

CHRONOLOGY OF KEY EVENTS IN CONNECTICUT DEATH PENALTY CASES

- April 27, 2011 Supreme Court hears oral argument in *State v. Santiago* (*Santiago I*), a death penalty case.
- Panel: CJ Rogers, Js. Norcott, Zarella, McLachlan, Eveleigh, Harper, Vertefeuille.¹
- April 25, 2012 General Assembly passes Public Act 12-5, abolishing death penalty *prospectively* for capital crimes committed on or after April 25, 2012.
- June 2, 2013 Justice Ian McLachlan turns 70 and retires from Supreme Court. He becomes a Judge Trial Referee.
- June 12, 2012 Supreme Court decides *Santiago I*. Court upholds conviction but reverses death sentence and remands case for new penalty-phase hearing. Majority decision written by Justice Norcott. Justice McLachlan, who was 70, remains on panel per General Statutes section 51-198(c), which provides that "[a] judge of the Supreme Court who has attained the age of seventy years may continue to deliberate and participate in all matters concerning the disposition of any case which the judge heard prior to attaining said age, until such time as the decision in any such case is officially released." See [*Honulik v. Town of Greenwich*](#), 293 Conn. 641 (2009).
- Sept. 2012 Supreme Court grants defendant's motion to reconsider *Santiago I*. Motion to reconsider asks Court to consider the affect of Public Act 12-5 on the constitutionality of imposing death penalty on persons who committed capital crimes before April 25, 2012. Court directs the parties to submit supplemental briefs. Oral argument scheduled for April 23, 2013.
- Oct. 1, 2012 Justice McLachlan retires from the Judicial Branch entirely to return to private practice. Justice Palmer is added to panel that will hear reargument in *Santiago I*.

¹ Justice Palmer recused himself from sitting on this case, presumably per his policy of recusing himself from cases in which his friend, Judge Douglas Lavine, was the trial judge. Judge Lavine was the trial judge in the *Santiago I* death penalty trial.

- Nov. 30, 2012 Justice Lubbie Harper turns 70 and retires from Supreme Court and becomes Judge Trial Referee, but does not sit on cases.
- Jan. 24, 2013 Gov. Malloy appoints his legal counsel, former State Senator Andrew McDonald, to Supreme Court to fill Justice Harper's seat.
- March 6, 2013 Gov. Malloy appoints Judge Carmen Espinosa to Supreme Court to fill seat created by retirement of Justice McLachlan.
- April 23, 2013 Supreme Court hears reargument in *Santiago I* to consider legal effect of Public Act 12-5.
- New Panel: CJ Rogers, Js. Palmer, Norcott, Zarella, Eveleigh, McDonald, Espinosa.²
- Oct. 11, 2013 Justice Norcott turns 70 and retires from the Supreme Court. Pursuant to General Statutes section 51-198(c), supra, he is allowed to remain on the panel that heard reargument in *Santiago I*.
- Dec. 19, 2013 Gov. Malloy appoints Judge Richard Robinson to Supreme Court to fill seat created by retirement of Justice Norcott.
- July 10, 2014 Supreme Court hears oral argument in *State v. Russell Peeler*. Case involves appeal of death sentence. The parties incorporate by reference the arguments made in *Santiago I* reargument re: legal effect of Public Act 12-5.
- Panel: CJ Rogers, Js. Palmer, Zarella, Eveleigh, McDonald, Espinosa, Robinson.
- August 25, 2015 Supreme Court issues new split decision (4-3) on reargument in *State v. Santiago (Santiago II)*. Majority holds

² Justice Palmer does not recuse himself this time and has replaced McLachlan. (The issue on reargument was the legal effect of Public Act 12-5, not whether the trial court (Lavine, J.) had erred. As noted, Justice Harper is no longer on Court due to retirement and has been replaced by Justice McDonald. Justice Vertefeuille is still on the Court, but does not sit on the panel hearing reargument, even though she sat on panel that heard the original argument. She was replaced on the panel by Justice Espinosa.

that, in light of Public Act 12-5 and “new insights” into history of capital punishment in Connecticut, the death penalty is unconstitutional in all circumstances. Dissenting justices accuses majority of abandoning proper judicial role and issuing deeply flawed decision.

Justices voting in majority: Js. Palmer, Norcott, Eveleigh and McDonald

Justices voting in dissent: CJ Rogers, Js. Zarella and Espinosa.

Oct. 7, 2015 Supreme Court denies the state’s motion to reconsider *Santiago II*. Three justices (CJ Rogers, Js. Zarella and Espinosa) dissent from denial. However, Court grants state’s motion to submit supplemental briefs in *State v. Peeler*, which is still pending and, conceivably, could overrule *Santiago II*. Supplemental briefs address the issues the state claims it was not given opportunity to address in *Santiago II*.

Dec. 1, 2015 Supreme Court announces that it will hear reargument in *State v. Peeler* on Jan. 7, 2016.

Jan. 7, 2016 Supreme Court hears reargument in *State v. Peeler*.

Panel: CJ Rogers, Js. Palmer, Zarella, Eveleigh, McDonald, Espinosa, Robinson. [Note: three of the justices were in the majority in *Santiago II*, while three were in the dissent in that case. Justice Robinson is only justice who did not sit on panel in *Santiago II*.

Issues in case: 1) was *Santiago II* wrongly decided? 2) Even if wrongly decided, or assuming it was wrongly decided, should Supreme Court still reaffirm *Santiago II* based on doctrine of stare decisis?