovered. Melinda Wheeler James was killed. Ronald Lewis, who was walling the women to their car, was finding that the killing of Melinda Wheeler James was committed when the offenders had the specific intent to kill or inflict great bodily harm upon more than one

person. The jury recommended life sentences for both defendants on April 1, 2001. The trial judge sentenced the defendants to life sentences on April 27, 2001.

(74) State v. Thoa Tan Lam
Docket No. 97-1240 Division "H"
Crime Convicted: First Degree Murder
Sentence: Death

The defendant, Thoa Tan Lam, who had worked with the victims' family in the past, arrived at the Truong house at 3820 Chriswood Drive in Harvey, Louisiana, on February 4, 1997. Words were exchanged and the defendant shot Phuong Tu Tran, Truong's brother. Dat Phat Truong, who had been sitting on the sofa, rushed toward the defendant and was fatally shot. Nguyet Minh Lam, wife of Dat Phat Truong, entered the room to find out what the shooting was about and was shot and injured. Nguyet Minh Lam ran outside to a neighbor's house and alerted the police. Hearing the shots, 8-year son old Kerry Truong and 18-year old daughter Han Ngoc Truong walked down the stairs. The defendant fatally shot the girl in the head. The young boy ran out of the house. The defendant went into another room and shot himself in an unsuccessful suicide attempt.

The jury found Lam guilty of first degree murder and recommended he receive the death penalty. The aggravating circumstances found by the jury in the penalty phase was that the defendant knowingly created the risk of death to more than one person and that the murders were committed in an especially heinous, atrocious or cruel manner. Lam was sentenced to death. This court remanded for proceedings relative to the accuracy of the translation at trial.

(75) State of Louisiana vs. Michael Legrand
Docket No. 99-4550 Division "F"
Crime Convicted: First Degree Murder
Sentence: Death
State v. Legrand, 02-1462 (La. 12-03-03), 864 So.2d 89.

On May 18, 1999 at approximately 4:59 p.m., deputies from the Jefferson Parish Sheriff's Office responded to a call at 2600 Houma Blvd. Apt. 106 in Metairie, Louisiana. When deputies entered the apartment, they found the lifeless body of Rafael Santos on the floor. Santos was stabbed multiple times in the head, chest, back, and throat. There were defensive wounds on his hands and his front tooth was knocked out of his mouth. The apartment showed signs of a struggle and several weapons were found in the area of the body, including several bent or

broken kitchen knives, a pair of scissors and two flathead screwdrivers. A canvass of the apartment complex revealed that Santos was last seen alive on May 15, 1999.

On May 19, 1999, detectives developed information from Francine Flick and Kevin Brown that Michael Legrand was the perpetrator of the murder. Both Flick and Brown gave statements describing Legrand covered in blood on Saturday, May 15, 1999. Brown stated that Legrand admitted killing Santos. On May 20, 1999, deputies obtained an arrest warrant for Legrand. After being arrested and advised of his rights, Legrand gave a statement in which he admitted killing Santos for his compact disc collection. Legrand stated that Judy Fairness and Clayton Runnels helped him obtain and sell the CD collection. Legrand admitted that he and Runnels had tried to rob the victim prior to the murder but the attempt failed. Legrand told the detectives that Santos had cried out for help after being stabbed, but Legrand ignored him as he removed all the CDs from the apartment to his car. Legrand washed off in Santos's apartment and changed into Santos's clothes before he left.

Trial began on September 25, 2000. On September 28, 2000, the jury unanimously found Legrand guilty as charged of first degree murder. On September 29, 2000, the jury unanimously recommended the death penalty, finding as aggravating circumstances that Legrand was engaged in the perpetration or attempted perpetration of an armed robbery and that the offense was committed in an especially atrocious or cruel manner. Legrand was sentenced to death on February 16, 2000.

(76) **State v. Shawn Higgins**
Docket No. 00-4999 Division "I"
Crime Convicted: First Degree Murder
Sentence: Death
Modified Verdict: Second degree murder
Sentence on modified verdict: Life imprisonment

On October 25, 1998, Wanda Brown was leaving the Westbank Lounge when she saw the defendant, Shawn Higgins, confronting the victim, Donald Price. Ms. Brown could not hear what the men were saying, but she could tell that they were arguing, and she could see that Higgins was holding a gun pointed at Mr. Price in one hand, while he gestured for Mr. Price to give him something with the other hand. Ms. Brown could see that the victim was refusing to give something to the defendant. She saw the defendant shoot the victim and then run.

Deputy Sanderson, who was responding to the area of the crime scene, went to the nearby residence of Ruby Wells to investigate a suspicious person complaint. Ms. Wells heard gunshots, looked out the window, and saw a man enter a neighbor's yard, jump over her fence, and run to the side of the house. Deputy Hymel investigated the rear yard and located a red and blue plaid shirt, a black visor, a glove, a stainless steel revolver, and a blue and white bandana, all concealed under a broken swing. The gun was later determined to be the weapon used to kill the victim, Donald Price. A small amount of blood on the bandana was tested and the genetic profile of the sample was determined to be consistent with that of the defendant, Shawn Higgins. Ms. Brown, who did not know the victim or the perpetrator, subsequently identified a photograph of the defendant in a photographic lineup procedure conducted in February of 2000.

The jury found Higgins guilty as charged of first degree murder on May 10, 2002. On May 11, 2002, the jury returned a verdict of death after finding the following aggravating circumstances: 1) the killing was committed during the perpetration or attempted perpetration of an armed robbery; and 2) the offender has previously been convicted of an unrelated murder. This Court set aside the defendant's first degree murder conviction on appeal and modified the jury's verdict to render a judgment of guilty of second degree murder. The case was remanded to the trial court for resentencing. On May 10, 2005, the trial court resentenced Higgins to life imprisonment at hard labor, without benefit of parole, probation, or suspension of sentence.

(76) **State of Louisiana vs. Kellen Parker**
Docket No. 02-4386 Division "N"
Crime Convicted: First Degree Murder
Sentence: Life
State v. Parker, 04-1017 (La. App. 5 Cir. 3/29/05) 901
So.2d 513; writ denied 05-KO-1451 (La. 1/13/06) 920
So.2d 235.

On June 6, 2002, Paul Fasullo and his two year old daughter, Samantha, were sleeping in their residence. His wife, Shannon Fasullo was awake and using her computer, when she heard a knock on the door. She put on a robe and opened the door. Dustin Dressner and Kellen Parker were at the front door. Dressner asked Shannon if her nephew was home and she told him that he was not. As she turned to close the door, she was struck in the back of her head with an object. Shannon screamed for Paul, and crawled from the foyer area to the living room while the men continued to beat her with the object.

When Shannon was able to get to her feet, she saw her husband struggling with Dustin Dressner over a knife in the hallway. Dressner had the knife in his right hand, and her husband was holding Dressner's wrist. Shannon grabbed the phone and called 911 from the master bedroom. As she screamed in the phone for help, Dressner entered the room followed by Kellen Parker. Dressner was armed with a silver knife. Dressner tried to cut her throat, but couldn't do it because her chin was down. He sliced her left eye vertically. She pushed him away and ran into the bathroom, closing the door and locking it. She could hear Dressner in the background saying "The bitch won't die, the bitch won't die!" The men kicked the door down on top of her, and one of them reached around it and stabbed her several times. Paul Fasullo was stabbed a number of times and died on the scene.

Shannon Fasullo identified Dustin Dressner, who had been to the Fasullo residence previously with Brandon Sapia, a friend of her nephew, Michael Fasullo, from a photographic lineup. Although Shannon was unable to identify Kellen Parker as the second perpetrator, Parker made a statement to police in which he admitted entering the victim's house with Dressner, who he referred to as "Shorty," while Troy Arnaud waited in the car. In his statement, Parker also admitted stabbing Shannon Fasullo three times in the shoulder after Dressner hit her on the back of the head with a wine bottle in a paper bag, and to being present when Dressner kicked in the victim's bathroom door.

Kellen Parker testified at his trial. Although he admitted entering the house with Dustin Dressner, he denied any involvement in the attack on Paul Fasullo, or in his murder. He admitted to stabbing Shannon Fasullo three times, but claimed that he stabbed her only after she lunged at him. The evidence indicated that Shannon Fasullo was stabbed more than a dozen times. The jury found Kellen Parker guilty of first degree murder on November 22, 2003. After the jury was unable to reach a unanimous determination as to the defendant's sentence, the trial court imposed a sentence of life imprisonment. The Louisiana Fifth Circuit Court of Appeal affirmed the defendant's conviction and sentence on appeal.

(77) **Dustin Dressner**
Docket No. 02-4386 Division "N"
Crime Convicted: First Degree Murder
Sentence: Death

Dustin Dressner was indicted with Kellen Parker for the first degree murder of Paul Fasullo. For a recitation of the facts of this case, see Number (76) above.

On May 23, 2004, the jury found the defendant guilty as charged of first degree murder. On May 24, 2004, the jury determined that the defendant should be sentenced to death. As aggravating circumstances, the jury found that the crime was committed in an especially heinous, atrocious, or cruel manner, and that the offender knowingly created a risk of death or great bodily harm to more than one person. On November 18, 2004, the trial court sentenced the defendant to death.

2) A list of each capital aggravated rape case in which sentence was imposed after August 15, 1995.

- (1) **John Kinsel**
Case No. 96-7544 "H"
Conviction: Aggravated rape
Sentence: Life imprisonment
State v. Kinsel, 00-KA-1610 (La. App. 5 Cir. 3/28/01) 783 So.2d 532; writ denied 01-K-1230 (La. 3/28/02) 812 So.2d 641

At trial, the victim, A.M. testified that John Kinsel's sexual abuse of her began when she was six years old in Monroe, Louisiana. From Monroe, A.M. and her family moved to a home on Mason Street in Gretna, Louisiana. A.M. testified that while her mother was at work during the day, defendant, who resided with them at the time, would take her into his room and sodomize her. A.M. estimated that this occurred five or six times while she lived at the Mason Street address.

A.M. and her family moved from mason Street to her grandfather's residence on Sheree Lyn Court in Gretna, Louisiana. A.M. testified that at the residence on Sheree Lyn, defendant would wake her up in the morning and bring her to the bathroom, where he would penetrate her anally. At this address, defendant also made vaginal penetration. A.M. estimated that defendant raped her approximately ten times while she resided with her grandfather.

Finally, A.M. and her family moved into a residence on Hunterbrook Street. On one afternoon, A.M. testified that defendant had become upset with her about something she had told friends about defendant. She and defendant were alone in the house, and defendant began to choke her, saying, "Don't tell anyone that I've ever done this, or I'll kill you, and then I'll kill your whole family." The defendant then raped her vaginally and forced her to perform oral sex upon him.

Eventually, A.M. told her mother that defendant had touched her in a way she didn't like. A.M. then told a school counsel about the abuse, indicating she wanted the police to be contacted, but not her parents.

A physical examination of the victim revealed abnormalities in the area around the hymen which were consistent with, but not 100 percent indicative of, sexual abuse or blunt trauma.

The victim's mother, Ms. M., testified that the defendant did not reside with her family from November 1993 to May 1994, the period of time when the family lived at Sheree Lyn Court in Gretna, Louisiana. Ms. M. Also stated that she suspected her daughter was lying about the accusation.

The defendant also testified at trial and denied performing any sexual acts with A.M., and also denied ever living on Sheree Lyn Court with the family.

On January 30, 1997, the defendant was charged by bill of information with the aggravated rape of A.M., a person under twelve years of age. The indictment alleged the offense occurred from on or about November 1992 through October, 1995, and thus includes a period prior to the August 15, 2005 effective date of the amendment to La. R.S. 14:42 authorizing the death penalty for the rape of a child under twelve. Although the bill of indictment alleged the victim to be a juvenile under twelve and indicated that the matter was a first class case, the State did not seek the death penalty.

A jury trial began February 11, 1998. On February 13, 1998, a defense motion for mistrial was granted. A new trial was held August 30, 1999 - September 1, 1999. The jury found Kinsel guilty as charged of aggravated rape. On December 7, 1999, the trial judge sentenced Kinsel to life imprisonment at hard labor without benefit of parole, probation or suspension of sentence, with credit for time served. On March 28, 2001, the Louisiana Fifth Circuit Court of Appeal affirmed petitioner's conviction on direct appeal. *State v. Kinsel*, 00-1610 (La. App. 5 Cir. 3/28/01) 783 So.2d 532. This Court denied petitioner's application for writ of certiorari on March 28, 2002. *State v. Kinsel*, 01-1230 (La. 3/28/02) 812 So.2d 641.

(2) **State of Louisiana v. Donald Sims**
Docket No. 98-849, Division "N"
Crime Convicted: Aggravated Rape
Sentence: Life
State v. Sims, 00-KA-1728 (La. App. 5 Cir. 5/30/01) 796 So.2d 941 (Table).

On December 17, 1997, when the victim, S.S., was seven years old, she stayed home from school because she was ill. She was called into the living room by defendant, her eighteen year old cousin, who also lived at the house. Defendant then placed his hand over her mouth, removed her underwear and "put [his private part] in [her] private part." Defendant told her not to tell anyone.

About a week later, after noticing a foul odor emanating from her daughter, the victim's mother discovered a brown discharge in the victim's underwear. When questioned by her mother, the victim reported the incident. S.S. was taken to the emergency room, where she was diagnosed with vaginitis and vaginal pin worms. Laboratory tests for chlamydia and gonorrhea were reported as negative at this time. A few months later, the victim was re-examined by an expert in the field

of child sexual abuse. Tests conducted during the re-examination were positive for chlamydia and gonorrhea in both the vagina and anus of the victim.

The defendant was indicted for aggravated rape of a seven year old child, a violation of LSA-R.S. 14:42. Although the case was instituted as a first class case and initially prosecuted as a capital case, prosecutors subsequently determined that they would not seek the death penalty in this matter. The defendant waived a trial by jury and was subsequently found guilty as charged by the trial court on July 29, 1999. On September 9, 1999, the trial court sentenced the defendant to life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence.

The defendant's conviction and sentence were affirmed by the Louisiana Fifth Circuit Court of Appeal on May 30, 2001.

(3) **State of Louisiana v. Fred J. Leblanc**
Docket No. 98-5862, Division "G"
Crime Convicted: Aggravated Rape
Sentence: Life
State v. Leblanc, 00-1322 (La. App. 5 Cir. 5/31/01) 788 So.2d 1255; writ denied 01-K-1920 (La. 5/24/02) 816 So.2d 299

The victim, J.S., became acquainted with the defendant through her father, who had told her that the defendant was her uncle. The defendant babysat for J.S. over a period of years while her father was working offshore and her mother was out socializing in "bars." From the time that she was four years old, the Defendant forced J.S. to submit to a variety of sex acts, including fondling, oral sex, anal sex, and vaginal sex. He also made her perform oral sex on him, and had her watch pornographic videotapes and magazines. The defendant repeatedly told her not to tell anyone.

In late January of 1998, the victim's aunt began living with J.S.. As a result of caring for J.S. she noticed a "very heavy discharge" in J.S.'s underwear. She became suspicious after observing that J.S. became upset and cried after speaking with the defendant on the phone, and after observing the defendant ask J.S., "Where is my hug and kiss?" The victim disclosed the abuse to her aunt after her aunt discovered her crying uncontrollably.

The State elected to seek the death penalty. Trial before a jury of twelve persons began on February 14, 2000 and concluded on February 16, 2000. The jury unanimously found the defendant to be guilty as charged. During their penalty phase deliberations on March 3, 2000, the jury became hopelessly deadlocked. Therefore, as required by law, the trial court sentenced the defendant to life

imprisonment at hard labor without benefit of probation, parole, or suspension of sentence. The Louisiana Fifth Circuit Court of Appeal affirmed Leblanc's conviction and sentence on appeal.

(4) **Robert Bourgeois**
Case No. 99-2714 "C"

Conviction: Aggravated rape, aggravated incest, aggravated oral sexual battery

Sentence: Life Imprisonment (Aggravated rape), 15 years (aggravated incest and aggravated oral sexual battery)

State v. Bourgeois, 00-KA-1353 (La. App. 5 Cir. 4/11/01) 786 So.2d 771

Between January of 1993 and November of 1996, the Robert Bourgeois sexually molested his great-granddaughter who was between the ages of nine and twelve. The sexual acts occurred while the defendant babysat the victim in the victim's home. Over the three year period, the defendant french-kissed, fondled, performed oral sex on the victim, and showed the victim pornographic videotapes. In addition, the defendant had the victim perform oral sex on him. The defendant attempted intercourse with the victim several times, but stopped when she cried out in pain. The victim reported the sexual abuse to her mother who called the police. The defendant subsequently gave a confession and was arrested.

On May 13, 1999, the defendant was charged by bill of indictment with the aggravated rape of a juvenile under twelve years old in case number 99-2714. A separate bill of indictment was filed in case number 99-3125, charging the defendant with aggravated incest and aggravated oral sexual battery. On July 16, 1999, the State determined that it would not seek the death penalty in case number 99-2714. The State dismissed case number 99-3125, and amended the bill of indictment in case number 99-2714 to add the counts previously charged in case number 99-3125.

After a two day trial on November 17 and 18, 1999, the Defendant was unanimously found guilty as charged on all three counts by a twelve person jury. He was subsequently sentenced to life imprisonment at hard labor on the aggravated rape conviction and to fifteen years imprisonment at hard labor each on the aggravated oral sexual battery and aggravated incest conviction, to run concurrent with his life sentence. On appeal, the Louisiana Fifth Circuit Court of Appeal affirmed the defendant's convictions and sentences in part, but remanded the case in part for further proceedings on defendant's claim that the State impermissibly used its peremptory challenges to exclude males from the jury in violation of *J.E.B. v. Alabama ex rel. T.B.* 511 U.S. 127, 114 S.Ct. 1419, 128 L.Ed.2d 89 (1986).

(5) **Lester Gomez**
Docket No. 99-2944 "L"
Crime Convicted: 2 counts Aggravated Rape (Plea)
Sentence: Life Imprisonment

The defendant, Lester Gomez, was the cousin of the live-in-boyfriend of eight year old B.S.'s mother. The defendant stayed with B.S.'s family on weekends after returning from offshore work, sleeping in the same room as victim B.S. On occasion, eight year old B.H. spent the night in B.S.'s room, giving the defendant access to both boys. The defendant used these occasions to fondle, anally rape, and orally copulate the boys. After several months, victim B.S. disclosed the incidents to his mother, who in return informed the mother of victim B.H. B.H. disclosed the abuse when confronted by his mother. Lester Gomez made a statement to police in which he denied abusing the victims, but advised that he was a bisexual male whose partner had died of the AIDS virus. The defendant contended that he had been tested for the virus in the past. Neither child tested positive for the AIDS virus.

On, May 7, 1999, the defendant was indicted on two counts of aggravated rape of a child under twelve. The case was instituted as a first class case, and prosecuted as a capital case. On February 6, 2001, the defendant withdrew his former pleas of not guilty, and entered a plea of guilty as charged on each count. The trial court sentenced the defendant to life imprisonment at hard labor without benefit of probation, parole, or suspension of sentence.

(6) **State of Louisiana v. Daniel E. Dickerson**
Docket No. 99-2946, Division "D"
Crime Convicted: Aggravated Rape
Sentence: Life
State v. Dickerson, 01-KA-1287 (La. App. 5 Cir. 6/26/02) 822 So.2d 849;
writ denied 02-K-2108 (La. 2/21/03) 837 So.2d 627

In May of 1998, A.R., who is the victim's mother and the defendant's daughter, allowed three of her children, including D.R. and her then three-year-old twin siblings, to stay with her father and his live-in-girlfriend for the summer. D.R. was four years old when she went to stay with her grandfather and his girlfriend. She turned five-years-old on June 30, 1998.

While D.R. was staying at the defendant's house, he anally and vaginally raped her. D.R. testified that she was very afraid, and that it hurt when the defendant did that. Defendant told her that if she didn't tell anyone what had happened, he would give her anything she wanted. If she did tell, he would "whup" her and not give her anything. Although she was afraid, D.R. told her older sister about the things defendant was doing to her. D.R.'s older sister told her mother, who later

called the police. D.R. recounted the abuse to members of the Jefferson Parish Sheriff's Office, and in a videotaped interview with a forensic interviewer at the Children's Advocacy Center.

The State noticed its intent to seek a capital verdict in this matter. The jury found the defendant guilty as charged of aggravated rape of a juvenile under twelve on January 27, 2001. On January 29, 2001, the jury was unable to reach a unanimous verdict regarding sentencing. The trial court subsequently imposed a sentence of life imprisonment. The Louisiana Fifth Circuit Court of Appeal affirmed the defendant's conviction and sentence on appeal.

(7) **Ronald Knightshed**
Docket No. 99-3818 "O"
Crime Convicted: 1 count Aggravated Rape (Plea)
Sentence: Life Imprisonment

After observing a discharge in the six year old victim's bed, the victim's mother brought the victim, J.S., to the doctor. Tests were performed and the results were positive for gonorrhea. The victim, J.S. disclosed that her father, Ronald Knightshed touched her private part with his hand and with his private part, and that his private part was outside and inside her private part. He also sucked her private part with his mouth. These incidents occurred more than once on the same day.

In a taped statement, the defendant advised police that he came home drunk one evening and J.S. was upstairs because she was punished. He admitted to touching the victim's vagina with his finger, to licking her vagina, to inserting his penis into her vagina about a quarter of an inch, and to rubbing his penis against her vagina until he ejaculated.

The defendant was charged by bill of indictment with aggravated rape of a juvenile under twelve. The case was instituted as a first class case, and prosecuted as a capital case. On September 5, 2000 the defendant withdrew his former plea of not guilty and entered a plea of guilty as charged.²

²The defendant was separately indicted on a charge of aggravated oral sexual battery of J.S., a violation of La. R.S. 14:43.4, in case number 99-4933. On September 5, 2000, the defendant entered a plea of guilty as charged and was sentenced to twenty years imprisonment at hard labor concurrent with the sentence in case number 99-3818.

(8) **Donald Washington**
Case No. 98-5426 "F"
Conviction: Sexual battery
Sentence: Ten years
State v. Washington, 99-KA-1330 c/w 99- KA-1331 (La. App. 5 Cir.
5/17/00), 793 So.2d 574; writ denied 00-KO-1943 (La. 9/21/00) 797 So.2d
59

Defendant was the boyfriend of the mother of victim B. When the defendant lived with them, he would enter her mother's bedroom where B. usually read before bedtime. The defendant would pull down her pants and "stick his penis in [her] booty." He did this to her more than once.

On September 13, 1998, the defendant was charged by bill of indictment with the aggravated rape of a female juvenile under the age of twelve in case number 98-5426 of the docket of the 24th Judicial District Court. The defendant was separately charged by bill of indictment with the aggravated rape of two juveniles while armed with a dangerous weapon in case number 98-5427. The victims in case number 98-5427 were B's fourteen year-old sister, Q, and Q's fourteen year-old friend, D.J. Although case number 98-5426 was instituted as a first class case, the State informed the trial court and the defendant on December 4, 1998, that it would not seek the death penalty in this matter.

Case numbers 98-5426 and 98-5427 were jointly tried by a jury on May 10 and 11, 1999. At the close of trial, the jury found the defendant guilty of the lesser offense of sexual battery of B. in case number 98-5426, and of the lesser offenses of forcible rape with respect to the charges involving Q. And D.J. He was sentenced to 10 years imprisonment without benefit of parole, probation or suspension of sentence for sexual battery in case number 98-5426, and to forty years imprisonment at hard labor without benefit of parole, probation, or suspension of sentence for each forcible rape conviction in case number 98-5427. The defendant was adjudicated a third felony offender, and re-sentenced on one of the forcible rape convictions to life imprisonment at hard labor, without benefit of probation, parole or suspension of sentence. The defendant's conviction was affirmed on appeal by the Louisiana Fifth Circuit Court of Appeal.

(9) Latroy Oates
Case No. 99-7044 "N"
Crime Convicted: Aggravated Rape (2 Counts)
Sentence Imposed: Life Imprisonment
State v. Oates, 01-KA-63 (La. App. 5 Cir. 5/30/01) 796 So.2d 941 (Table);
writ denied, State v. Oates, 01-K-1827 (La. 6/14/02) 817 So.2d 1150.

D.L., an eight year-old-female, and her siblings went to spend time with their aunt and uncle, Latonya Oates and Joe Lee, while their mother worked. The house in Kenner was occupied by Oates, Lee, their two children, and a roommate, Chris Robinson. D.L. stayed there during July 1999. One bedroom of the two bedrooms in the Lee house was continually occupied by Oates and Lee. The other bedroom was occupied, alternatively, by Robinson and the children. When the children visited and slept in the living room, Mr. Robinson slept in the second bedroom.

On July 10, 1999, and July 13, 1999, respectively, D.L. and her siblings were staying with her aunt and uncle in their house. On each of those nights, D.L. was asleep when Ms. Oates' brother, Latroy Oates, knocked on the front door and Chris Robinson let him inside. Once inside, Mr. Oates picked up D.L. and took her to the kitchen where he placed her on the floor. He removed her clothes and, according to the victim, he "put his private part in her private part." On the first occasion that this occurred, D.L. began to cry and Latroy Oates covered her mouth. After each encounter, the child was instructed by defendant to go use the bathroom, which she did. Following the incident, the defendant left the house.

Within a week of the second assault, D.L. confided in her ten-year-old cousin, D.K., about the two rapes. D.K. relayed this information to her aunt, Theresa Babineaux. Ms. Babineaux told the victim's mother, who reported the incident to the police. The victim subsequently identified the defendant as the perpetrator from a photographic line-up. A physical examination revealed irregularities in the victim's hymen, compatible with vaginal penetration.

On October 28, 1999, the defendant was charged by bill of indictment with two counts of aggravated rape of a juvenile under the age of twelve. The case was instituted as a first class case, and was initially prosecuted as a capital case. The State later determined that it would not seek the death penalty in this case. On September 14, 2000, a twelve person jury found the defendant guilty as charged on both counts. The trial court sentenced the defendant to concurrent terms of life imprisonment at hard labor. The defendant's conviction was affirmed on appeal by the Louisiana Fifth Circuit Court of Appeal.

(10) **Bernard Williams**
Case No. 99-7488 "E"
Crime Convicted: Aggravated Rape
Sentence: Life imprisonment
State v. Williams, 05-KA-318 (La. App. 5 Cir. 1/17/06) 921 So.2d 1033;
writ denied 04-KO-0051 (La. 5/21/04) 874 So.2d 171

In November of 1999, while conducting an investigation into an allegation that the defendant forcibly raped an adult female acquaintance, Det. Michael Cunningham sought to interview the defendant's daughter, J.W., as a possible witness to the incident. J.W. disclosed to Det. Cunningham that her father had been sexually abusing her for years.

Trial in this matter was held July 13-16, 2004. J.W., who was fifteen years old at the time of trial, testified that she had previously resided with her father and a disabled aunt. J.W. related that the defendant began using his hands and penis to touch her private parts when she was five years old. As she became older, the defendant began to place his penis halfway inside of her front and back "private parts" using Vaseline. On one incident, her babysitter, M.W. was sucking on Williams' "private part," and then he told both of them to take their clothes off. He put his mouth on their private parts, and inserted his penis into them both. This occurred more than once on the same evening. M.W., an admitted prostitute, confirmed the incident involving herself. She testified that Williams began having sex with her when she was sixteen years old.

The defendant was charged by bill of indictment with the aggravated rape of a juvenile under 12, with the bill of indictment indicating that it was a first class case. However, the State did not pursue the death penalty in this matter. On July 16, 2004, the jury returned a verdict of guilty as charged. Counsel waived all delays, and the defendant was sentenced to life in prison at hard labor, without benefit of parole, probation, or suspension of sentence. The Louisiana Fifth Circuit Court of Appeal affirmed the defendant's conviction and sentence on appeal.

(11) **Bryan Cole**
Docket No. 02-5357 "B"
Crime Convicted: 2 Counts of Aggravated Rape (Plea)
Sentence: Life imprisonment

On July 5, 2002, the Jefferson Parish Sheriff's Office was contacted following V.C.'s disclosure of sexual abuse by her father, Bryan Cole. Five year-old V.C., the victim of count one of the bill of indictment, was anally and vaginally raped by her father while on a camping trip which she took with him, her older sister, C.C., and their eleven year old friend, M.V. This incident was observed by C.C. and M.V. Bryan Cole also performed anal and vaginal intercourse on V.C. when

she visited him at his residence, and placed vaseline on his penis which he then made her masturbate until he ejaculated. V.C. was examined at Children's Hospital where it was learned that she tested positive for gonorrhea.

M.V., the victim of the second count of the indictment, disclosed that Bryan Cole penetrated her rectum with his penis on an occasion when she spent the night with his daughters at his residence. M.V. also related that the defendant had her masturbate him with Vaseline until he ejaculated. This incident was observed by C.C.³

The defendant was indicted on two counts of aggravated rape of a juvenile under twelve. The case was prosecuted as a capital case. On November 14, 2003, the defendant withdrew his pleas of not guilty and entered pleas of guilty as charged to both counts of the indictment. The trial court imposed a sentence of life imprisonment at hard labor without benefit of parole, probation, or suspension of sentence on each count.

**(This Case) Patrick Kennedy
98-1425 "O"
Conviction: Aggravated Rape
Sentence: Death**

On March 2, 1998, the victim, eight year old L.H., lived with her mother, brother and her stepfather, Patrick Kennedy. That morning, the victim's mother left the house to go to work, leaving the victim in the home with her brother and the defendant. L.H. awoke in her bed to find the defendant on top of her. Her shorts and underwear had been removed. The approximately 300 pound defendant's clothes were off. He raped her with his private part, and her private part was bleeding when he was finished. The defendant covered her eyes with his hand while he was raping her with his private part. After L.H. observed that she was bleeding, she fainted. The defendant left her room and then returned carrying a cup of orange juice and some pills chopped up in it. The defendant brought the victim into a bathroom where she threw up in the bathtub. L.H. was later

³ Bryan Cole was separately charged in case number 02-6005 of the docket of the 24th Judicial District Court with the non-capital aggravated rape of an adult female, with the non-capital aggravated rape of his six year old stepson, which occurred prior to the August 15, 1995 amendment authorizing the death penalty for the aggravated rape of a child under twelve, and aggravated incest of his juvenile, biological daughter C.C. He entered a plea of guilty as charged to all counts on November 14, 2003, and was sentenced to two consecutive terms of life imprisonment on the aggravated rape counts, and a concurrent sentence of twenty years on the aggravated incest count. The court ordered the sentences in case number 02-6005 to run concurrently with the sentences imposed in case number 02-5357 "B".

transported by ambulance to Children's Hospital where she underwent surgery to repair a deep laceration running from her front vaginal wall to her rectal area which was causing her rectal wall to bulge out.

After 9:00 a.m. on the morning of March 2, 1998, the defendant called 911 to report that his little girl had been raped. The defendant related to the dispatcher that the victim was in the garage when two boys grabbed her and pushed her and raped her. The defendant stated that he found the victim in a side yard by an empty house after he heard screaming. The defendant went on to relay information about the race of the perpetrators and to describe an individual he claimed to have seen outside. The victim later parroted the defendant's account of the incident.

Investigators noted discrepancies between the evidence at the scene and the defendant's account of the incident. Details of the incident changed as the defendant spoke to investigators. Although the defendant did not report the rape until after 9:00 a.m, it was learned that as early as 6:30 to 7:30 on the morning of March 2, 1998, the defendant called the dispatcher at his place of employment to tell him that his daughter had become a young lady that morning, and to ask if he knew how to get blood out of a white carpet. At 7:37 that morning, the defendant called B&B Carpet Cleaning wanting to have blood stains cleaned from some carpets.


Eventually, the victim advised her mother that the defendant, Patrick Kennedy, was in fact the person who raped her.

The defendant was charged by bill of indictment with the aggravated rape of a child under twelve. The State sought the death penalty in this matter. Trial in this matter commenced on August 8, 2003. On August 25, 2003, the jury found the defendant guilty as charged.

At the sentencing hearing, C.S. was called to testify by the State. The defendant was previously married to C.S.'s cousin. C.S. was eight or nine when she stayed with the defendant and her cousin for the summer. The defendant checked her out of school, brought her back to the house and had intercourse with her, then told her to tell her cousin that she had injured herself at school. C.S. did not pursue charges against the defendant. On August 26, 2003, the jury determined that the defendant should be sentenced to death, finding as aggravating circumstances that the offense occurred during an aggravated rape and that the victim was under twelve years of age. On October 2, 2003, the trial court sentenced the defendant to death.

Wherefore, the State respectfully submits the instant Capital Sentencing Memorandum in compliance with Louisiana Supreme Court Rule 28.

Respectfully Submitted,


JULIET CLARK # 23451
ASSISTANT DISTRICT ATTORNEY
24TH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA
(504) 368-1020

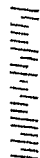
CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served on counsel for the defendant by placing same in the United States mail, postage prepaid, this 21st day of April, 2006.

Jelpi Picou, Jr. #18746
G. Benjamin Cohen
The Capital Appeals Project
636 Baronne Street
New Orleans, Louisiana 70113
(504) 529-5955

Martin A. Stern #17154
Robert Markle #22111
Adams and Reese, LLP
4500 One Shell Square
New Orleans, Louisiana 70139
(504) 581-3234


JULIET CLARK



J⁹ PAUL D. CONNICK, JR.

DISTRICT ATTORNEY

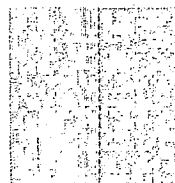
TWENTY-FOURTH JUDICIAL DISTRICT
200 DERBIGNY STREET
GRETN, LA 70053-5894

RECEIVED

APR 24 2006

BY:

Jelpi Picou, Jr.
G. Benjamin Cohen
The Capital Appeals Project
636 Baronne Street
New Orleans, Louisiana 70113



PAID BY

U.S. POSTAGE



PAUL D. CONNICK, JR.

DISTRICT ATTORNEY
TWENTY-FOURTH JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

STEPHEN T. WIMBERLY
FIRST ASSISTANT
DISTRICT ATTORNEY

200 DERBIGNY STREET
GRETN, LA 70053
PHONE: (504) 368-1020

April 10, 2006

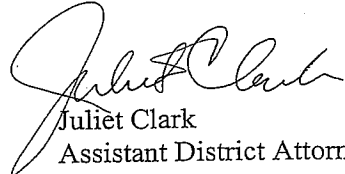
Jelpi P. Picou, Jr.
The Capital Appeals Project
636 Baronne Street
New Orleans, Louisiana 70113

RE: *State v. Patrick Kennedy*
No. 05-KA-1981

Dear Mr. Picou:

Enclosed please find a copy of the State's *Motion for Extension of Time* in the above referenced case.

Sincerely,


Juliet Clark
Assistant District Attorney

JLC

Enclosure

IN THE
SUPREME COURT
STATE OF LOUISIANA

NO. 05-KA-1981

STATE OF LOUISIANA,
Respondent
Versus

PATRICK KENNEDY,
Applicant

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT FOR THE
PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 98-1425 DIVISION "O", HON.
ROSS LADART, JUDGE PRESIDING

CAPITAL CASE

MOTION FOR EXTENSION OF TIME TO FILE RESPONDENT'S
SENTENCE REVIEW MEMORANDUM

PAUL D. CONNICK, JR.
DISTRICT ATTORNEY
24th JUDICIAL DISTRICT
PARISH OF JEFFERSON
STATE OF LOUISIANA

JULIET CLARK, BAR NO. 23451
TERRY M. BOUDREAUX
ASISTANT DISTRICT ATTORNEYS
200 DERBIGNY STREET
GRETN, LOUISIANA 70053
(504) 368-1020

IN THE
SUPREME COURT
STATE OF LOUISIANA

NO. 05-KA-1981

STATE OF LOUISIANA,
Respondent
Versus
PATRICK KENNEDY,
Applicant

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT FOR THE
PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 98-1425 DIVISION "O", HON.
ROSS LADART, JUDGE PRESIDING

CAPITAL CASE

MOTION FOR EXTENSION OF TIME TO FILE RESPONDENT'S
SENTENCE REVIEW MEMORANDUM

MAY IT PLEASE THE COURT:

NOW INTO COURT comes the State of Louisiana, appellee, through the undersigned
Assistant District Attorney and respectfully requests an extension of time to file its Sentence Review
Memorandum in this matter:

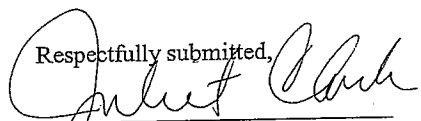
- 1.) The State's Sentence Review Memorandum is currently due on April
10, 2006. Undersigned counsel has previously been granted two
extensions of time to file the State's Sentence Review Memorandum.
- 2.) As the sentence of death in the instant matter was imposed following
the defendant's conviction of the capital rape of a child under twelve,
a violation of La. R.S. 14:42(4), undersigned counsel requires
additional time in order to comply with Louisiana Supreme Court
Rule 28, §4(b)(iii). That is, undersigned counsel requires additional
time in which to complete her research into the records of the
Twenty-fourth Judicial District Court and provide this Court with
information relevant to this Court's determination of "whether the

sentence is disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant." La. S.Ct. Rule 28, §1(c).

3. Louisiana Supreme Court Rule 28, § 4(b) provides that "[t]he district attorney shall file the memorandum on behalf of the state within the time provided for the defendant to file his brief on appeal." The defendant's brief is currently due on April 20, 2006. Undersigned counsel is aware that the defendant has recently filed a motion for extension of time until June 19, 2006 in which to file his brief in this matter.
4. Undersigned counsel is in need of an additional ten days or until April 20, 2006 in which to complete the State's Sentence Review Memorandum.

WHEREFORE the State of Louisiana respectfully requests that it be granted a ten day extension of time in which to file its Sentence Review Memorandum, or such time as this Court deems necessary.

Respectfully submitted,

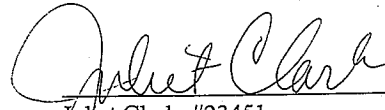


JULIET CLARK, #23451
ASSISTANT DISTRICT ATTORNEY
200 DERBIGNY STREET
GRETN, LOUISIANA 70053
(504) 368-1020

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing motion for extension of time upon
opposing counsel, by placing a copy of the same in the United States Mail, this the 10th day of April,
2006, postage prepaid and properly addressed to:

Jelpi P. Picou, Jr., #18746
The Capital Appeals Project
636 Baronne Street
New Orleans, Louisiana 70113
(504) 529-5955



Juliet Clark, #23451
Assistant District Attorney
24th Judicial District
Parish of Jefferson

IN THE
SUPREME COURT
STATE OF LOUISIANA

NO. 05-KA-1981

STATE OF LOUISIANA,
Respondent
Versus
PATRICK KENNEDY,
Applicant

ON APPEAL FROM THE TWENTY-FOURTH JUDICIAL DISTRICT COURT FOR THE
PARISH OF JEFFERSON, STATE OF LOUISIANA, NO. 98-1425 DIVISION "O", HON.
ROSS LADART, JUDGE PRESIDING

CAPITAL CASE

SECOND MOTION FOR EXTENSION OF TIME TO FILE RESPONDENT'S SENTENCE
REVIEW MEMORANDUM

ORDER

IT IS HEREBY ORDERED that the State of Louisiana, through the Office of the District Attorney for the 24th Judicial District, Parish of Jefferson, be granted an additional ten days, or until April 20, 2006, within which to file its Sentence Review Memorandum in the instant matter.

JUSTICE, LOUISIANA SUPREME COURT

This __ day of _____, 2006.
New Orleans, Louisiana.