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NEWS RELEASE

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U.S. Attorney Wendy J. Olson's Statement on Ninth Circuit Remand in *United States v. Joseph Edward Duncan, III*

The Ninth Circuit Court of Appeals has ordered United States District Court Judge Edward J. Lodge to conduct a retrospective competency hearing to determine whether Joseph Edward Duncan, III, was competent to waive his right to appeal in November 2008. Duncan pled guilty to ten federal charges in December 2007, including three charges related to his murder of a nine-year-old Coeur d'Alene boy. Duncan was sentenced to death following a capital sentencing hearing in August 2008 at which he represented himself. His stand-by counsel filed a notice of appeal. Duncan informed the district court that the notice was filed against his wishes. At a November 24, 2008, hearing, the district court determined that Duncan wished to waive his right to appeal, found Duncan competent to do so, and struck the notice of appeal. The district court did not, however, hear testimony or take evidence on whether Duncan was competent to waive his right to appeal. The Ninth Circuit has now instructed the district court to do so.

Since his arrest in July 2005, Joseph Edward Duncan, III, has been found competent by every court or jury to have considered the issue. He has three times pleaded guilty to murder charges or offenses resulting in death, each time with the assistance of counsel. At the time of his guilty pleas in October 2006 in Kootenai County, Idaho, December 2007 in federal district court in Boise and March 2011 in Riverside County, California, none of Duncan's counsel asserted in court that Duncan was incompetent to enter a guilty plea. After Duncan was sentenced to death in U.S. District Court in Idaho, he was transferred to Riverside County, California, to face state charges in connection with the 1997 murder of a 10-year-old boy. Both a jury and the presiding judge found that Duncan was competent to proceed in that case.

Throughout the federal court proceedings in the District of Idaho, the United States Attorney's Office took the position that Duncan was competent. The United States Attorney's Office will participate in the retrospective competency hearing, as directed by the distinguished judges who serve on the Ninth Circuit Court of Appeals. No hearing date has yet been set. Certain procedures must be followed under the federal rules before the case is formally returned to the district court in Idaho. The district court will set a hearing date after these procedures have been completed and the case is returned.

Duncan's conviction and the three death sentences imposed in the District of Idaho remain in place.

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