

Bill Bowman
President

Teresa Mathis
Executive Director

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For more information, contact:
Fred Rice, 206-623-1302 or fred@wacdl.org

Sherilyn Peterson receives 2009 President's Award for challenging constitutionality of lethal injection

Sherilyn Peterson, Seattle, is the recipient of a 2009 President's Award, for her work in challenging the constitutionality of Washington's lethal injection policy. The award will be presented by the Washington Association of Criminal Defense Lawyers on Friday, June 12 at the association's annual conference at Campbell's Resort in Chelan.

The President's Award recognizes outstanding service to the criminal defense bar in a particular case or series of particular cases.

Sherilyn headed up a team of attorneys and staff from the Perkins Coie law firm which stepped forward on a pro bono basis to help stop the execution of Darold Stenson. In September 2008 they filed a civil complaint in Thurston County Superior Court that challenged the constitutionality of how lethal injection is carried out in Washington. They have been litigating the matter ever since.

This has amounted to a commitment of well over 3000 hours of attorney and staff time on the case to date, starting with researching and preparing a complaint in an area that was totally new to them, requiring learning the science and the law, and battling for stays of execution at almost all levels of the state and federal court system. The case has been heavily fought by the State which filed countless motions to dismiss, summary judgment motions, motions to quash depositions, motions to strike claims, and a motion to reconsider the denial of its summary judgment motion, followed by a motion for discretionary review to the Washington Supreme Court on the same grounds. Perkins Coie went through many rounds of written discovery, depositions and discovery motions. In March, death row inmate Cal Brown avoided execution based on his bringing a similar complaint and consolidating it with Mr. Stenson's case. Finally, a five day bench trial was held in May, with Mr. Stenson testifying via videoconference link regarding issues related to his medical condition.

Interesting factual developments along the way included the Department of Corrections' hurried amendment of its execution protocol the month after the complaint was filed in concert with the State's unsuccessful motion for dismissal based on the claim that the protocol was now sufficient.

Following that, the DOC's Assistant Secretary and Medical Director, Dr. Marc Stern, resigned when he learned that the DOC had obtained and planned to use

the lethal drugs in a manner that violated state and federal drug laws. In March, after the Court granted plaintiff's motion to require the DOC to provide evidence of the qualifications and training of its four member execution team, the team instead resigned. With no team in place the State has no ability at present to carry out an execution.

A decision from the Superior Court is expected the first week in June. Regardless of the outcome, both sides have made it clear that there will be an appeal with both sides asking that the matter be heard by the Washington Supreme Court.

Sheryl Gordon McCloud, an appellate attorney who has also worked on the Darold Stenson case says of Sherilyn Peterson and the attorneys at Perkins Coie: "Their commitment is just phenomenal, and their spirit is totally admirable."

Sherilyn Peterson received her B.A. from Northwestern University (1977), and law degree from Northwestern University School of Law (1980), where she also served on the Northwestern University Law Review Editorial Board. She held a clerkship on the US. Court of Appeals on the Seventh Circuit (1980-81). Sherilyn Peterson is a partner at Perkins Coie. She focuses her practice on trial and appellate civil litigation, product liability, administrative law and family law.

