

Part C: FACTS

AVERMENT OF PRELIMINARY FACTS IN SUPPORT OF APPLICATION

To assist the Court in reviewing the claims presented for review in this Application for Post-Conviction Relief, the following preliminary background information is provided about Jessie Cummings, hereafter referred to as Jessie or Mr. Cummings, the co-defendants, the victims, the offense, and the circumstances of the offense. These facts are incorporated into the specific Claims for Relief below, as if fully set forth therein.

A. Introduction.

In October 1987, Jessie Cummings and Sherry Mitchell were married in Tupelo, Oklahoma. This was Sherry's second marriage. They already had a daughter, Debbie Cummings, born in June 1987. In June 1989, Jessie Cummings and Juanita Lewis, who is known to family and friends as Anita, and is so referred to herein, were married in Batesville, Arkansas. Anita had a son from a previous relationship, Robbie Lewis, who was born out of wedlock in August 1988.

Both Sherry and Anita are bisexual, and Jessie's marriage to Anita was encouraged by Sherry, who attended the wedding ceremony. Throughout their joint marriage, the three of them shared the same bedroom and marital bed. Sometimes Anita and Sherry would have sex with each other when Jessie was not around. In addition, Sherry often recruited other women to come to the house for sexual activity with Jessie, which was Sherry's way of checking the women out for potential bisexual encounters. Sherry and Anita also had relations with men other than Jessie, sometimes without his knowledge.

On September 5, 1991, while Jessie was in Oklahoma City with his elderly father who was dying of cancer, Anita and Sherry Cummings shot and killed Judy Moody Mayo, Jessie's older half-sister, and killed her 11 year-old daughter, Melissa Moody. These offenses were unsolved for three years. By July 1994, Anita and Sherry had grown disenchanted with Jessie and were interested in other men. Because she was being dominated by Sherry, Anita especially wanted to leave this three-