

The Guide to Case Management and Budgeting in Capital Habeas Cases

Appendix B

CONFIDENTIAL CASE EVALUATION FORM

The answers to these questions are for case management and budgeting purposes only and will not be binding in any respect on substantive issues to be raised in the course of litigation.

NAME OF ATTORNEY(S)

Lead Counsel: Herbert S. Tetef, Counsel for Respondent

Co-Counsel: _____
(See rate justification worksheet for co-counsel)

STATE LEVEL PROCEEDINGS

1. Did (or does) either lawyer represent the petitioner during any part of the state proceedings?

No -- proceed to question 2.

Yes (indicate which lawyer) _____

If yes, in what aspects of the case?

2. Has a state post-conviction proceeding (including a unified appeals/post-conviction proceeding) involving the same judgment and sentence been filed?

Yes

No

Date: 10-21-2002, 10-16-2007

Court: California Supreme Court

3. Were funds allocated at the state level for state post-conviction investigation?

Yes

No

Purpose:

Respondent believes, but is not certain, that the state court may have allocated funds for Petitioner to investigate claims related to his habeas petition.

Amount Requested: Unknown

Amount Authorized: Unknown

4. Was discovery requested at the state level?

Yes No

Nature of Discovery Requested: L.A. Cnty D.A.'s file and all physical evidence in P's case

Was it Granted or Denied? Respondent believes, but is not certain, that discovery was granted in the Superior Court.

5. Was an evidentiary hearing held at the state level?

Yes No

STATUTE OF LIMITATIONS

Based on current information, what is the date required by the statute of limitations for filing of the petition? March 11, 2010

THE RECORD

1. Has the complete record been assembled?

Yes No

If No, location of state post-conviction record: _____

2. Have the files of all prior counsel been obtained? Unknown

Yes No

3. As accurately as possible (recognizing that it may be an estimate at this point), provide information about the size of the record:

| Type of Record | No. of Pages |
|--|-----------------------------|
| Trial transcript and exhibits: | <u>11,600</u> |
| State appellate pleadings and briefs: | <u>500</u> |
| Transcript of penalty phase if guilty plea entered: | <u>4,200</u> |
| State post-conviction record: (including transcripts, pleadings, motions and exhibits) | <u> </u> |
| Ancillary files and records: (including prior counsel's case files, co-defendant files, investigative reports, etc.) | <u> </u> |
| Total Pages | <u>16,300</u> |

Please enter your estimate of the time required to review the record on the "Phase I and II Case Management Plan and Budget Form".

FACTORS AFFECTING CASE COMPLEXITY

Complete all the factors applicable to this case and provide information that will allow determination of whether the case may be especially complex or costly:

Age of the defendant: 44

Co-defendants:

Number: 0

Number of victims: 1

Related cases.

Summarize: None known

Prior convictions.

Number and type: See below***

Elapsed time since offense: 17 years

Elapsed time since trial: 14 years

Informant involved.

Number, type and availability of informant(s):

None

Serial homicides.

Number of different offenses at separate locations: None

Number of death eligibility circumstances alleged: Three

List: (1) murder committed during burglary; (2) murder committed during rape; and (3) murder committed during robbery

Other crimes charged.

List: first degree residential burglary, forcible rape, first degree residential robbery

***Prior convictions - first degree burglary, assault with a deadly weapon, rape, sodomy, and residential burglary (all arising from single incident).

Unadjudicated criminal conduct.

Type and location:
Unknown

Defendant spent an extended time out of state or country

Location:
Unknown

Defendant's family presently out of state or country

Location:
Unknown

Witnesses or other investigation will require travel

Unknown

Defendant's and/or family's background records were not obtained in state proceedings

Some of the exhibits to Petitioner's state habeas petition concerned Petitioner's and his family's background. Some trial testimony also related to these issues.

There are issues as to competency/mental illness/or other disabilities

Explain impact on legal issues:

At trial, a psychiatrist testified that Petitioner suffered from schizophrenia. In his state habeas petition, Petitioner contended that he was mentally ill when he committed his crimes and was incompetent to stand trial.

Explain impact on client relations:

Unknown

Use of drugs or alcohol at time of offense

Petitioner testified at trial that he smoked cocaine and marijuana and drank alcohol on the day of the offense.

Defendant suffered physical/mental abuse as a child

At trial, evidence was offered that Petitioner suffered physical and mental abuse as a child. In his state habeas petition, Petitioner also offered evidence of physical and mental abuse as a child.

Translator required for defendant

No.

Translator required for witnesses

Number of witness and types:

None that Respondent is aware of.

Scientific procedures will be required

Type:
Unknown

No investigation at the state level

Investigation was conducted at the state level.

No evidentiary hearing at the state level

There was no evidentiary hearing at the state level.

Other issues (Describe):

