

supra, 535 U.S. at p. 172, fn.5, italics in original; accord *Dunkle*, *supra*, at p. 914.)

Petitioner fails to show that trial attorney Tyre "actively represented conflicting interests" within the meaning of *Cuyler*. Petitioner does not claim, for example, that Tyre represented another client with divergent interests (e.g. *Holloway v. Arkansas* (1978) 435 U.S. 475, 478-480 [98 S.Ct. 1173, 55 L.Ed.2d 426]), nor even that Tyre had a personal or financial stake in seeing petitioner convicted, or in obtaining an adverse ruling on any matter or issue in petitioner's case.^{10/} All petitioner has alleged is that his attorney agreed to represent him for a low fee.^{11/} Petitioner fails to cite a single federal or California decision holding that an attorney's agreement to work for low, or no, compensation amounts to an "actual conflict of interest" in violation of the Sixth Amendment. Claim Two simply does not amount to a "conflict of interest."

Furthermore, given that this Court has already rejected each of petitioner's claims of ineffective assistance of counsel on automatic appeal and prior habeas corpus petitions, petitioner cannot show that counsel's rate of

10. Even if he had made such an allegation, petitioner would not be excused from showing an actual impact on counsel's performance. (*Mickens*, *supra*, 535 U.S. at 174 [an "actual conflict" under *Cuyler* cannot be predicated on allegations that "representation of the defendant somehow implicates counsel's personal or financial interests"].)

11. Respondent does not concede that the flat fee provided in the PCLA contract was truly "low" when considered in light of the entire indigent caseload as a whole. According to petitioner, the flat fee provided to the nine-member PCLA amounted to \$495,833 for up to 500 cases in one year, plus an additional \$991.67 per case for each case in excess of 500 during the contract year. (The latter figure was derived by dividing 495,833 by 500.) Undoubtedly, a huge portion of those cases were probation-violations, misdemeanors, or even simple felonies resolved by plea bargains without requiring substantial amounts of attorney time.

compensation actually "adversely affected his lawyer's performance." (*Cuyler, supra*, 446 U.S. at p. 349.)

Finally, petitioner's equal protection challenge to the PCLA contract (Pet. at pp. 77-78) is meritless. The Fourteenth Amendment to the federal Constitution^{12/} guarantees that all similarly situated persons shall be treated alike under the law. (*Tuan Anh Nguyen v. I.N.S.* (2001) 533 U.S. 53, 63 [121 S.Ct. 2053, 150 L.Ed.2d 115]; *Cooley v. Superior Court* (2002) 29 Cal.4th 228, 253; *People v. Green* (2000) 79 Cal.App.4th 921, 924 [equal protection requires similar, not identical, treatment].) "The first prerequisite to a meritorious claim under the equal protection clause is a showing that the state has adopted a classification that affects two or more similarly situated groups in an unequal manner." (*In re Eric J.* (1979) 25 Cal.3d 522, 530; accord *People v. Wutzke* (2002) 28 Cal.4th 923, 943 [similarly situated showing is required as a "foundational matter"].) "This initial inquiry is not whether persons are similarly situated for all purposes, but 'whether they are similarly situated for purposes of the law challenged.' [Citation.]" (*Cooley v. Superior Court* (2002) 29 Cal.4th 228, 253.)

Petitioner claims, essentially, that he was denied equal protection because criminal defense attorneys in other judicial districts of Los Angeles County were allegedly paid more than those in the East District (Pomona).^{13/} But defense attorneys (or their clients) in one part of Los Angeles County (a geographically vast area with the largest population of any county or parish in

12. Claim Two does not expressly assert a violation of petitioner's *state* constitutional right to equal protection. (Cal. Const. art. I, § 7.) Nevertheless, as the state and federal equal protection rights are "substantially . . . equivalent" (*Manduley v. Superior Court* (2002) 27 Cal.4th 537, 571-572), a state constitutional challenge would fail for the same reasons stated herein.

13. Respondent does not concede this is true, especially when considering the *total* compensation, and caseloads as a whole.

the United States) are not necessarily "similarly situated" with those in all other parts.

In any event, petitioner's claim rests on the unfounded and unsubstantiated assumption that because of the allegedly less favorable terms of compensation provided to his attorney, he necessarily received inferior quality representation in comparison with criminal defendants in other judicial districts. But once again, petitioner fails to show that his attorney, in fact, provided inadequate assistance. Having failed to offer any competent evidence to support his assertion, he has failed to establish an equal protection violation.

For all of these reasons, Claim Two fails to state a prima facie case for relief. (*Duvall, supra*, 9 Cal.4th at pp. 474-475.)

Dated: May 5, 2006

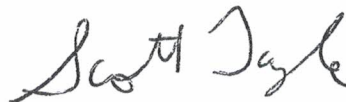
Respectfully submitted,

BILL LOCKYER
Attorney General of the State of California

ROBERT R. ANDERSON
Chief Assistant Attorney General

PAMELA C. HAMANAKA
Senior Assistant Attorney General

JOHN R. GOREY
Supervising Deputy Attorney General



SCOTT A. TARYLE
Deputy Attorney General

Attorneys for Respondent

SAT:emo
LA2006500763
08CADE89.wpd

EXHIBIT A

No. _____

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re DELLANO L. CLEVELAND,
on Habeas Corpus

Related Automatic Appeal
Pending, S024416

PETITION FOR WRIT OF HABEAS CORPUS

OFFICE OF THE STATE PUBLIC DEFENDER

LYNNE S. COFFIN
State Public Defender

DONALD J. AYOOB
Assistant State Public Defender
Cal. State Bar. No. 100177

DOUGLAS WARD
Deputy State Public Defender
Cal. State Bar No. 133360

221 Main Street, Suite 1000
San Francisco, California 94105
Phone (415) 904-5600 /Fax (415) 904-5635

Attorneys for Petitioner

CLAIMS FOR RELIEF

I. THE CONTRACT BETWEEN THE COUNTY AND THE POMONA CONTRACT LAWYERS' ASSOCIATION, IN WHICH PETITIONER'S TRIAL COUNSEL WAS A MEMBER, AND WHICH PROVIDED SHAMEFULLY INADEQUATE COMPENSATION IN A CAPITAL CASE, PRESENTS MULTIPLE CLAIMS FOR RELIEF

This claim is evidenced by the following:

65. All other allegations and factual matters contained in this petition and its appendix are incorporated into this claim by specific reference.

A. The Devil's Bargain

66. Trial counsel Lee Coleman was one of nine signatories to a contract between the Pomona Contract Lawyers Association ("PCLA") and Los Angeles County. (Exh. 37.) The Superior Court and the Board of Supervisors approved the contract. The judges of the East District of the Superior Court professed to be confident in each contract attorney's competence and integrity.

67. The contract was in effect from November 1, 1990 through October 31, 1991. Mr. Coleman was appointed in March 1991 (e.g., RT 209), and his representation of petitioner fell under this contract.

68. According to the provisions of the contract, the PCLA, of which Mr. Coleman was a member, agreed to provide representation of criminal

defendants in the East District of the Los Angeles Superior Court whom the Office of Public Defender could not represent due to a conflict of interest. This representation included interview and preparation time, court appearances, hearings, motions, court waiting time, trials, writ proceedings, and the filing of notices of appeal.

69. The PCLA agreed to provide representation for up to 500 cases for \$495, 833. For each additional case, the PCLA would receive \$991.67. Unlike the contracts that were renewed as modified over the following two years, the contract under which Mr. Coleman represented petitioner did not distinguish between capital and noncapital cases: no additional funds were allocated for capital cases. (Exh. 37.)

70. In the event that the Superior Court had to appoint counsel other than the Public Defender or the PCLA, the PCLA would be liable for attorneys' fees, unless PCLA was precluded from representing the defendant due to a legal disability or a written finding of a conflict of interest. The contract permitted defense counsel to be retained to represent clients in other cases.

B. Mr. Coleman's Self-Inflicted and Unconstitutional Conflict

71. As a result of the contract between the PCLA and Los Angeles County, Mr. Coleman labored under a severe potential and an actual

EXHIBIT B

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

Chauncey Jamal Veasley,)
Petitioner,)
)
Habeas Corpus.)
)
)

Case No. S121562
Related Appeal No. S024416

AMENDMENT TO PETITION FOR WRIT OF HABEAS CORPUS

David Joseph Macher
Attorney at Law
State Bar No. 134205
M.B. 298
485 Murrieta Hot Springs Road
Murrieta, California 92563
(951) 677-7431 [voice]
(951) 677-3937 [data]
dmacher@adelphia.net [email]

Attorney for Petitioner Chauncey Jamal Veasley

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
AMENDMENT TO PETITION FOR WRIT OF HABEAS CORPUS	1
INTRODUCTION	1
TIMELINESS	2
CLAIM FOR RELIEF	6
THE CONTRACT BETWEEN THE POMONA CONTRACT LAWYERS ASSOCIATION AND LOS ANGELES COUNTY PROVIDED MEAGER COMPENSATION FOR A CAPITAL CASE AND MR. ROBUSTO'S REPRESENTATION OF PETITIONER AS A PCLA MEMBER VIOLATED PETITIONER'S FIFTH, SIXTH, EIGHTH, AND FOURTEENTH AMENDMENT RIGHTS.	6
(A) <u>The Contract.</u>	6
(B) <u>The Conflict of Interest.</u>	7
(C) <u>The Pathetic Compensation Provided for by the PCLA Contract With the County for Representation in a Death Penalty Case Denied Petitioner Effective Assistance of Counsel.</u>	12
(D) <u>PCLA Provided Systemically Ineffective Representation in Death Penalty Cases.</u>	14
(E) <u>The Systemic Ineffectiveness of PCLA Attorneys Deprived Petitioner of His Right to a Fair and Reliable Sentencing Hearing.</u>	19
PRAYER FOR RELIEF	21
VERIFICATION	22

DECLARATION OF ARMANDO T. MORALES, DSW

I, Dr. Armando T. Morales, declare:

(1) I am a clinical social worker, specializing in the study of Hispanic criminal street gangs and gang and drug related homicides, licensed to practice in the State of California. I received my master's degree in social work at the University of Southern California in 1963 and my master's thesis was on recidivism of all gang members released from probation camps in East Los Angeles over a two-year period. Later, I received my doctorate of social work degree from the University of Southern California School of Social Work in 1971. I have been a member of the UCLA faculty for 30 years and I am currently a Professor of Psychiatry and Biobehavioral Sciences at the Neuropsychiatric Institute and Hospital, School of Medicine, UCLA.

(2) I first worked with Hispanic street gangs in East Los Angeles from 1954 to 1957 as a gang-group worker employed by the Los Angeles Times Boys Club.

(3) From 1957 to 1966, I was a Deputy and Senior Deputy Los Angeles County Probation Officer. My assignments during these nine years included working in juvenile institutions and camps, and juvenile and adult superior court investigations and supervision. The approximately 2000 probationers I worked with all lived in East Los Angeles and were predominately Hispanic, and sixty to seventy percent of them were gang members.

(4) I helped establish the first community mental health clinic for Latinos in the nation in East Los Angeles in 1966. Some of the patients treated at the clinic since then have been Hispanic gang members with mental and/or emotional problems.

(5) From 1977 to 1990, I established and directed the first psychiatric clinic for Spanish speaking patients at the UCLA Neuropsychiatric Institute.

(6) I have authored or co-authored, and published, eleven text books and approximately 90 articles, chapters and professional papers. One of my books, "Social Work: A Profession of Many Faces," has been the nation's leading textbook in social work for the last 24 years with over 130,000 copies being distributed. Sections of this book deal with the assessment and treatment of Hispanic families, gangs, and homicide. Other major publications include "The Psycho-Social Development of Minority Group Children" (1983), "Homicide" which appeared in the 19th edition of the Encyclopedia of Social Work (1995), and "Urban Gang Violence: The Psycho-Social Crisis Spreads" (2001). Approximately 30 of my publications deal specifically with gangs.

(7) I have been a member in good standing of the National Association of Social Workers for 39 years, and I have served as a consultant to the National Violence and Development Project of NASW.

(8) Through the year 2000, while at UCLA, I have given 389 lectures, workshops and keynote addresses at professional

conferences. Approximately 270 of these presentations concerned the topics of gang culture, gang violence, homicide and the death penalty. Representative lectures include "Homeboys and Homicide" and "Chicano and Chicana Gangs". Approximately forty of these presentations involved educating and training law enforcement officers. On May 1, 1998, I received an award from the National Mexican American Correctional Association for having planned and participated in an all-day conference titled: "Gangs: Current and Future Perspectives."

(9) Over the last twenty-four years, since 1977, I have been consulted by California Youth Authority parole officers on more than 1500 occasions regarding their gang members-parolees. Some of these consultations have concerned Eastside Dukes gang members-parolees. The Eastside Dukes is a violent Hispanic street gang listed in the California Gang Investigator's Manual. Over this same 24 year period, I have provided psychotherapy and group therapy services for parolees released from CYA correctional facilities throughout the state. During this time, I have had literally thousands of treatment interviews with parolees and reviewed relevant police, parole and probation reports, and CYA files, in each of their cases. About 90% of those interviewed were gang members, with most being of Hispanic background, and some of these were Eastside Dukes. These parole officer consultations and parolee interviews have focused on gang culture and particularly gang criminal behavior and gang motives for committing violent crimes.

(10) I have been appointed by numerous courts as a qualified expert on gang and/or drug related homicides, and I have testified as an expert on these and related subjects in more than 30 cases. Some gang related cases include: People v. Alcazar, a gang killing of a nurse in her home in Portland, Oregon in 1994; People v. Guillen, a gang related double homicide death penalty case tried in San Jose, California in 1997; People v. Hanks, a gang related homicide conspiracy case tried in Kern County, California in 1999; People v. Owens, a death penalty drug and gang related triple homicide case pending in Denver, Colorado; and People v. Echevarria, a gang related homicide case tried in Santa Cruz County, California in 2000.

(11) My curriculum vitae is attached hereto and incorporated by reference.

(12) I have been asked by the attorneys for Deondre Arthur Staten to render an opinion as to the probability that Mr. Staten's parents were murdered by the Eastside Dukes in October 1990.

(13) I have been provided with, and considered the following:

(a) This court's opinion in People v. Staten, 24 Cal.4th 434 (2000);

(b) Relevant portions of both the Appellant's and Respondent's Briefs including both parties' statements of facts

and arguments regarding the exclusion of, and/or failure to present, evidence of third party culpability (i.e. that the Dukes were responsible for the homicides);

(c) A transcript of the recorded conversation between Deondre Staten and John Nichols which occurred November 3, 1990;

(d) The trial testimony of Donald Fandrey, Los Angeles County Deputy Sheriff's Questioned Documents Examiner (R.T. 2018-2043);

(e) The trial testimony of Claudine Ratcliffe, Los Angeles County Coroner's Department Investigator (R.T. 2578-2583);

(f) The Evidence Code §402 hearing testimony of Los Angeles County Sheriff's Homicide Investigator Joseph Seeger (R.T. 682-691);

(g) The trial testimony of Los Angeles County Sheriff's Sergeant Dave Watkins, the prosecution gang expert (R.T. 1717 et seq., 1767 et seq., 1803 et seq., 1820-1821, and 1830-1838);

(h) The testimony of Assistant High School Principal Gomelia Baker, concerning Eastside Dukes graffiti (R.T. 2678-2684);

(i) Los Angeles County Sheriff's Department reports by:

(i) Deputy Sheriff Andrade (10/13/90)

(ii) Detective F. Koerner (10/14/90)

(iii) Investigators George Roberts and Joseph Seeger (11/1/90);

(iv) Investigator Roberts (1/15/91);

(j) Los Angeles County Coroner's autopsy reports for Arthur Ray and Faye McKay Staten (10/28 and 10/30/90);

(k) The trial testimony of Los Angeles County Coroner's Medical Examiner Suzanne Selser, M.D. (R.T. 1904-1931);

(l) Photographs of the crime scene and the victims' bodies taken from the homicide book;

(m) Photographs of Eastside Dukes graffiti taken in the neighborhood of the Staten residence by Private Investigator Russell Greene;

(n) The declaration of Victoria Mertes, Forensic Document Examiner (8/1/98);

(o) The declaration of Pat Osegara;

(p) The declaration of Bob Osegara;

(q) The declaration of Bryan Keith Taylor;

(r) The declaration of Quincy Murphy;

(s) Newspaper articles from the San Gabriel Valley

Tribune and L.A. Times about the Staten murders:

(i) "Husband, wife fatally bludgeoned"
(Oct. 14, 1990)

(ii) "Clues sought in Valley murders"
(Oct. 15, 1990)

(iii) "Police seek help in Valinda murder"
(Oct. 18, 1990)

(iv) "Son booked in parents' murders"
(Jan. 10, 1991)

- (v) "Valindan denies slaying parents to collect insurance" (Jan. 11, 1991)
- (vi) "Slain Valinda couple recalled with great affection" (Feb. 10, 1991)
- (vii) "Relatives testify in Valinda murders" (Mar. 21, 1991)
- (viii) "Neighbor testifies Valinda man calculated inheritance" (Mar. 22, 1991)
- (ix) "Investigator links Valinda man to murder site" (Mar. 23, 1991)
- (x) "Valinda man to be tried in parents' killings" (Mar. 27, 1991)
- (xi) "Murder trial opens for Valinda man" (Oct. 29, 1991)
- (xii) "Witness says he saw accused man with a gun before Valinda pair slain" (Oct. 30, 1991)
- (xiii) "Man may face death in parents' slaying" (June 13, 1991)
- (ivx) "Accused killer's potential insurance benefits reported" (Oct. 31, 1991)
- (xv) "Cousin testifies murder suspect 'showed no remorse' at funeral" (Nov. 1, 1991)
- (xvi) "Double slaying was not gang work, expert says" (Nov. 2, 1991)
- (xvii) "Family friend testifies Staten discussed killing father" (Nov. 5, 1991)
- (xviii) "Staten threatened father, witness says" (Nov. 7, 1991)
- (ixx) "Detective testifies Staten said Menendezes bungled" (Nov. 8, 1991)
- (xx) "Valinda man charged in parents' deaths offered money to kill them, friend testifies" (Nov. 13, 1991)

- (xxi) "Son, grandson close, grandmother testified in Valindan's murder trial" (Nov. 14, 1991)
- (xxii) "Valindan contradicts other murder-trial witnesses" (Nov. 15, 1991)
- (xxiii) "Detective contradicts defendant testimony in double-murder trial" (Nov. 16, 1991)
- (xxiv) "Valinda man killed parents for inheritance, prosecutor says" (Nov. 20, 1991)
- (xxv) "Attorney: Killing site, timing key to defense" (Nov. 26, 1991)
- (xxvi) "Valinda man found guilty in murder" (Dec. 3, 1991)
- (xxvii) "Witnesses oppose death penalty for Staten in parents' murders" (Dec. 5, 1991)
- (xxviii) "Attorney urges death for 'greedy' Staten in murders of parents" (Dec. 6, 1991)
- (ixxx) "Jury backs death in Staten case" (Dec. 7, 1991)
- (xxx) "Valinda man sentenced to gas chamber" (Jan. 17., 1992)
- (xxxi) "Menendez murders may have inspired slaying of couple" (June 22, 1993)
- (xxxii) "Judge in Simpson case endured murder of sister, brother-in-law" (June 22, 1994)

(t) Statements made to me during my interview of

Leonore Staten on San Quentin's Death Row (8/18/98).

(14) Based upon all of my experience, and the above described materials, it is my opinion that there is a very high probability that the Statens were murdered by the Eastside Dukes. My reasons for this conclusion may be summarized as follows:

(15) The Eastside Dukes were an extremely violent Hispanic street gang active in the La Puente area where the Statens lived in the late 1980's and early 1990's. They were well known for hating blacks and would sometimes attack and kill blacks, shoot up their houses, and then write "ESD" or "ESD kills niggers" throughout the neighborhood and sometimes in the homes of their victims. (R.T. 844, 871 et seq., 901, 1213, 1232, 1344, 1722-1730, 1758, 1785, 1794, 2677-2684; Declarations of Bob Osegara, Bryan Keith Taylor, and Quincy Murphy.)

(16) The Dukes were especially hostile to members of African American gangs operating in the same area. Deondre's father, Ray Staten, had been a member of various black gangs including the Bloods, the Crips, the Kijacks, and the Businessmen. Deondre Staten "hung out" with and "ran" with the African American Neighborhood Crips, a bitter rival of the Eastside Dukes. While Deondre apparently was never actually initiated as a "member" of the Neighborhood Crips, the Dukes would have a natural hostility towards anyone in any way associated with the Crips gang. (Declarations of Bryan Keith Taylor and Quincy Murphy.)

(17) There is also evidence that the Statens were competing with the Eastside Dukes and selling rock cocaine in an area that the Dukes regarded as their "turf". The word on the street was that Ray Staten was selling dope at the same time and in the same area as the Dukes in order to finance his crack cocaine habit. Deondre and his "crew" also sold drugs. The Dukes obviously

resented anyone "screwing" with their customers and "short stopping" their money, and thus had every reason to despise the Statens. (Declarations of Bryan Keith Taylor and Quincy Murphy.)

(18) There were a number of extremely hostile and violent confrontations between the Dukes and the Statens prior to the murders. According to Deondre, Ray Staten had confronted the Dukes on several occasions. Once in the late 1980's gang neighbors who lived to the rear of the Statens' residence threw a rock which almost hit his mother Faye. Ray, Deondre's father, grabbed his shotgun and threatened to retaliate. On another occasion, a teenage girl was shot one night when she ran and knocked on the door of the Staten home. Ray Staten let her in, protected her, and telephoned 911. On yet another occasion, Deondre Staten and several friends were selling drugs in a cul-de-sac in back of Nogales High School when they were approached by the Dukes and asked why they were giving the Dukes "problems". This incident escalated into a fist fight, and eventually the Dukes, who apparently got the worst of the encounter, jumped into their cars and fled and fired a few shots as they drove away. (Declaration of Bryan Keith Taylor.) In the spring of 1990, about six months before the Staten murders, Deondre Staten was shot at by the Dukes while visiting a friend and, just days before the murders, the Dukes attempted to break into the Staten house while Deondre was entertaining some friends and spray painted their "ESD" signature on the Staten patio. (R.T. 1130-

1131, 1135, 1139-1141, 1330, 2790-2791, 2816-2818, 2831, 2836, 2843, 3079-3081; Declaration of Quincy Murphy.)

(19) All of this suggests that the Eastside Dukes had strong reasons for wanting to kill the Statens, and that they had in fact made attempts to do so prior to the double homicide which gave rise to the instant prosecution. Indeed this would be entirely consistent with the high number of gang-related homicides during the cocaine "epidemic" and drug "turf wars" of the late 1980's and early 1990's.

(20) In addition to the above described "motive" evidence, there is more specific evidence that the Dukes committed the murders and bragged about it in various ways. According to several witnesses, the Dukes drove through the neighborhood the morning after the murders yelling how they had "got" the Statens, and were "mad-dogging" the Statens' friends and neighbors (i.e. giving them "hard stares") (Declarations of Quincy Murphy, Bob Osegara, and Pat Osegara.) This is a classic Latino gang gesture to take credit for a gang crime to develop further a gang's reputation and intimidate others.

(21) There is also the evidence that a drug user named "Randy" told Detective Seeger later that same afternoon that two Eastside Dukes gang members named "Puppet" and "Casper" might have been responsible for the murders. (R.T. 682-684.) The fact that the words "ESD kills" and other gang graffiti were spray painted on a mirrored wall in the Staten living room (Opinion at

24 Cal.4th 443) and that Detective Seeger saw the name of either Puppet or Casper written on a wall in the area later that same day (R.T. 691) tends to corroborate Randy's statement. This is especially true since the gang graffiti on the mirrored wall includes references to the "Tiny Winos", a younger group of the Eastside Dukes to which Casper and Puppet belonged. In other words, this evidence suggests strongly that the Eastside Dukes (and the Tinys) committed, and were taking credit for the murders.

(22) The testimony of Los Angeles County Sheriff's Sergeant Dave Watkins, the prosecution's gang expert, that the Staten murders were committed in a manner inconsistent with Eastside Dukes gang slayings is unpersuasive and, in my opinion, contrary to the weight of the evidence. Watkins, by his own admission, disregarded a report from Deputy Sheriff Scot Lusk that various informants had suggested the Eastside Dukes' involvement, failed to follow up on the "gang angle", and as a result never considered most of the above summarized evidence.

(23) Furthermore, while Watkins, who is not a handwriting expert, claimed that the spray painted letters "ESD" found in the Staten house were formed differently than the usual Eastside Dukes gang graffiti, my own comparison of the Staten house graffiti and photographs of ESD signatures throughout the area convinces me that there is no basis for this opinion as gang graffiti varies within a gang as expressed by the individual

writing styles of a specific gang member. A Los Angeles County Sheriff's Department "Guide for Reading Graffiti" training document dated March 26, 1986 reaches a similar conclusion. I agree with Gomelia Baker, the Assistant High School Principal who was familiar with the Eastside Dukes initials, that the ESD letters spray painted on the Staten living room mirror could have easily been written by Eastside Dukes' gang members. (Cf. R.T. 1717 et seq., 1767 et seq., 1803 et seq., 1820-1821, 1830-1838, and Cf. R.T. 2678-2684.) Moreover, contrary to the suggestions of the prosecution witnesses, it has now been conclusively established that Deondre Staten could not have "forged" the ESD gang graffiti found in the Staten residence after the murders. (Declaration of Questioned Documents Examiner Victoria Mertes), and this of course strengthens the conclusion that the Eastside Dukes graffiti was genuine.

(24) Moreover, while I agree with Sergeant Watkins that it would be unusual to hide gang graffiti following a gang slaying intended to claim territory and threaten others, the evidence is that this is not what occurred in this case. The Eastside Dukes did everything they could to brag about their involvement in the murders including prominently displaying their gang graffiti on a living room mirror where it could not be missed, scrawling the names of the probable gang member perpetrators "Casper" or "Puppet" on a wall in the neighborhood, and most significantly driving around the neighborhood only hours after the murders

ragging about what they had done. Thus, Sergeant Watkins' premise that the Dukes could not have been the perpetrators since they were trying to hide their involvement is totally the wrong conclusion and completely inconsistent with the actual evidence in this case.

(25) Furthermore, contrary to Sergeant Watkins, it is not unusual for violent street gangs such as the Eastside Dukes to kill their victims where they live rather than call them outside into the street. My personal experience indicates that there are hundreds of cases, including homicide cases, where uninvited gang members entered a private residence and assaulted people who resisted their demands or showed them disrespect, with bats, crowbars, knives and guns.

(26) The weakness of the evidence against Deondre Staten, and the absence of possible suspects other than the Eastside Dukes, also supports the conclusion that "the Dukes did it." I note: (a) the absence of any eyewitness testimony; (b) that Deondre never confessed either to the police or during the recorded conversation with John Nichols; (c) the absence of any evidence that Deondre realized, or even attempted to realize, any financial gain even though the prosecution's theory was that this was his motive for killing his parents; (d) the unlikelihood that he could have killed his mother Faye by stabbing her 18 times in view of the overwhelming evidence that he enjoyed an extremely

close and loving relationship with her; (e) the failure of the prosecution to establish conclusively that he even had the opportunity to commit these murders or that he was present when his parents were killed; (f) the manner in which his parents were killed with both a gun and a knife suggesting that multiple killers were involved; (g) that the physical evidence (including negative gun shot residue tests, and the absence of any blood spatters on Deondre's clothing or in the family truck he was driving immediately after the murders) is inconsistent with his guilt; (h) his behavior immediately after the murders and during the homicide investigation which strongly suggests that he was genuinely shocked, surprised, and emotionally devastated by his parents' death (see Statement of Facts and Sufficiency of the Evidence Argument in Appellant's Opening Brief for more detailed recitation and citations to the record).

(27) Furthermore, in my forty-six years of experience working with gang members, I have never encountered any gang member who killed either his mother and/or his father. In speaking to several parole agents with 10 to 20 years of experience working with gang members, not one could recall such a case.

(28) Finally, there is the evidence that, several weeks after the murders, some one painted a target or a bulls eye on the Staten family truck which Deondre Staten had been driving (Declaration of Quincy Murphy). This is completely consistent with well- established gang practices of intimidation and threat, and suggests that the Dukes were still out to get the last surviving member of the Staten family that they had failed to eliminate.

If called upon to testify to the foregoing, I could, and would, do so based upon personal knowledge and my review of the materials listed hereinabove.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on November 30, 2001, at Pasadena, California.


DR. ARMANDO T. MORALES, DECLARANT

DECLARATION OF ROBERT OSEGARA

I, Robert Osegara, hereby declare and state:

I lived in the La Puente - West Covina area from 1978 to 1999.

In the late 1980's and early 1990's the Eastside Dukes, which was an Hispanic gang was very active in the neighborhood. The Dukes hated Blacks and would sometimes attack Blacks (particularly members or associates of Black gangs) if they thought they were invading their territory.

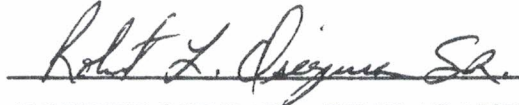
On the morning of the murders, October 13, 1990, I was standing outside of my home, on the corner of Northam and Faxina, near the Staten house. My friends Keith Taylor, Brian Ellis and Quincy Murphy were also there. Suddenly, a carload of Eastside Dukes gang members drove by saying, "yeah we got them." I remember Keith Taylor walking up to the Dukes as their car was driving away slowly and saying something like, "what did you say, get out of the car."

Months later, during Deondre's murder trial, I saw the Deputy District Attorney and witness Bishop Higgins in the courtroom hallway. The DA appeared to be upset at Higgins because Higgins apparently did not want to testify as the DA wanted him to, and also because Higgins had been drinking a 40 ounce of beer and was loaded. I heard the DA tell Higgins that, if he knew what was good for him, he had better "get his shit together!"

One or two weeks after the trial, I spoke with Bishop Higgins and asked him what had happened. Higgins told me that he could not talk about what **really** happened. I continued to asked Higgins what happened and if he received some sort of deal for his testimony? Higgins told me he could not talk to me about it because his life was in danger and if he talked, something could happen to him.

If called upon to testify to the foregoing, I could, and would, do so based upon personal knowledge.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on ~~September~~ ^{November} 18, 2001, at La Puente\West Covina, California.


ROBERT OSEGARA, DECLARANT

DECLARATION OF BRIAN ELLIS

019

I, Brian Ellis, hereby declare and state as follows:

I grew up in West Covina, California and was good friends with Deondre Staten and his mother and father, Ray and Faye Staten. I had known the Staten family for ten years prior to Ray and Faye's death. Prior to the murders, Deondre was having a lot of problems with a local Hispanic gang called the "East Side Dukes." The neighborhood that Deondre and I lived in was considered the East Side Dukes territory. The Dukes were a Hispanic gang that did not like Blacks.

Ray Staten was selling drugs at the Amar apartments and spending a lot of money. Ray purchased a new truck, and the hair salon that the family owned along with the Staten home was remodeled.

The Dukes were giving Deondre a lot of problems. Deondre was always being harassed by the Dukes whenever he was caught walking home alone. One night Deondre was actually shot at as he walked home. One night Deondre called me wanting me to come over to his house because he heard some noises in his backyard. Because of the problems Deondre was having, I was afraid to go to his aid. I offered for Deondre to come to my house but he did not want to leave his home. The following morning I went to Deondre's house and I saw "ESD" spray painted on the ground next to Deondre's swimming pool.

On the morning of the murders, I was standing on the corner of Faxina and Northern Avenue with Bob and Pat Osegara, Keith Taylor and Quincy Murphy. As we were standing there, several carloads of East Side Duke members drove by. I counted four cars that were occupied by approximately three to four gang members in each car. As the cars drove by, the gang members were staring at us and were laughing as they drove by. One of the members said, "yeah we got them." Everyone was shocked and began talking about what had just happened.

When I was interviewed for two hours by Detective Roberts, I informed him of the comments that were made by the Dukes. In addition, I informed Deondre's defense lawyer about the comments made by the Dukes but the lawyer appeared not interested in what I had to say.

If called upon to testify to the forgoing, I could and would, do so based upon personal knowledge.

I hereby declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct and that this declaration was executed on November 1-18, 2001, at Chino, California.

A handwritten signature in cursive script, appearing to read "B. Ellis", is written over a horizontal line.

BRIAN ELLIS, DECLARANT /

I, Pat Oseguera, hereby declare and state:

I knew Deondre Staten for more than ten years before his parents were murdered. Deondre would often come over to my house, and I would visit his. I got to know Deondre and his family pretty well. Deondre was extremely close with his mother Faye, and he respected and generally got along with his father Ray (although they would sometimes argue about Ray's drug problems and his lack of responsibility), and the idea that he could have murdered them is completely impossible to me.

On the night of the Staten murders, at about 1:00 a.m., I saw Deondre Staten slumped over against a garage wall. Deondre ran over to me. He was crying hysterically, and told me that the police would not let him in the house or tell him if his parents were still alive. I am convinced that Deondre was not "Faking it."

On the morning of October 13, 1990, I, along with my husband, and neighbors and friends, were standing outside of my home, on the corner of Faxina and Northam near the Staten house.

A carload of guys I recognized as "Eastside Dukes" drove by and shouted something at Quincy Murphy. I was unable to catch what they were shouting but they seemed to be bragging about something.

Before Deondre's trial, I spoke with his lawyer, John Tyre by telephone and in person and told him all of this. However, I was never called as a witness except during sentencing.

Some time later, John Nichols told me that Nichols and the police had made a deal. Nichols would receive certain "favors" in his pending cases in exchange for testifying that Deondre had offered him money to help kill his parents. Nichols said he had to cooperate because the police had found bloody clothes and a gun in his car the day after the murders and threatened to pin the murders on him.

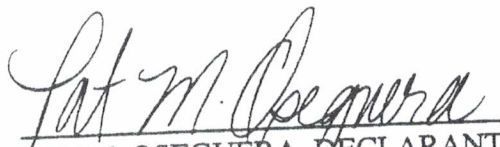
004

Also, after the murders and before Deondre's trial, Bishop Higgins told me that he was tired of the police hassling him and pressuring him even though he had already given them a statement about what he knew. I asked Higgins why, if he had nothing to hide, he was so worried. Higgins became extremely nervous, and seemed very uncomfortable. He refused to talk to me about this any further. However, I now know that Bishop's brother "Panther" is a long time member of the "Eastside Dukes," and I now believe that this had a great deal to do with Bishop's trial testimony suggesting that it was Deondre rather than the "Dukes" that committed the murders.

I am giving this declaration at this time, even though it is emotionally painful for me to remember this horrible case and I am reluctant to be involved any further, because I still believe that Deondre is completely innocent, and that Fay and Ray were murdered by either the "Dukes" or someone else. I can not simply stand by and watch Deondre be executed for something that he did not do.

If called upon to testify to the foregoing, I could, and would, do so based upon personal knowledge.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October ____, 2001, in Pasadena, California.


PAT M. OSEGUERA, DECLARANT

I, Quincy Murphy, hereby declare and state as follows:

I grew up in La Puente, California with Deondre Arthur Staten. As a teenager and in my early twenties, in the 1980's and 1990, I was close friends with Deondre and his family. I went over to his house all the time and we hung out together a lot.

There were a lot of problems with gang violence in the area of La Puente where the Statens lived. The main Hispanic gang, the Eastside Dukes, and the leading black gang, the Neighborhood Crips, hated each other. Deondre, while he was never a member of the Crips, some times "ran" with friends of his who were. So the Dukes thought Deondre was their enemy. It was well known that Arthur Ray Staten, Deondre's father, had been associated with the Rolling Crips "back in the day" and he also had his problems with the Dukes. The problems between the Dukes and the Statens came up a lot since the Statens lived in an area that the Dukes viewed as being their turf.

Part of the problem between the Dukes and the Statens related to drugs. During the late 1980's and 1989 rock cocaine became very popular. The Dukes sold drugs and the word on the street was that Arthur Ray Staten was selling dope at the same time in order to finance his crack cocaine habit. The Statens during this period were suddenly able to make expensive home improvements including resurfacing a swimming pool, adding a drop ceiling in the living room of their house, and installing a sprinkler system. Ray Staten also bought a new truck, and made certain repairs to the family's beauty salon. Deondre and his "crew" also sold drugs. This caused big time problems with the Dukes, who wanted to control the entire drug trade in the area. They were really bent out of shape that the Statens were "screwing" with their customers and "short stopping" their money.

C
1

2TM

In the spring of 1990, about six months before Deondre's parents Arthur Ray and Faye were murdered, I and Deondre were at John Nichols' house. I planned to spend the night. However, Deondre left after stating that he had to go home. Shortly after this I heard shots. A few moments later Deondre came knocking on Nichols' door and told us that "the Dukes shot at me."

The morning after the murders, October 13, 1990, I went to the Staten home sometime between eight and 10 a.m. after I received a telephone call from a friend telling me what had happened. When I arrived, the area had been taped off by the police. I saw John Nichols and Bob and Pat Osegara, and Bryan Taylor standing on the corner of Faxina and Northam. I went over to where they were standing and we all watched what the police were doing over at the Staten house, and talked about the killings.

The group then informed me that a car load of the Eastside Dukes had just drove by and were yelling "Yah we got them," bragging about how they had killed the Statens, and giving them hard stares, and throwing gang signs. As I stood there, several more car loads of Eastside Duke members drove by giving us hard stares.

Several weeks after the murders Deondre and I spent the night at Nikki Holloway's house with Nikki and Mona Brown. Deondre was driving his father's truck. The next morning, when we woke up, we found a target or bull's-eye painted on the Statens' family truck.

If called upon to testify to the foregoing, I could, and would, do so based upon personal knowledge.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on October 15, 2001, at Anaheim, California.


QUINCY MURPHY, DECLARANT

DECLARATION OF: KEITH TAYLOR

I, Keith Taylor, hereby declare and state as follows:

I grew up in the West Covina - La Puente area and went to Nogales High School with Deondre Staten in the early 1980's. I continued to live in the area until after his parents Ray and Faye Staten were murdered in October 1990. Over this period of more than 10 years I got to know Deondre and his family pretty well.

The main gangs in the area in those days were the Hispanic Eastside Dukes and the African American Neighborhood Crips. Both of these gangs were into drug dealing. Deondre was never actually initiated as a "member" of the Neighborhood Crips but he was associated with them in the sense that he knew a number of Crip gang members and "hung out" with them.

The Eastside Dukes sold dope around Nogales High School and considered that area as being Eastside Dukes' territory. Deondre also sold dope in the same area, along with Bishop Higgins, John Nichols, and others. Deondre's father, Ray Staten, was also selling dope and that is where Deondre got his dope from.

Ray Staten sold the drugs to other African Americans in this apartment complex called the "Amar" apartments. The complex was a known drug hangout and Ray was not very good at hiding his drug activity. In fact Ray advertised that he was a successful drug dealer since he was always draped in flashy jewelry and wore these expensive glasses called "Gazales," and was dressed in very expensive clothes, and was always going on these long vacations.

There was one time when Deondre and several friends (including several members of the Neighborhood Crips) were selling drugs in a cul-de-sac in back of Nogales High School. They were approached by the Dukes and asked why they were selling dope in Dukes' territory and giving the Dukes "problems." The Dukes left.

K.T

344

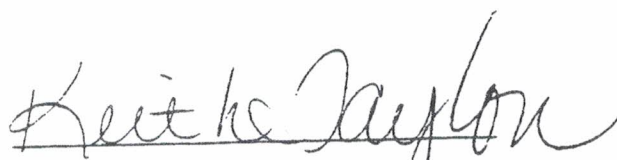
However, later they returned, again confronted Deondre and his friends, and there was a big fight between them and Deondre's crew. Deondre and his friends got the best of it and beat up the Dukes pretty bad. The Dukes ran to their cars and fired a few shots at them as they drove away.

On the morning of the murders, I along with Brian Ellis, Bob and Pat Osegara and some other people were standing between the corner of Faxina and Northern Avenue and Deondre's house watching the police and media. As we were standing there, several members of the Eastside Dukes drove by in a Chevy Monte Carlo and were looking at us. The Dukes were smiling and nodding their heads up and down and were saying, "yeah we got them." I along with some of my other friends like Quincy Murphy became angry and walked along side of the Duke's car and exchanged words. I don't remember what we said exactly but it was something to the effect, "what fool, what the fuck did you say, let's go, lets fight etc." I just remember we were angered and shocked by what the Dukes said and we were ready to fight but the Dukes drove off.

I told the Detectives from the Sheriff's Department what had happened with the Dukes but I was never contacted for trial. In addition, I was never contacted by Deondre's Defense lawyer.

If called upon to testify to the foregoing. I could, and would, do so based upon personal knowledge.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on ~~September~~ ^{NOV K.T} 18th 2001, at West Covina, California.


KEITH TAYLOR, DECLARANT

K.T

345