Appendices A-H to Lightning Still Strikes

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## Appendix A

### DEFENDANTS BY JURISDICTION

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Death-Sentenced</th>
<th>Sentencer-Spared</th>
<th>Prosecutor-Spared</th>
<th>Total</th>
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<td>1</td>
<td>9</td>
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<td>CA</td>
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<td>19</td>
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<td>20</td>
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<td>OR</td>
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<td>13</td>
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<td>6</td>
<td>2</td>
<td>4</td>
<td>12</td>
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* In December, 2004, the Kansas death penalty statute was declared unconstitutional by the Kansas Supreme Court. The ruling was stayed during further appeals. Thus, the four Kansas cases remain in the database.
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<tr>
<th>Jurisdiction</th>
<th>Death-Sentenced</th>
<th>Sentencer-Spared</th>
<th>Prosecutor-Spared</th>
<th>Total</th>
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<td>20</td>
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<td>120</td>
<td>323</td>
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Note: No cases in the database from MT, NH, NY, and SD.

** During 2004 New York’s death penalty was inactive because it had been ruled unconstitutional by the New York Court of Appeals.
## Appendix B

### YEARS OF OFFENSES

<table>
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<tr>
<th>Years</th>
<th>Death-Sentenced</th>
<th>Sentencer-Spared</th>
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<td>1995-99</td>
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<td><strong>Total</strong></td>
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<td><strong>120</strong></td>
<td><strong>323</strong></td>
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Note: When offenses occurred in several years, the most recent year is used.
Appendix C

DEFENDANTS’ AGES AT TIMES OF CRIMES AND SENTENCING RESULTS

<table>
<thead>
<tr>
<th>Ages</th>
<th>Death-Sentenced</th>
<th>Sentencer-Spared</th>
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<tr>
<td>20-21</td>
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<td>19</td>
<td>41</td>
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<td>25</td>
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<td>65</td>
<td>52%</td>
<td>22%</td>
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<td>73</td>
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<td>40-49</td>
<td>15</td>
<td>6</td>
<td>22</td>
<td>71%</td>
<td>35%</td>
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<td>Total</td>
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<td>120</td>
<td>323</td>
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Appendix D

DEFENDANTS SENTENCED TO DEATH

Defendants are in order from highest number of Depravity Points to lowest (and if Depravity Points are equal, then in alphabetical order by defendants' surnames). Defendants are numbered with the prefix “DS” denoting “Death Sentence.” The number in parentheses following the name is the Depravity Point Total. The abbreviation after the Depravity Point Calculation denotes the state or federal district in which the death sentence was imposed. Because Westlaw recently changed news service providers, many of the original sources relied upon for this Article are no longer available via Westlaw; these sources remain on file with the author.

30 OR MORE DEPRAVITY POINTS


20-29 DEPRAVITY POINTS


**15-19 DEPRAVITY POINTS**


**DS 50. Angelina Rodriguez (16) CA** Sources: LOS ANGELES TIMES 11/13/2003 (LEXIS, USPAPR File), 1/13/2004 (LEXIS, USPAPR File); CONTRA COSTA TIMES 1/13/2004 (on file with author).

**DS 51. John Troy (16) FL** Sources: SARASOTA HERALD-TRIBUNE 8/19/2003 (LEXIS, USPAPR File), 8/21/2003 (LEXIS, USPAPR File), 8/26/2003 (LEXIS, USPAPR File),

DS 53. Tracy Beatty (15) TX Sources: TYLER MORNING TELEGRAPH (TX) 8/11/2004 (on file with author); Telephone Interview with Prosecutor Harrison (Oct. 29, 2004).


10-14 DEPRAVITY POINTS

DS 57. Robert Acuna (14) TX Sources: HOUSTON CHRONICLE 8/12/2004 (on file with author) (defendant was 17 at time of murders and thus became ineligible for death sentence under new United States Supreme Court precedent in 2005; sentence consequently reduced to imprisonment).


DS 60. Fred Furnish (14) KY (resentencing after appellate reversal) Sources: THE CINCINNATI POST (on file with


DS 65. Jamelle Armstrong (13) CA Sources: LOS ANGELES TIMES 1/8/1999 (LEXIS, USPAPR File); Trial of Jamille Armstrong (http://home.earthlink.net/~squeebert/id18.html (a site run by an individual, but which contains a report from the LONG BEACH PRESS TELEGRAM)).


DS 70.  Troy Merck, Jr. (13) FL  (resentencing after appellate reversal)  Sources: ST. PETERSBURG TIMES 3/20/2004 (LEXIS, USPAPR File), 8/7/2004 (LEXIS, USPAPR File); THE TAMPA TRIBUNE 8/7/2004 (LEXIS, USPAPR File); Florida Department of Corrections (http://www.dc.state.fl.us/).


DS 79.  Donnie Lee Roberts, Jr. (12) TX  Sources: Telephone Interview with Prosecutor Hon (Feb. 14, 2005); THE TOWN TALK (Alexandria, LA) 6/25/2004 (LEXIS, USPAPR File);


DS 89. Allen “Gary” Zweigart (11) OR Sources: THE OREGONIAN (Portland, OR) 1/11/2002 (LEXIS, USPAPR File),


**DS 91. Barney Ronald Fuller, Jr. (10) TX** Sources: FORT WORTH STAR-TELEGRAM 7/22/2004 (2004 WLNR 1822949); AUSTIN AMERICAN-STATESMAN 7/22/2004 (LEXIS, USPAPR File); HOUSTON CHRONICLE 5/16/2003 (LEXIS, USPAPR File); HOUSTON COUNTY COURIER 7/18/2004 (on file with author), 8/2/2004 (on file with author); Telephone Interview with Prosecutor Session (Oct. 25, 2004).

**DS 92. Marvin Johnson (10) OH** Sources: TIMES RECORDER (Zanesville, OH) 6/2/2004 (on file with author), 6/5/2004 (2004 WLNR 16471980); Ohio Department of Corrections (http://www.drc.state.oh.us/).


### 7-9 DEPRAVITY POINTS


DS 114. LaDerick Campbell (7) LA Sources: THE TIMES (Shreveport, LA) 9/23/2004 (LEXIS, USPAPR File); THE ADVOCATE (Baton Rouge, LA) 9/26/2004 (LEXIS, USPAPR File).


6 OR FEWER DEPRAVITY POINTS

An asterisk (*) denotes a defendant with 5 or fewer Depravity Points who accrued a 3-Depravity Point factor, which would make him death-eligible under the criteria used in this Article.


DS 126. Richard Johnson (6) FL Sources: SUN-SENTINEL (Ft. Lauderdale, FL) 6/12/2004 (on file with author), 6/22/2004 (on file with author); Florida Department of Corrections (http://www.dc.state.fl.us/activeinmates/deathrow roster.asp).

DS 127. Juan Jose Reynosa (6) TX Sources: HOUSTON CHRONICLE 3/9/2003 (LEXIS, USPAPR File),
5/13/2004 (on file with author); Texas Department of Criminal Justice (http://www.tdcj.state.tx.us/stat/deathrow.htm).


**DS 132. Donald Lee Leger (5) LA** Sources: Associated Press Newswire 12/11/2001 (on file with author); Telephone Interview with Vanessa Prichett, Managing Editor, ST. MARY AND FRANKLIN BANNER-TRIBUNE (Franklin, LA) (Sept. 27, 2004).


DS 137. Junious Diggs (4) PA Sources: PHILADELPHIA INQUIRER 3/18/2002 (on file with author); Telephone Interview with Defense Attorney Daniel Conner (Sept. 29, 2004); Telephone Interview with Susan Mills Tarrington, Office Manager (Sept. 27, 2004).


DS 140. Cory Maye (2) MS Sources: SUN HERALD (Biloxi, MS) 12/28/2001 (2001 WLNR 2920872), 12/30/2001 (2001 WLNR 6211828); THE CLARION-LEDGER (Jackson, MS) 2/22/2002 (LEXIS, USPAPR File); Telephone Interview with Prosecutor Miller (Sept. 27, 2004).

[The following two defendants were belatedly discovered and were not integrated into the numerical scheme of this Appendix, nor used in the Article’s analysis. They are, however, incorporated as DS 78A (Leroy Dean McGill) and DS 89A (Michael Lee Brown) in online Appendix D.†]


Appendix E

DEFENDANTS SPARED FROM DEATH SENTENCES BY SENTENCERS

Defendants are in order from highest number of Depravity Points to lowest (and if Depravity Points are equal, then in alphabetical order by defendants’ surnames). Defendants are numbered with the prefix “SS” denoting “Sentencer-Spared.” The number in parentheses following the name is the Depravity Point Calculation. The abbreviation after the Depravity Point Calculation denotes the state or federal district in which the death sentence would have been imposed. Because Westlaw recently changed news service providers, many of the original sources relied upon for this Article are no longer available via Westlaw; these sources remain on file with the author.

30 OR MORE DEPRAVITY POINTS


20-29 DEPRAVITY POINTS


15-19 DEPRAVITY POINTS


10-14 DEPRAVITY POINTS


SS 41, SS 42. Shawn A. Breeden & Michael A. Carpenter (11) Fed-NC Sources: RICHMOND-TIMES


7-9 DEPRAVITY POINTS


SS 74. Fernando Nunez (7) PA Sources: Times Leader (Wilkes-Barre, PA) 8/7/2004 (on file with author).


6 OR FEWER DEPRAVITY POINTS

An asterisk (*) denotes a 5 or fewer Depravity Point defendant who accrued a 3-Depravity Point factor, which would make him death-eligible under the criteria used in this Article.


SS 83. Xenia Morgan (6) VA Sources: RICHMOND TIMES DISPATCH 7/13/2004 (LEXIS, USPAPR File), 7/15/2004 (LEXIS, USPAPR File).


SS 111. Felicia Pelzel (4) TX Sources: COX NEWS SERVICE 12/24/2004 (on file with author).


Appendix F

DEFENDANTS SPARED FROM DEATH SENTENCES
BY PROSECUTORS

Defendants are in order from highest number of Depravity Points to lowest (and if Depravity Points are equal, then in alphabetical order by defendants’ surnames). Defendants are numbered with the prefix “PS” denoting “Prosecutor-Spared.” The number in parentheses following the name is the Depravity Point Calculation. The abbreviation after the Depravity Point Calculation denotes the state or federal district in which the death sentence would have been imposed. Because Westlaw recently changed news service providers, many of the original sources relied upon for this Article are no longer available via Westlaw; these sources remain on file with the author.

30 OR MORE DEPRAVITY POINTS


PS 6, PS 7. Edward Herrera & Michael Sandoval (43) CO Sources: THE DENVER POST 3/30/2004 (LEXIS,
USPAPR File), 9/30/2004 (LEXIS, USPAPR File); ROCKY MOUNTAIN NEWS 10/2/2004 (LEXIS, USPAPR File).


20-29 DEPRAVITY POINTS


15-19 DEPRAVITY POINTS


PS 46, PS 47. Glen Sebastian Burns & Atif Rafay (15) WA Sources: THE SEATTLE TIMES 10/23/2004 (LEXIS, USPAPR File); THE RECORD (Kitchener-Waterloo, Canada) 10/23/2004 (LEXIS, USPAPR File); NATIONAL POST (Canada) 11/13/2004 (on file with author).


10-14 DEPRAVITY POINTS


PS 77. Darrel Miller (12) OK Source: TULSA WORLD 10/2/2004 (on file with author).


PS 89. Ronrico Jozan Hatch (11) IN Sources: THE JOURNAL GAZETTE (Fort Wayne, IN) 2/12/2004 (2004 WLNR 15056967); SOUTH BEND TRIBUNE 2/13/2004 (on file with author).


7-9 DEPRAVITY POINTS


PS 135. Anthony Troxler (9) NC  Source: NEWS & RECORD (Greensboro, NC) 1/30/2004 (LEXIS, USPAPR File).


PS 162. Alex Wilson, Jr. (8) TX  Sources:  THE HOUSTON CHRONICLE 7/13/2004 (LEXIS, USPAPR File);  THE DALLAS MORNING NEWS 7/13/2004 (LEXIS, USPAPR File).


PS 177. Preston Allen Crisp (7) NC  Sources: THE HERALD-SUN (Durham, NC) 3/3/2004 (LEXIS, USPAPR File),


PS 188. Raymond Saunders (7) MD (See also Jovan House, SS 96, Appendix E) Source: THE BALTIMORE SUN 10/20/2004 (2004 WLNR 1472199).


PS 191. Kimberly Williams (7) FL Sources: THE LEDGER (Lakeland, FL) 10/9/2003 (LEXIS, USPAPR File),

6 OR FEWER DEPRAVITY POINTS

An asterisk (*) denotes a 5 or fewer Depravity Point defendant who accrued a 3-Depravity Point factor, which would make him death-eligible under the criteria used in this Article.


PS 204. Nathan Hogan (6) MS Source: THE SUN HERALD (Biloxi, MS) 12/1/2004 (on file with author).


PS 210. Lloyd Mollett (6) OK  Source: THE DAILY OKLAHOMAN (Oklahoma City, OK) 12/18/2004 (LEXIS, USPAPR File).


*PS 251, PS 252. Daniel Lopez & Joe Rodriguez (5) CA (See also Julian Mendez, DS 69, Appendix D) Source: THE PRESS ENTERPRISE (Riverside, CA) 8/27/2004 (LEXIS, USPAPR File).


PS 274. Mark Fox (4) OR Source: THE OREGONIAN (Portland, OR) 7/16/2004 (LEXIS, USPAPR File).


PS 279. James Head (4) FL Source: ST. PETERSBURG TIMES 1/31/2004 (LEXIS, USPAPR File).


PS 284. Randy Liebich (4) IL Sources: CHICAGO TRIBUNE 7/3/2004 (LEXIS, USPAPR File), 9/10/2004 (LEXIS, USPAPR File); DAILY HERALD (Chicago, IL) 7/17/2004 (LEXIS, USPAPR File).


PS 288. Tobias Morgan (4) VA Sources: THE VIRGINIAN PILOT (Norfolk, VA) 7/11/2003 (LEXIS, USPAPR


*PS 309. Tindall Jason Williams (3) FL Source: ORLANDO SENTINEL 4/7/2004 (LEXIS, USPAPR File).


PS 312. Dorian Eady (2) PA Source: YORK DAILY RECORD (PA) 10/19/2004 (on file with author).


PS 318, PS 319. Wilson Perez & Joel Vasquez (2) FL Sources: PALM BEACH POST 11/25/2003 (LEXIS, USPAPR
File); Sun-Sentinel 11/6/2004 (LEXIS, USPAPR File), 12/14/2004 (LEXIS, USPAPR File).

**PS 320. Jason Roberts (2) WA** Sources: The News Tribune (Tacoma, WA) 3/15/2004 (LEXIS, USPAPR File); Seattle Post-Intelligencer 4/1/2004 (LEXIS, USPAPR File).


**PS 323. Frank Todd (2) AR** Source: Arkansas Democrat-Gazette 6/5/2004 (LEXIS, USPAPR File).
Appendix G

INFERABLE REASONS FOR PROSECUTORS NOT PURSUING DEATH SENTENCES*

Inferable

Guilt/innocence
- Evidence questionable 2
- Multiple perpetrators 149
- Deal given for testimony -
- Prior hung jury, etc. 4

Penalty phase
- Not aggravated enough -
- Mitigation significant -
- Mental problems 3
- Intoxication 1
- Rotten background -
- Youthful age 1
- Older age 3
- No prior record -
- Prior hung jury, etc. 3

Non-merits
- Victim’s relatives’ wishes 7
- Case is old 12
- Cost 2
- Defendant to name other victims 1
- Waiver for extradition -
- Prosecutor opposed to -
- Prosecutor doubts appellate -
- Prosecutor doubts juries -

* David McCord, Uncondensed Appendices to Lightning Still Strikes, (Feb. 26, 2006) (on file with author) (indicating when these inferable reasons are present for each defendant), available at http://facstaff.law.drake.edu/david.mccord/brooklynAppendices.pdf.
Appendix H

TOP TEN REMARKABLE MOMENTS IN DEATH PENALTY CASES FROM NEWS REPORTS REVIEWED IN THE COURSE OF WRITING THIS ARTICLE

Death penalty cases create their fair share of odd, remarkable moments. Here are ten of them:

10. Judge Stanley Sacks in Illinois spared Ronald Pollard (SS 55, Appendix E) from a death sentence because he didn’t want Pollard to become a “cult hero” like another defendant Judge Sacks had sentenced to death in 2000, who spawned over 400 websites. CHICAGO TRIBUNE 10/5/2004 (on file with author).

9. A juror in Thomas Johnson’s case (PS 183, Appendix F) in Virginia brought her own Bible and asked if she could give it to him because “the trial has not been going well for him.” THE VIRGINIAN-PILOT 7/7/2004 (LEXIS, USPAPR File).

8. In a Tennessee case, Robert Joe Hood (DS 26, Appendix D), who killed three people in separate incidents, which included two robberies, a kidnapping, a home-invasion burglary, and the killing of a mother in the presence of her children and then the locking of the children in the apartment with the body, told the court that he was “not a bad person.” THE COMMERCIAL APPEAL (Memphis, TN) 4/11/2003 (2003 WLNR 8909080).

7. Many defendants claim horrible upbringings, but none attained the pure emotional simplicity and self-pity of Georgia defendant Donnie Hulett, Jr. (DS 68, Appendix D): “My mother don’t want me. My dad don’t want me. The only people that have ever cared for me are either dead or can’t help me.” PrisonTalk.com, A Walker County Superior Court Judge on Thursday Sentenced Convicted Murderer Donnie Allen “D.J.” Hulett to Death, http://www.prisontalk.com/forums/archive/index.php/t-58770.html (last visited Feb. 21, 2006).
6. Defendants in capital cases often have colorful nicknames/street names. Perhaps the one a defense attorney would least like to have mentioned in front of a jury is that of New Mexico defendant Jorge “Little Mad Man” Serrano (PS 218, Appendix F)—unless an insanity defense was in order. ALBUQUERQUE JOURNAL 9/24/2004 (LEXIS, USPAPR File).

5. A small percentage of victims’ relatives make statements that exemplify “amazing grace.” A particularly poignant one is from the case of Derrick Jenkins (PS 148, Appendix F) in Texas, where the victim’s mother told Jenkins: “You tore a perfect family apart. Every night I fall on my knees and pray that God will help me forgive you. I also pray that he will keep you safe in prison.” COX NEWS SERVICE 10/5/2004 (on file with author).


3. Or this one, to the victim’s mother, by Marvin Johnson (DS 92, Appendix D) in Ohio, who beat her thirteen-year-old son to death: “The beating was justified. I remember him from his cries and his last words. I care about your son’s cries like a fish cares about a raincoat.” TIMES RECORDER (Zanesville, OH) 6/5/2004 (2004 WLNR 16471980).

2. Judge Stephen B. Lieberman, in the Pennsylvania case of Richard Boxley (DS 138, Appendix D) wished he had been in the Old West at the sentencing: “I wish I had the authority of a sentencing judge in those times. I would have the circle rebuilt at Fifth and Penn Streets, not just to have a place for a Christmas tree, but as an excellent place to construct a gallows for your speedy and public hanging. Perhaps then the gun-toting, drug-dealing scum that has moved in to take your place will get the point.” THE PATRIOT-NEWS (Harrisburg, PA) 10/29/2000 (on file with author) (This statement was made at Boxley’s original sentencing in 2000, not at his resentencing in 2004.).
1. The attorney for Dwight McLean (SS 117, Appendix E) in North Carolina, who presented McLean’s lack of a viable father figure as mitigation, closed his summation by playing country singer George Strait’s song, “Love Without End, Amen,” about a father’s love for his son. The song reduced several jurors to tears, and one had to leave the jury box. McLean was spared a death sentence. THE NEWS & OBSERVER (Raleigh, NC) 10/15/2004 (2004 WLNR 17545075).