

AFFIDAVIT

COPY

First being duly sworn, I make the following statements upon my oath:

1. My name is Sheila M. Cahill.
2. I am employed by Palmer Investigative Services, at 302 W. Willis, Suite 103, Prescott, Arizona, as a private investigator.
3. I am over the age of 21, and recognize a duty to tell the truth.
4. In the Yavapai County Superior Court case, captioned Edward H. Schad, Jr. vs. State of Arizona, bearing case number CR 8752, I was hired to locate John Duncan, one of the witnesses in this matter.
5. As of the date listed on this affidavit, I have searched the following information in efforts to locate John Duncan, without success: social security number traces; California driving record information; citation and court information from San Fernando, California, from which there is an outstanding warrant; TRW reports; neighbors and landlords at old locations; civil and criminal court records in Los Angeles County, Orange County, Riverside County, San Bernardino County, San Diego County, San Francisco County, and Santa Clara County in California; directory assistance; U.S. Postal Service information; contacts with ex-wife; and the records of the California Department of Corrections and their probation department. None of the information received shows a current address for John Duncan.
6. Further affiant sayeth naught.

Sheila M. Cahill
Sheila M. Cahill

Subscribed and sworn to before me this 16th day of October, 1995.

Robert A. Palmer
Robert A. Palmer, Notary Public

My commission expires: April 7, 1997

AFFIDAVIT OF SHARON SPRAYBERRY

COPY

1. My name is Sharon Sprayberry.
2. I was previously married to John Duncan, and was married to him during the period of September, 1978.
3. In September of 1978, John Duncan and I visited Mr. Schad at the Salt Lake City jail.
4. John Duncan told me that our visit with Mr. Schad was not on a regular visiting day.
5. John Duncan revealed that a detective had set up the visit, so that John and I could visit Mr. Schad on a non-regular visiting day.
6. John Duncan said that the detective "wanted to get to the bottom of this."
7. John Duncan disclosed that the detective did not think Mr. Schad had committed the crime.
8. John Duncan stated that the detective wanted John and I to help out by trying to talk to Mr. Schad.
9. John Duncan further stated that the detective wanted John and I to go to the jail and talk to Mr. Schad, and to get any information we could from him.
10. John Duncan related to me that he had found a sucker in Ed Schad, and "that half the stuff that he [John Duncan] did he could get out of by putting it on to this sucker."
11. John Duncan and I signed jail visitation logs on the day that we visited him.
12. During the jail visit with Mr. Schad, Mr. Schad did not make any statements relating to a homicide in Arizona.

DATE:

5/11/95


SHARON SPRAYBERRY
Testatrix

STATE OF TEXAS)
)
County of Travis) ss.

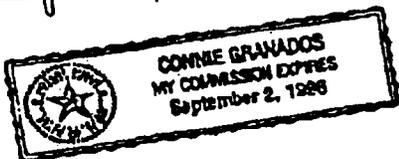
SUBSCRIBED AND SWORN to before me this 11th day of

May, 1995, by SHARON SPRAYBERRY.

My Commission Expires:

Sept 2, 1996

Connie Granados
Notary Public



IN THE SUPREME COURT OF THE STATE OF ARIZONA

THE STATE OF ARIZONA)
 YAVAPAI COUNTY)
 Plaintiff)
 -vs-)
 EDWARD HAROLD SCHAD, JR.)
 Defendant)

AFFIDAVIT OF
 HOLLY K. WAKE

HOLLY K. WAKE, being first duly sworn, upon her oath, deposes and says:

1. On July 6, 1995, I was appointed by the Honorable Raymond Weaver, Presiding Judge of the Superior Court of Yavapai County, as a Mitigation Specialist, in the case of Edward H. Schad, Jr., CR# 8752.

2. On August 15, 16, and 17th, I went to Prescott to review the files in Mr. Schad's case. I needed an overview of the case and what had been done previously in the way of mitigation investigation. Mr. Schad was originally arrested for this offense in December of 1978. Since that time he has had several attorneys and two trials. I spent three days familiarizing myself with the contents of the files and reorganizing them into general groupings. The trial transcripts that were spread out among the eight cartons. They were collected and filed chronologically into one box. Additionally, I marked certain records to be copied.

3. From reviewing the files it appeared that Mr. Shaw, Mr. Schad's defense counsel for the first and second trials, had either requested and was denied or never received a complete and unedited set of Mr. Schad's prison, prison medical records, and parole records from the Utah Department of Corrections. Copies of the three psychological evaluations from the Utah Department of Corrections dated June 11, 1970, January 7, 1975, and January 23, 1976, were located as was a 1970 Institutional Progress Report. Lastly, located was a July 11, 1973, review by the Board of Pardons of the State of Utah.

4. Mr. Schad's prison records from the state of Wyoming could not be located. It is unknown if they were ever formally requested.

5. Mr. Schad had two separate enlistments in the Army. His military records are summarized in the 1985 Presentence Report, but copies of the actual records are not available. Enlistment contracts, performance evaluations, and disciplinary reports all provide historical information that may not be otherwise available.

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6. It appears that the only psychological evaluation since Mr. Schad's arrest for this offense was done by Dr. Otto Benheim in 1978. Apparently, a second evaluation was not performed in conjunction with Mr. Schad's second trial in 1985. On January 1, 1980, the Arizona Department of Corrections performed an evaluation as a part of their in-take procedures. It appears that the evaluation was generated by a computer. The two page report is unsigned.

7. Efforts to secure contact visits were unsuccessful. Mr. Schad was interviewed on September 30, 1995 and October 7, 1995. More interviews are needed in order to prepare a thorough social history and determine and evaluate mitigation factors.

8. After having interviewed Mr. Schad for approximately four hours, conducting an initial review of case files, and reviewing an edited version of his Arizona Department of Corrections institutional file, it is determined the following records are needed in order to adequately prepare a Mitigation Report:

a) Complete and unedited copies of Mr. Schad's Utah Department of Corrections institutional, medical, and parole records. As the Arizona Department of Corrections requires a Court Order before releasing such records, it is assumed that a Court Order is also required in Utah.

b) Complete and unedited copies of Mr. Schad's Arizona Department of Corrections institutional, medical and psychological records. A Court Order is required before they will release these records.

c) Complete and unedited copies of Mr. Schad's Wyoming Department of Corrections institutional, medical, and psychological records. It is assumed that a Court Order is needed before these records will be released.

Most correctional departments conduct an assessment of new inmates to determine appropriate placement. Those records may include presentence reports, detailed criminal history reports, departmental social history assessments, risk assessments, psychological evaluations, institutional assessments, disciplinary actions, medical records, release plans, parole assessments and/or plans for re-entry into the community.

Given Mr. Schad's age, abuse he suffered as a child and teenager, and length of his incarceration, he has forgotten many of the details surrounding his younger years.

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Recent interviews with him may begin to bring these memories back. Information contained in life records provide historical data as well as collateral information where other sources are unavailable.

d) In previous years, Mr. Schad's family was uncooperative with efforts to obtain information about family history. Time is needed to locate and attempt to re-contact family members. It has been nearly seventeen years since Mr. Schad was first arrested for this offense. It is hoped that time will have eased rather than intensified the feelings of various family members. Also, in that same period of time, various family members have died. It is extremely important to interview as many remaining members as possible. They are the only other people available from which family history can be obtained.

Here again, the whereabouts of many of the family members are unknown. Information in the various institutional records, though dated, may provide a starting point in locating them.

e) Given information provided to this writer by Mr. Schad, it is now evident that the Presentence Report prepared in 1985 failed to adequately address the seriousness of the abuse he suffered as a child and teenager. It was acknowledged that Mr. Schad was beaten as a child. Mr. Schad had indicated in 1985, that he felt that if he had taken the beating, he was protecting his siblings from similar treatment.

Mr. Schad has since related to this writer that he was never allowed to have a relationship with his mother or his siblings. Whenever his mother would show affection, as a mother to a child, Mr. Schad's father would yell at him and at Mrs. Schad. Both were the victims of abuse. More information indicates that Mr. Schad was treated more like an indentured servant than a child. From the time he was nine years old, he had to pay his own way around the house. He was not allowed to participate in after school activities or to have friends. He was briefly allowed to attend meetings for a boys organization similar to Boy Scouts. This was only because a neighbor talked his father into letting him attend the monthly meetings. This lasted approximately one year. From the time he was four years old, Mr. Schad father beat him regularly with a belt and later with fists. According to Mr. Schad, his father was "always mad at me."

As a young boy and teenager, Mr. Schad was forced to work along side his father and to stand by and watch while his father got drunk after work. As a young teenager, Mr. Schad was having to drive his father home and was called upon to purchase alcoholic

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beverages for him at a local store where he was known. If he could not purchase the beer, his mother was forced to purchase the beer. Mr. Schad was constantly under his father's control. Upon reflection, Mr. Schad believes that his father was, in fact, his uncle.

f) As it appears that the only true psychological evaluation on Mr. Schad was performed in 1978. It is recommended that a current evaluation be performed. Much has been learned in recent years about Post Traumatic Stress Disorder (P.T.S.D.) as it relates to victims of abuse.

g) Court records are also necessary. They not only provide information about the actual history of a criminal proceeding, but they also contain other forms of information. They may include; letters of recommendation, psychological evaluations ordered by the court, presentence reports, attachments to various reports, and sentencing memorandums. All are valuable sources of information.

9. Obtaining out-of-state records is a very lengthy process. Locating and requesting out-of-state Court Orders is also very time consuming. If the requests are granted, then it will take additional time for the institutions to actually forward the records. Obtaining complete military records is an equally time consuming process. Unfortunately, Mr. Schad has spent the majority of his adult life in institutions. Life records are a necessary part of preparing a Social History. They also provide invaluable information about an individual.

10. While much has been and is being done from the legal aspect of Mr. Schad's case, it would appear that other factors concerning mitigation were either denied, marginally addressed or were left unattended.

11. I conduct very in-depth interviews. Often, I ask questions that my clients have never been asked before. Such is the case with Mr. Schad. On October 10, 1995, I received a letter from Mr. Schad. I had requested he send me some addresses. Included within the letter was the following:

"Then too, sitting in that little cubbyhole, and trying to talk to you through that window, isn't the easiest thing for me to do, especially trying to take you into the past history. Even that in itself isn't very easy for me to do, for I really never done it before, and it's not something that I feel comfortable about doing, let alone trust anyone with it. But I am trying, and I'm sure you understand."

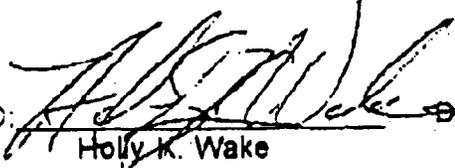
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12. The preceding has been an initial assessment. Further interviews with Mr. Schad and other family members along with additional study of the case files are likely to necessitate further investigation and attempts to locate other life records.

Mitigation is based on information, both verbal and written. Without supportive documentation as it relates to an individual's personal life situation, little can be accomplished. Only through interviews, research, and documentation, a true and complete social history is made possible. Patterns of lifestyle, behavior and relationships become apparent. It is also likely in this case there is a need for other professional assessments based on information that was not previously discovered. Such is the case with the recommendation for an updated psychological evaluation. The recommendation is determined appropriate as the extent of the abuse Mr. Schad suffered as a child and teenager was not previously made known and therefore considered by the Court.

More interviews with Mr. Schad are essential. Obtaining the records as described above are crucial in properly preparing a Mitigation Report. A law library will not provide the documentation on Mr. Schad's life history. There is no ready reference from which to draw this information. Only life records provide the foundation for mitigation which is believed to exist in Mr. Schad's case.

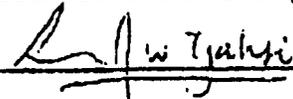
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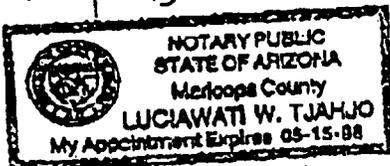

Holly K. Wake

DATE:

10-18-95

Subscribed and sworn by before me this 18 day of October, 1995.





10/18/95