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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Joseph Rudolph Wood, III, Petitioner, vs. Charles L. Ryan, et al., Respondents.	CV-98-00053-TUC-JGZ DEATH-PENALTY CASE Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e)

Pursuant to Fed. R. Civ. P. 59(e), Petitioner Joseph Rudolph Wood III., respectfully moves this Court to alter or amend its order and judgment entered in these proceedings on July 20, 2014, *see Barnett v. Roper*, 941 F. Supp. 2d 1099 (E.D. Mo. 2013) (granting rule 59(e) motion to reconsider denial of Rule 60(b) motion) or, in the alternative, requests that it issue a certificate of appealability as to whether Mr. Wood is entitled to relief from judgment pursuant to Fed. R. Civ. P. 60(b).

I. Request to Alter or Amend Judgment.

In Claim D, Mr. Wood asserted that his trial counsel was ineffective at sentencing because he did not properly investigate, prepare and present mitigating evidence. Claim X.C.3.a. (ECF No. 24 at 136-42.)

A. Respondents Conceded the Rule 60(b) Motion was Proper and There are Constitutional Concerns if It is Not.

Mr. Wood respectfully requests that this Court Alter or Amend its Judgment that Mr. Wood's Claim D in his Motion for Relief from Judgment Pursuant to Rule 60(b) ("60(b) Motion") was not a proper 60(b) motion, but rather a successor petition. (ECF No. 124 at 20-22.) In its decision, the Court did not consider Respondents' concession that the motion was a proper Rule 60(b) Motion. They admitted: "Wood contends that his motion is a valid 60(b)(6) motion and not an unauthorized second or successive petition because he challenges this Court's procedural rulings. . . . Wood appears to be correct." (ECF No. 122 at 3 n.1.). In addition, as to Claim D, the Court did not appear to take into consideration, and did not specifically address, Mr. Wood's argument that this Court prevented him from developing his claim in his habeas proceeding and that this resulted in a violation of his constitutional rights. That is, Mr. Wood is like the defendants in *Griffin v. Illinois*, 351 U.S. 12 (1955), and *Douglas v. California*, 372 U.S. 353, 355 (1963), who were deprived of resources to conduct their appeals. Those defendants lacked trial transcripts and counsel. Mr. Wood needed and didn't have resources to show prejudice when counsel performed deficiently. *Evitts v. Lucey*, 469 U.S. 387, 405 (1985).

B. Mr. Wood was Prevented from Investigating Important Evidence.

Mr. Wood does not merely seek to re-open the merits ruling this Court already made on the ineffective-assistance-of-counsel claim to allow the Court to consider his new evidence. As explained in his 60(b) motion, Mr. Wood is attacking the integrity of his federal habeas corpus proceedings in two ways. First,

Mr. Wood argued that he can show cause under *Martinez* for his post-conviction counsel's ineffectiveness for failing to conduct an adequate investigation into trial counsel's performance at sentencing. Second, Mr. Wood argued that the Court failed to provide him with the necessary funding to conduct such an investigation himself despite the Court's finding that Wood was diligent in state court. (ECF No. 79 at 71-72.) Due to these combined failures, Mr. Wood has never had the opportunity to have meaningful consideration by the federal courts of his developed and substantial sentencing ineffectiveness claim.

As a result of these problems, the integrity of Mr. Wood's federal habeas proceedings was significantly undermined. Mr. Wood's federal constitutional rights cannot be vindicated if the state courts appoint an ineffective attorney to conduct the state post-conviction proceedings and the federal courts fail to authorize funding for federal habeas counsel to address the shortcomings of both trial and post-conviction counsel. As Mr. Wood pointed out in his 60(b) motion, each of the petitioners who received remands for development of their claims pursuant to Martinez had funding in the district court for investigation of those claims. Mr. Wood, despite the Court's diligence finding, did not. For these reasons, Mr. Wood's motion cannot simply be characterized as an attempt to put new evidence before the Court -- it is instead an attempt to re-open his federal habeas proceedings to allow reconsideration of the Court's procedural default rulings and to allow development of his claims with the proper funding and resources. After these defects in the federal habeas proceedings are addressed, the Court could then undertake a meaningful examination of Mr. Wood's claims as urged in his 60(b) motion.

In addition, the new evidence Mr. Wood can now present does not simply bolster his previous sentencing-ineffectiveness claim; it likely fundamentally alters it and renders it into an unexhausted (and thus procedurally defaulted) new

claim. *See Dickens v. Ryan*, 740 F.3d 1302, 1318 (9th Cir. 2014) (en banc). This is true because the new evidence presented by Mr. Wood "place[s] the case in a significantly different and stronger evidentiary posture than it was when the state courts considered it." *Id*. at 1318 (quoting *Aiken v. Spaulding*, 841 F.2d 881, 883 (9th Cir. 1988)); *see also Nevius v. Sumner*, 852 F.2d 463, 470 (9th Cir. 1988).

C. Petitioner's New Evidence Presents Compelling Mitigation.

In *Dickens*, the new evidence presented by the petitioner "changed his claim to include extensive factual allegations suggesting Dickens suffered from FAS and organic brain damage." *Dickens*, 740 F.3d at 1317. The new evidence presented by Mr. Wood does the same. Neuropsychologist Dr. Kenneth Benedict has evaluated Mr. Wood and found that he suffers from a number of neurocognitive deficits. He states that, at the time of the crime, Mr. Wood suffered from brain-based difficulties with sustained attention, speed of processing information, and adaptive problem-solving under stressful and changing conditions. These were exacerbating influences on Mr. Wood's behavior at the time of the offenses. (Declaration of Kenneth B. Benedict, Ph.D. at 12, Exhibit 1 attached).

In addition, Mr. Wood has been diagnosed with Persistent Depressive Disorder, Early Onset, Severe, Stimulant Use Disorder, Alcohol Use Disorder, Neurocognitive Impairment by Clinical Psychologist/Certified Addiction Specialist, Dr. Robert Smith. (Psychological Summary of Dr. Robert Smith, at 3, Exhibit 2 attached.) Dr. Smith noted that Mr. Wood, like all children of alcoholics, was at severe risk for developing his own addiction. (Psychological Summary of Dr. Robert Smith, at 8.)

In addition, Dr. Smith concludes that, "[a]s a result of the combined effect of his disorders (i.e., Persistent Depressive Disorder, neurocognitive impairments, and substance abuse), Mr. Wood's capacity to conform his conduct to the

requirements of the law was significantly impaired." (Psychological Summary of Dr. Robert Smith, at 13.) This evidence could have been presented at trial by a qualified professional, but it was not. *Id.* at 11. Dr. Smith relies on neuropsychologist Dr. Benedict's findings after his two day evaluation but Mr. Wood was not given a complete neuropsychological evaluation for mitigation.

Had this evidence been presented at trial, Mr. Wood could have established the A.R.S. sec. 13-703(G)(1) statutory mitigating factor because the evidence demonstrates that an organic brain impairment or mental illness was a significant cause of the offense. When defendants have been able to make this causative showing—that they were significantly volitionally impaired—the Arizona Supreme Court has implicitly determined that a defendant's moral culpability and blameworthiness is sufficiently lessened to warrant reductions in capital sentences to life imprisonment. *State v. Doss*, 568 P.2d 1054, 1061 (Ariz. 1977) (death sentence reduced to life imprisonment when the statutory mitigating circumstance was found to exist, in light of evidence that defendant's mental illness was a substantial factor in causing the death of the victim); *State v. Brookover*, 601 P.2d 1322, 1326 (Ariz. 1979) (death sentence reduced to life imprisonment when statutory mitigating circumstance was found to exist, in light of evidence that defendant's brain damage was a major and contributing cause of his conduct); *State v. Mauro*, 766 P.2d 59, 81 (Ariz. 1988) (death sentence reduced to life imprisonment when statutory mitigating circumstance was found to exist in light of evidence that a chemical disorder in the defendant's brain left him significantly impaired in the ability to control his conduct); *State v. Jimenez*, 799 P.2d 785, 798, 800 (Ariz. 1990) (death sentence reduced to life imprisonment when statutory mitigating circumstance was found to exist in light of evidence that defendant's mental illness was a major contributing cause of his conduct). In *State v. Stuard*, 863 P.2d 881, 902 (Ariz. 1993), faced with evidence of three separate

extremely violent premeditated homicides and an attempted fourth murder, the Arizona Supreme Court explained its application of the G1 factor, noting that it "must hold the death penalty inappropriate here where Defendant's organically-caused mental illness was such a significant causative factor" of the offense.

This is compelling evidence that was readily available and should have been presented as mitigation at Mr. Wood's sentencing. *Jefferson v. Upton*, 130 S. Ct. 2217, 2218 (2010) (finding "permanent brain damage" that "causes abnormal behavior," resulting from head injury); *Sears v. Upton*, 130 S. Ct. 3259, 3261 (2010) ("frontal lobe brain damage"); *Porter v. McCollum*, 130 S. Ct. 447, 454 (2009) (per curiam); *Rompilla v. Beard*, 545 U.S. 374, 392 (2005); *California v. Brown*, 479 U.S. 538, 545 (1987) (O'Connor, J., concurring) ("evidence about the defendant's background and character is relevant because of the belief, long held by this society, that defendants who commit criminal acts that are attributable to a disadvantaged background, or to emotional and mental problems, may be less culpable than defendants who have no such excuse."); *see also Abdul-Kabir v. Quarterman*, 550 U.S. 233, 256 (2007) (even "possible neurological damage" is mitigating). Through counsel's ineffectiveness, it was not. Counsel simply presented psychiatrist Dr. Michael Breslow as a lone witness who largely repeated the guilt phase defense. Counsel did not get the "thorough neurologic exam" Dr. Breslow requested. (6/16/91 Letter from Breslow to Couser, PCR ROA 1808.)

As in *Dickens*, this new evidence "creates a mitigation case that bears little resemblance to the naked *Strickland* claim raised before the state courts. . . . This new evidence of specific conditions . . . clearly places [Mr. Wood's] *Strickland* claim in a "significantly different" and "substantially improved" evidentiary posture." *Dickens*, 740 F.3d at 1319 (citations omitted). Because this substantial part of this claim is unexhausted, *Martinez* applies to overcome the procedural default. And, the claim is timely, because despite the additional evidence, it

relates back to the petition Mr. Wood filed in 1998 that was improperly dismissed without the necessary funding and development necessary to the integrity of the proceedings. *See, e.g., Anthony v. Cambra*, 236 F.3d 568, 573-74 (9th Cir. 2000) (finding that claim related back to original petition when dismissal was based on defect in the underlying proceeding).

It is respectfully submitted that the Court should grant relief from judgment because Rule 60(b) is an equitable remedy and, because Mr. Wood was prevented from getting and presenting this important evidence in the past, it should be considered now. Rule 60(b) "is to be given a liberal construction as to do substantial justice and 'to prevent the judgment from becoming a vehicle of injustice.'" *MIF Realty v. Rochester Assoc.*, 92 F.3d 752, 755 (8th Cir. 1996) (quoting *Rosebud Sioux Tribe v. A & P Steel, Inc.*, 733 F.2d 509, 515 (8th Cir. 1984)).

II. Request for COA

The Court issued an order denying Mr. Michael's Rule 60 motion and denying a stay of execution. Petitioner hereby moves for a certificate of appealability ("COA").

In *Slack v. McDaniel*, 529 U.S. 473, 483 (2000), the Supreme Court held that, "[e]xcept for substituting the word 'constitutional' for the word 'federal,'" the COA requirement is merely "a codification of" the pre-AEDPA standard for granting a certificate of probable cause ("CPC"), as "announced in *Barefoot v. Estelle*," 463 U.S. 880, 894 (1983).

Granting a COA "does *not* require a showing that the appeal will succeed." *Miller-El v. Cockrell*, 537 U.S. 322, 337 (2003). Instead, the Court must grant a COA if the issue is "debatable among jurists of reason"; or "a court could resolve the issue[] [in a different manner]"; or "the question[] [is] adequate to deserve encouragement to proceed further." *Barefoot*, 463 U.S. at 893 n.4; *accord Miller-*

El, 537 U.S. at 336 (quoting *Slack*, quoting *Barefoot*). In ruling on a COA application, the Court should resolve any doubts "in favor of the petitioner." *Jones v. Warden*, 402 F.2d 776 (5th Cir. 1968); *Whitehead v. Johnson*, 157 F.3d 384, 386 (5th Cir. 1998). "In a capital case, the nature of the penalty is a proper consideration" to weigh in favor granting a COA. *Barefoot*, 463 U.S. at 893.

Mr. Wood's arguments surely are worthy of appellate review.

III. Conclusion.

For the foregoing reasons, Mr. Wood requests that this Court grant the motion to alter or amend the judgment and grant relief from judgment. In the alternative, the Court should at least grant a certificate of appealability.

Respectfully submitted this 21st day of July 2014.

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Jennifer Y. Garcia
Julie S. Hall

s/ Jennifer Y. Garcia
Counsel for Petitioner

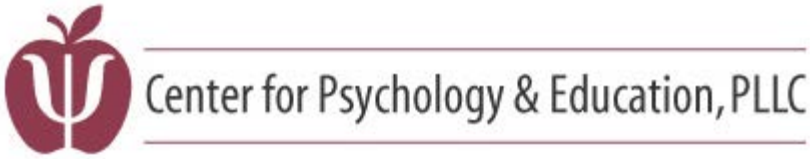
Certificate of Service

I hereby certify that on July 21, 2014, I electronically filed the foregoing Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e) with the Clerk's Office by using the CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s Stephanie Bame
Legal Assistant

EXHIBIT 1

EXHIBIT 1



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DECLARATION OF KENNETH B. BENEDICT, PH.D.

I, Kenneth B. Benedict, Ph.D., declare as follows:

Training and Experience

1. The current evaluator is a clinical psychologist and neuropsychologist licensed to practice psychology in the State of North Carolina. Among his relevant areas of specialty are clinical and developmental neuropsychology and adult neuropsychological assessment.

2. He received his Bachelor's Degree in Psychology from Dartmouth College in 1985, his Master's degree in Clinical Psychology from the University of North Carolina at Chapel Hill (UNC) in 1990, and his Doctorate degree in Clinical Psychology from UNC in 1992, with internship and a postdoctoral year in child/adolescent psychology and neuropsychology at the Massachusetts General Hospital/Harvard Medical School in Boston.

3. Since becoming licensed to practice psychology in the state of Massachusetts, and later North Carolina, the evaluator has worked in primary, secondary, and tertiary care settings. He is presently the Director of the Center for Psychology and Education, a multidisciplinary private clinic in Chapel Hill, North Carolina. Prior to holding this position he worked as a psychologist and neuropsychologist at North Carolina Neuropsychiatry for four years, at Chapel Hill Pediatric Psychology for four years, and at Massachusetts General Hospital for two years. He has been on the teaching faculties at the Harvard Medical School/Massachusetts General Hospital and the University of North Carolina at Chapel Hill. He continues to supervise post-doctoral psychologists in preparation for their application to licensure in North Carolina.

4. While primarily a practicing clinician, the evaluator has taught courses in psychological and neuropsychological assessment, and developmental psychopathology at the

undergraduate, graduate, and post-graduate levels. He has also conducted research in the field of developmental neuropsychology and computer-based neurocognitive assessment, among others. He is an external consultant for the American Association of Medical Colleges (AAMC) in Washington, DC, the Educational Testing Service (ETS) in New Jersey, and Dartmouth College in Hanover, New Hampshire for whom he reviews disability documentation. Finally, he has presented at various educational conferences related to these fields of study.

5. The evaluator has been qualified as an expert witness in state and federal criminal courts in Alabama, Georgia, Indiana, Missouri, and Pennsylvania, and in civil courts in North Carolina. Furthermore, he has performed legal evaluations or consultations that did not result in, or have not yet resulted in deposition or testimony, in the states of Arizona, California, North Carolina, Oklahoma, and Tennessee.

Referral Questions and Scope of Review

6. The evaluator was asked to evaluate Mr. Joseph Wood at the request of the Office of the Federal Defenders of Phoenix, Arizona.

7. More specifically, Mr. Wood's attorney, Ms. Jennifer Garcia, approached the evaluator in late May 2014 with questions about: a) the comprehensiveness of the one prior neuropsychological assessment of record conducted in 1990; b) the need, if any, for follow-up or additional neuropsychological evaluation; and c) the findings from the 1990 evaluation and/or any subsequent assessment deemed necessary by this evaluator bearing on Mr. Wood's neuropsychological functioning at the time of the crime for which he has been convicted and sentenced to death.

8. In addressing the referral questions posed above in item (7) the evaluator was provided with and reviewed the following documents:

(a) Rule 11 Evaluation by Dr. Morenz

(b) Pre-Rule 11 Evaluation by Dr. Boyer

(c) Neuropsychological Report by Dr. Allender

(d) Affidavit of Dr. Allender dated April 22, 1999

(e) Affidavit of Dr. Allender dated June 21, 1996

(f) Rule 11 Evaluation by Dr. Morris

(g) Raw data from Drs. Allender and Morris and notes from Dr. Walter

(h) Joe Wood's VA Medical Records

(i) Joe Wood's prison medical records from 1991-1998

(j) Joe Wood's military personnel and medical records

(k) Joe Wood's school records from Tucson Unified School District

(l) Interview of Mary Wood on July 22, 1998

(m) Affidavit of Mary Wood dated August 5, 1998

(n) Affidavit of Joseph Wood Jr. dated November 11, 1998

(o) Interview of Joseph Wood Jr. dated July 5, 1991

(p) Notes from interview of Joe Wood Jr. dated July 31, 1998

9. Since the initial referral the evaluator has had two contact visits with Mr. Wood on June 25 and June 26, 2014, at the Arizona State Prison Complex – Eyman, on the Browning Unit where Mr. Wood is housed.

Review of Prior Evaluation

10. James Allender, Ph.D. evaluated Mr. Wood in October 1990 as was requested by Mr. Wood's attorney at the time, Mr. Lamar Couser. Review of the report resulting from this evaluation reveals that Dr. Allender administered a standardized intelligence test (i.e., WAIS-R), a standardized memory test (i.e., WMS-R), and the Rorschach, a projective test of personality, along with a clinical interview. The evaluation was deemed to be "neuropsychological" in nature. However, this characterization is misleading as the reported set of procedures constitutes one form of a typical "psychological" evaluation, with the addition of a memory test.

In 1990 (and to this day) a neuropsychological evaluation entails examination of specific brain functions and the administration of corresponding tests in areas in addition to memory. A comprehensive neuropsychological evaluation involves assessment of functions including: attention; receptive and expressive language; visual-spatial and visual-motor functioning; sensory/motor functions and potential lateralization of these functions; as well as a range of tests broadly classed under the rubric of executive functioning. Review of basic academic skills frequently occurs as well given that these are influenced by both general and more specific neuropsychological functions.

While assessment of neuropsychological status can occur more informally (including review of history), there are certain functions (e.g., executive processes) less amenable to such clinical judgment and expertise in the absence of formal testing, given that difficulties in executive functioning are not routinely evident on intelligence tests or by observation in a structured interview environment. Furthermore, the history available at the time of the 1990 evaluation revealed that Mr. Wood had sustained multiple closed head injuries, knowledge of which should prompt the need to examine not only memory but executive functions. Hence, the current evaluator concludes that Mr. Wood did not receive a complete neuropsychological evaluation in 1990 prior to his trial.

11. The current evaluator has no reason to question the empirical findings from the data that Mr. Allender did collect. However, there are trends in the intelligence test data (i.e., higher Performance (or visual-based) IQ than Verbal IQ), and corresponding but more significant discrepancies in the memory test data (i.e., 28 point, standard score discrepancy indicating higher Visual than Verbal Memory) that raise questions regarding the status of other neuropsychological functions. Additionally, there are qualitative findings (e.g., "intersubtest scatter" in both verbal and visual domains of intelligence testing, especially related to subtests demanding of attention and working memory) that would typically prompt more in-depth examination of cognitive or neuropsychological status. Dr. Allender concludes that the observed discrepancies likely correspond with Mr. Wood's history of "poor academic achievement" and that they may "possibly

(reflect) a verbal learning disability." The former conclusion is only one of several reasonable hypotheses, and the latter assertions points to a need for further inquiry.

Evaluation Process and Conditions

12. Mr. Wood was evaluated over the course of two consecutive days, in appointments lasting 6.5 hours each, for a total of 13 contact hours. He was made aware of and demonstrated understanding of the limits to privilege and confidentiality surrounding this evaluation (i.e., information will likely be shared with his lawyers, the State, and the Court). Several breaks were taken during each of the 6.5-hour intervals for bathroom needs and/or stretch breaks.

13. Conditions at the time of testing permitted reliable and valid assessment, in that the testing occurred in a sufficiently lighted and private room that afforded reasonable acoustic conditions and privacy. However, there were several environmental factors that are not standard in clinical neuropsychological assessment. These included: the shackling of Mr. Wood's legs to the floor; his lack of access to food during the 6.5 hours of assessments; his wearing of a "bandit" or shock belt on his non-dominant arm; and observation by a third party through a window in the closed door of the testing room throughout the duration of the assessment. Furthermore, he was on "death watch" given that his execution date had been set by the State, and therefore he was escorted by two or three officers during breaks from the testing and videoed at these times. Despite these conditions, Mr. Wood was generally able to put forth what appeared to be his best effort, and when focus or alertness was at risk of disruption, breaks were taken proactively and accordingly.

Assessment Findings

14. The obtained test results are deemed to be reliable and valid based on the following information: a) Mr. Wood appeared to put forth his best effort on all presented tasks; b) there was satisfactory "internal" consistency among the collected data (i.e., similar patterns of strengths and weaknesses emerged across tests measuring similar constructs); and c) Formal tests of cognitive test validity revealed strong effort, with scores well within normal limits. Hence, the obtained data are eligible for clinical interpretation.

15. Interview with Mr. Wood indicates that he is reporting no current and substantial difficulties with depressive symptoms, memory problems, panic symptoms, self-control or aggression, psychosis, or suicidal thoughts or intent. In contrast, he is reporting mild difficulties with attention, impulsivity, anxiety, and fatigue. Finally, he reports moderate problems with mood stability and sleep, and a severe problem with physical aches and pains. These self-report data were taken into account and utilized to make Mr. Wood as comfortable as possible during the assessment, and also factored in to the interpretation of collected cognitive/neuropsychological data. In terms of observed behavior, Mr. Wood demonstrated no unusual or inappropriate behaviors, other than two brief episodes during which he experienced confusion in relation to the task he was working on at the time. These episodes appeared to be the result of attention lapses caused by his dwelling on prior problems on which he had struggled. In sum, none of the problems reported above was judged to interfere with assessment, although self-reported attention-related difficulties were reflected in his performance, as is reported below.

16. The specific tests utilized in the current assessment, together with the obtained test scores are presented in the Appendix of this report. They are provided for the potential review of other mental health professionals with training in psychometric assessment. What follows is the interpretation of the obtained scores for the lay reader.

17. Ability test results from the WAIS-IV indicate that Mr. Wood functions in the average range of general intelligence, now with no appreciable difference between his verbal and visual reasoning abilities. However, he demonstrates significantly lower functioning in the realm of Working Memory, particularly as reflected by his score on the Arithmetic subtest where difficulties with working memory were displayed in his need to ask for orally-administered questions to be repeated, and in his problems with mental calculations. Mr. Wood also demonstrated a relative weakness on the Coding subtest, suggesting that he may have relative difficulties with fine-motor tasks and especially those involving written output, at least with respect to speed of output. This combination of relative weaknesses is frequently seen in individuals with attention problems or disorders.

Comparison of these results with the ability test data collected in 1990 is somewhat limited by the fact that the current evaluation involves the fourth as compared to the second (or "Revised") edition of the same test. While the basic structure of the test is similar, there are some differences in subtests and a new normative sample. With this caveat in mind, the current evaluator concludes that the overall conclusion of average intelligence is consistent. Indications of irregularities in sustained attention and working memory are present across both administrations. Finally, Mr. Wood has made some measurable gains in certain aspects of verbal functioning (particularly with respect to his oral vocabulary and fund of general information), most likely as a result of the reading and television viewing he has been exposed to while incarcerated.

18. Two neuropsychological batteries were administered, one delivered by way of computer-based testing (i.e., CNSVS) and the other by traditional paper-and-pencil testing (i.e., RBANS Update, Form A). On the computer-based battery, Mr. Wood demonstrated deficits in psychomotor speed and relative weaknesses with respect to reaction times, on both simple and more complex tasks. These findings warrant further assessment of motor functioning and executive functioning.

On the RBANS battery, Mr. Wood demonstrates a pattern similar to the ones reported from the 1990 evaluation as well as further evidence of difficulties with aspects of attention. More specifically, there are significant differences between his average-level performance on measures of Visuospatial and Constructional abilities (in the 63rd percentile), and his average to low average scores in the domains of Immediate Memory (25th percentile), Attention (21st percentile), and Language (12th percentile). Within each of these three latter domains, a more specific weakness is revealed on subtest analysis. In the area of Immediate Memory, Mr. Wood demonstrated difficulty with a verbal learning task involving non-contextualized information. With respect to Attention, his difficulty was displayed with respect to both immediate auditory span and his auditory working memory. Finally, with respect to Language, Mr. Wood struggled specifically

on a task of divergent word retrieval or a semantic fluency task, with a score in the second percentile.

In sum, neuropsychological batteries that provide rapid screening of various functions revealed the need more extensive assessment in the areas of motor functions, attention, language, memory, and executive functioning.

19. Further assessment of language functions resulted in scores that are within the range of expectation of Mr. Wood's general abilities. Qualitatively, there were no unusual processing problems observed. It is concluded that the dysfunction observed on the RBANS measure of semantic fluency is a function of organizational weakness in the relative absence of task structure as opposed to a problem with expressive language per se.

20. Assessment of visual-spatial functioning was kept to a minimum as there were no indications of problems in this area on intelligence tests or neuropsychological screening batteries. The one test administered (HVOT) reveals that Mr. Wood has no difficulty with complex visual perception or synthesis.

21. Further assessment of motor functioning was accomplished by administration of the Grooved Pegboard Test. His right-handed performance appeared to be reasonably efficient and within the average range. His left-handed performance was below the expected range and also involved one dropped peg, indicating some mild to moderate weakness in fine motor control and speed with his non-dominant left hand. However, in light of Mr. Wood's peripheral difficulties in his left thumb (i.e., missing bone in thumb; different nerve innervation), this functional finding does not suggest any unusual lateralization with respect to central processing.

22. Extended testing in the area of attention reveals no obvious difficulties with visual attention and working memory when dealing with contextualized information. However, Mr. Wood performed below expectation and in the low average range on two different attention-dependent tasks, particularly as they relate to balancing the speed/accuracy trade-off involved in responding to visual test stimuli. As noted on the CNSVS computer-based battery, Mr. Wood's

speed of processing information slows as tasks become more complex and demand more attention.

23. Further assessment of Mr. Wood's memory functioning indicates average-level functioning across tests of auditory and visual functioning, and immediate and delayed memory tasks. The magnitude and direction of discrepancy observed in favor of immediate memory functions involving visual versus auditory information is similar to the one obtained on an earlier version of the WMS administered in 1990. As with IQ testing, verbal scores have nonetheless increased most likely due to educational endeavors post-incarceration. Despite the at least average-level scores, there is a rather dramatic drop in the amount of information retained over 20 to 30 minutes on the Visual Reproduction Test II, and qualitatively it is of note that Mr. Wood recalled a figure from a different test while working on this same test, a somewhat unusual finding. Furthermore, he evidenced some pronounced difficulty with memory for spatial location (as opposed to content) on both parts of the Designs subtest. When integrating data across all administered tests, the evaluator concludes that any functional problems with memory encountered by Mr. Wood likely stem from problems at the "encoding" or "working memory" phase of learning as opposed to the retention or retrieval phases of processing.

24. Turning to executive functioning, Mr. Wood performed typically on measures related to set shifting and response maintenance in the form of the WCST and the D-KEFS. However, as was the case with other relevant measures in this evaluation, his performance on the latter measure tended to be slower than average. When confronted with more complex and abstract problem-solving, Mr. Wood's functioning dropped significantly and below the level of functioning expected based on his measured level of intellect. This was apparent on the Category Booklet Test and the Categories subtest from the NAB, two very different tests measuring similar constructs. That is, Mr. Wood struggles with novel problem-solving and flexibility of responding in the face of frequently changing conditions or larger amounts of information to process. On the NAB Categories test it was noted that he had difficulty following task directions, even with several repetitions and clarifications.

25. Finally, screening of Mr. Wood's academic functioning with the WRAT-4 indicates average results with respect to basic reading, applied reading, reading speed, and spelling skills. Qualitatively there is no indication of any significant problems with sound-symbol correspondence or phonological processing. Math subtests from the WRAT-4 and WJ-III indicate a relative weakness, particularly with respect to speed of calculations and the accuracy of performance (i.e., he made careless errors on the Math section of the WRAT-4). The pattern of weakness is related to attention and working memory.

Summary and Conclusions

26. Mr. Joseph Wood is a 55-year-old Caucasian man currently on death row. Review of available records indicates that prior to trial, Mr. Wood received intelligence, memory, and personality testing. However, until the current evaluation, he has never received an in-depth neuropsychological evaluation, despite a disclosed history of head injury and substance abuse and dependence.

27. Results from the intelligence and memory testing conducted in the current evaluation are largely consistent with those from similar assessment conducted in 1990. The current evaluator finds evidence of working memory difficulties in both sets of findings. This conclusion, in combination with data from neuropsychological screening measures that were available in similar if not identical format in 1990, confirm the presence of lower levels of performance than expected based on Mr. Wood's general abilities in a variety of areas.

28. The findings from traditional psychological testing and neuropsychological screening led the current evaluator to perform a comprehensive neuropsychological evaluation. The composite pattern of test results indicates that Mr. Wood has neuropsychological weaknesses in the areas of auditory and visual working memory, the speed with which he is able to process and react to information, and the efficiency and adaptability of his problem solving when he is in novel or more complex situations involving changing or unexpected conditions.

29. In terms of functional ramifications, the aforementioned difficulties will be associated with slow and/or inconsistent completion of tasks, problems remembering (or actually encoding) lengthier sets of instructions, and inconsistent attention to detail. Individuals with this profile are prone to brief periods of "spacing out" when dealing with large amounts of incoming information. Under stress, adaptive coping behavior is likely to deteriorate more quickly than would be expected of someone with average intelligence. Unresponsiveness to corrective feedback and inflexibility of behavior may also be expected during times of stress, as would be brief periods of impulsive responding.

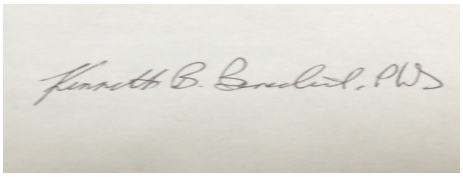
30. The findings and conclusions from this evaluation could have been similarly made by a qualified professional performing a comprehensive neuropsychological evaluation in 1990; indeed, if anything, the areas of neuropsychological difficulty and vulnerability would likely have been more prominent at that time. Just as there has been some measured improvement in Mr. Wood's verbal abilities and skills over the years, so too has there likely been some improvement in the working memory, processing speed, and executive functioning difficulties he still manifests. The predictability and structure of incarceration are known to be environmental conditions that have a positive impact on these functions. Hence, it follows that the difficulties observed in this current evaluation were likely more pronounced in 1990 and around the time of the crime in question. However, the absence of neuropsychological data from 1990 precludes an empirical representation of this commonly observed clinical phenomenon.

31. With respect to the etiology of the neuropsychological weaknesses found in this evaluation, and suspected in the 1990 evaluation, it is difficult to know for certain whether they reflect constitutional or acquired problems, or some combination thereof. However, review of school and medical records leads the evaluator to place somewhat greater emphasis on acquired factors given the multiple closed head injuries reported and the degree of substance abuse and dependence, both of which are known to aggravate and/or cause the functional problems just described.

32. Regardless of the etiology of Mr. Wood's functional cognitive difficulties, it is also well known that the deleterious effects of substance abuse and dependence will be compounded in an individual with pre-existing neuropsychological difficulties or "vulnerable brains." Hence, I conclude that brain-based difficulties with sustained attention, speed of processing information, and adaptive problem-solving under stressful and changing conditions served as exacerbating influences at the time of Mr. Wood's offense.

33. I hold each of the opinions contained in this declaration to a reasonable degree of clinical certainty. If called as a witness, I could and would testify to each of the foregoing conclusions and opinions.

The foregoing is true and correct and executed under penalty of perjury under the laws of the United States and the State of Arizona on July 20, 2014.



Dr. Kenneth B. Benedict

Appendix

RESULTS OF NEUROPSYCHOLOGICAL ASSESSMENT

** Confidential Information **

Name: Joe Wood
Age: 55-6
Education: 12
DOB: 12/6/1958
DOE: 6/25, 6/26/2014
Examiner: Ken Benedict, Ph.D.

Effort and Reliability: The Test of Memory Malingering (TOMM) was utilized as one of the indicators of Mr. Miles's effort.

Trial 1: 50/50

The Validity Index Profile (VIP) is another variety of cognitive test validity that measures the constructs of intention and effort. Unlike the TOMM it places no demands on short-term memory and learning.

	Verbal Subtest
Overall Subtest Validity	Valid
Subtest Response Style	Compliant

Intellectual: The Wechsler Adult Intelligence Scale – Fourth Edition (WAIS-IV) is a standardized measure of general ability. It provides information about an individual's cognitive strengths and weaknesses, and it has proved helpful in predicting academic functioning. However, it does not measure the full range of abilities subsumed by the most recent and encompassing conceptualizations of intelligence.

Mr. Wood obtained the following WAIS-IV IQ Composite Scores. These are standard scores that have a mean of 100 and a standard deviation of 15. Scores between 90 and 110 are typically considered to be in the average range.

WAIS-IV Composite	SS	Percentile
Verbal Comprehension (VCI)	108	70
Perceptual Reasoning (PRI)	100	50
Working Memory (WMI)	89	23
Processing Speed (PSI)	97	42
Full Scale (FSIQ)	100	50

The following are Mr. Wood's WAIS-IV subtest scores. Subtests are divided into four domains as labeled above. Listed are scaled scores that have a mean of 10 and a standard deviation of three points. Thus, scores between 8 and 12 are typically considered to fall within the average range.

Verbal Comprehension	SS	Percentile
Similarities	12	75
Vocabulary	11	63
Information	12	75
Perceptual Reasoning		
Block Design	11	63
Matrix Reasoning	10	50
Visual Puzzles	9	37
Working Memory		
Digit Span	10	50
Arithmetic	**6**	**9**
Processing Speed		
Symbol Search	11	63
Coding	8	25

Computer-Based Neurocognitive Assessment: **Computer-Based Neurocognitive Assessment**: CNS Vital Signs is a performance-based screening battery of basic neuropsychological functions. Information bearing on the reliability and validity of this assessment tool may be found at www.cnsvs.com. The measure is designed as a screening for cognitive dysfunction, and it is also useful from the standpoint of repeated measurement. It is designed to detect cognitive problems related to various neurocognitive syndromes, and it is not well-suited to the differentiation of functioning above the average range. Results from composite measures are reported as standard and percentile scores based on subject age.

CNSVS Composite Scores	Score	%
Neurocognition Index	96	40
Composite Memory	112	79
Verbal Memory	115	84
Visual Memory	103	58
Processing Speed	97	42
Executive Function	102	55
Psychomotor Speed	**72**	**3**
Reaction Time	93	32
Complex Attention	102	55
Cognitive Flexibility	100	50

CNSVS Subtest Scores

	SS	%
Verbal Memory Test		
Immediate		
Correct Hits	104	61
Correct Passes	110	75*
Delayed		
Correct Hits	116	86
Correct Passes	110	75*
Visual Memory Test		
Immediate		
Correct Hits	109	73
Correct Passes	98	45
Delayed		
Correct Hits	100	50
Correct Passes	101	53
Finger Tapping Test		
Right Taps Average	**65**	**1**
Left Taps Average	**69**	**2**
Symbol Digit Coding		
Correct Responses	99	47
Errors	87	19
Stroop Test		
Simple Reaction Time Ave. (mS)	82	10
Complex Reaction Time Ave. (mS)	**85**	**16**
Stroop Reaction Time Ave. (mS)	101	53
Stroop Commission Errors	**85**	**16**
Shifting Attention		
Correct Responses	100	50
Errors	105	63
Correct Reaction Time Ave. (mS)	92	30

Continuous Performance Test

Correct Responses	103	58*
Omission Errors	103	58*
Commission Errors	107	68*
Choice Reaction Time Correct. (mS)	89	23

*Best Possible Score

Traditional Neuropsychological Measures:

Screening/Repeatable Battery: The Repeatable Battery for the Assessment of Neuropsychological Status (RBANS) – Update is a relatively comprehensive measure of neuropsychological status that has the advantage of being relatively short to administer. It has multiple forms for purposes of repeated measurement, includes up-to-date norms, and covers a large age range (i.e., 12 to 89). Results are reported as scaled or standard (Index) scores with corresponding percentile scores.

RBANS:	Index Score	Scaled Score	%ile
Immediate Memory	90		25
List Learning		**6**	**9**
Story Memory		11	63
Visuospatial/Constructional:	105		63
Figure Copy		10	50
Line Orientation			51-75
Language	**82**		**12**
Picture Naming			51-75
Semantic Fluency		**4**	**2**
Attention	88		21
Digit Span		**6**	**9**
Coding		10	50
Delayed Memory	115		84
List Recall			26-50
List Recognition			26-50
Story Recall		12	75
Figure Recall		15	95

Language Functioning: The Neuropsychological Assessment Battery (NAB) is a comprehensive measure of neuropsychological functioning in adults that has the advantage of being more systematically developed and normed than most commercially-available tests. It may be used as a screening battery, a comprehensive battery, or as

modular tests. Subtests from the Language Module and Attention and Executive Functions Modules (see below) were utilized in Mr. Wood's case. Results are presented as T-Scores (i.e., mean of 50 and a standard deviation of 10 points) and corresponding percentile scores.

NAB: Language Module	T-Score	Percentile Score
Auditory Comprehension	55	68
Writing	54	66

The Boston Naming Test (BNT) is a measure of expressive vocabulary that also examines word retrieval skills. Results are listed as raw scores, compared to available normative data, and reported as number of standard deviations (s.d.) above or below the mean; WNL denotes within normal limits (i.e., +/- one standard deviation of the mean).

BNT: 57/60 (WNL); with phonemic prompting: 60/60 (WNL+)

The Wide Range Assessment of Memory and Learning Test (WRAML2) is a standardized battery of memory and learning for children, adolescents, and adults. One subtest was selected to obtain further information regarding Mr. Wood's receptive and expressive language skills. Results are reported as scaled scores that have a mean of 10 and a standard deviation of three points.

WRAML2:	Scaled Score	Percentile Score
Sentence Memory	9	37

Visual-Spatial Functioning: The Hooper Visual Organization Test is a measure of spatial reasoning and integration that consists of 30 items. Results are reported raw scores. WNL denotes within one standard deviation of the mean.

HVOT: Raw = 28/30 (WNL)

Sensory and Motor Functioning: The Grooved Pegboard Test is a measure of fine motor speed and control. Results are reported as raw scores and compared to available normative data and interpreted as number of standard deviations above or below the mean for subject age.

Dominant (Right) Hand:	Raw Score = 75 seconds (-0.5 s.d.)
Non-dominant (Left) Hand:	**Raw Score = 111 seconds (-1.5 s.d.)**

Attentional Functions: The Neuropsychological Assessment Battery (NAB) is a comprehensive measure of neuropsychological functioning in adults that has the advantage of being more systematically developed and normed than most commercially-available tests. It may be used as a screening battery, a comprehensive battery, or as modular tests. The Attention Module was utilized in Mr. Wood's case. Results are presented as T-Scores (i.e., mean of 50 and a standard deviation of 10 points) and corresponding percentile scores.

NAB: Attention Module	T-Score	%
Dots	47	37
Numbers and Letters		
Part A: Speed	**38**	**12**
Part A: Errors	62	88
Part A: Efficiency	**39**	**13**
Part B: Efficiency	46	34
Part C: Efficiency	48	42
Part D: Efficiency	**38**	**12**
Part D: Disruption	**37**	**9**

Memory Functioning: The Wechsler Memory Scale – Fourth Edition (WMS-IV), Adult Battery (ages 16-69) is a relatively comprehensive and standardized measure of memory functioning. It has the advantage of being co-normed with the WAIS-IV so as to increase the reliability of score comparisons. Like the WAIS-IV, composite measures are reported as standard scores that have a mean of 100 and a standard deviation of 15 points. Subtest scores are reported as scaled scores that have a mean of 10 and a standard deviation of three points. Finally, the results from recognition subtests are provided in terms of percentile scores only.

WMS-IV	SS	%
Auditory Memory Index	100	50
Logical Memory I	10	50
Logical Memory II	9	37
Verbal Paired Associates I	11	63
Verbal Paired Associates II	10	50
Visual Memory Index	115	84
Designs I	12	75
Designs II	13	84
Visual Reproduction I	17	99
Visual Reproduction II	8	25
Immediate Memory Index	117	87
Logical Memory I	10	50
Verbal Paired Associates I	11	63
Designs I	12	75
Visual Reproduction I	17	99
Delayed Memory Index	100	50
Logical Memory II	9	37
Verbal Paired Associates II	10	50
Designs II	13	84
Visual Reproduction II	8	25

Process Scores	Scaled Score	Cum. %
LM II Recognition		17-25
VPA II Recognition		>75
DE II Recognition		>75
VR II Recognition		>75

	Scaled Score	%
DE I Content	15	95
DE I Spatial	**6**	**9**
DE II Content	14	91
DE II Spatial	**7**	**16**

Executive Functioning: The Wisconsin Card Sorting Test (WCST) is a measure of executive functioning; more specifically, the test has proved to be a reliable and valid measure of learning, maintenance of cognitive set, and cognitive flexibility. Results are reported as standard and percentile scores, or as raw scores. Scores within one standard deviation of the mean are denoted by WNL (i.e., within normal limits).

WCST:	SS	Percentile Score
Total Number of Errors	110	75
% Errors	111	77
Perseverative Responses	103	58
% Perseverative Responses	101	53
Perseverative Errors	102	55
% Perseverative Errors	98	45
Nonperseverative Errors	119	90
% Nonperseverative Errors	124	95

	Raw Score	Interpretation
Trials	86	N/A
Categories	6	WNL
Trials to First Category	11	WNL
Failure to Maintain Set	0	WNL

The Booklet Category Test is one of the most sensitive measures to brain injury associated with damage to the prefrontal lobe, as it is primarily measures mental flexibility (aside from more basic visual-perception). The raw data are presented and the total raw score is converted to a standard score (T-Score) that is based on a mean of 50 and a standard deviation of 10 points. The score in this case is compared against norms for 46 year-old males with 12 years of education.

Subtest	Raw Score	T-Score
I Errors	0	
II Errors	0	
III Errors	32	
IV Errors	18	

V Errors	16	
VI Errors	8	
VII Errors	6	
Total	80	40

As noted above, the Neuropsychological Assessment Battery (NAB) is a comprehensive measure of neuropsychological functioning in adults that has the advantage of being more systematically developed and normed than most commercially-available tests. It may be used as a screening battery, a comprehensive battery, or as modular tests. Subtests from the Executive Functions Module were utilized in Mr. Woods's case. Results are presented as T-Scores (i.e., mean of 50 and a standard deviation of 10 points) and corresponding percentile scores.

NAB: Executive Functions	T-Score	%
Categories	**39**	**13**
Word Generation	50	50

The Delis – Kaplan Executive Function System (D-KEFS) is a battery of neuropsychological measures that have been standardized on a relatively large normative sample, ages 8 through 89. This test is composed of some classic neuropsychological paradigms of executive functioning that have been improved upon by standardization of procedures and materials, and increasing and updating the normative sample. It also includes variations on other well-established paradigms and it includes some new ones as well. The tests selected from this battery for the present evaluation are listed below. Results are presented as scaled scores that have a mean of 10 and a standard deviation of three points. Primary scoring measures are included for each subtest.

D-KEFS	SS	%
Trail Making Test		
Visual Scanning (1)	9	37
Number Sequencing (2)	7	16
Letter Sequencing (3)	9	37
Number-Letter Switching (4)	10	50
Motor Speed (5)	**6**	**9**
Verbal Fluency		
Category Fluency	7	16
Category Switching - Correct	12	75
Category Switching – Accuracy	9	37

Academic Functioning: The Wide Range Achievement Test – 4th Edition (WRAT-4) is an academic screening measure. Results are based on standard scores that have a mean of 100 and a standard deviation of 15 points.

WRAT-4 Composite/Subtest	SS	%
Reading Composite	95	37
Word Reading	99	47
Sentence Comprehension	93	32
Spelling	92	30
Math Computation	88	21

Two Fluency Subtests were selected from the Woodcock Johnson Tests, Third Edition (WJ-III) Tests of Achievement in order to examine Mr. Wood's speed of reading and calculation. Results are based on a mean of 100 and a standard deviation of 15 points.

WJ-III	SS	%
Math Fluency	86	17
Reading Fluency	90	24

EXHIBIT 2

EXHIBIT 2

Psychological Summary

Name:	Joseph Rudolph Wood, III
Date of Birth:	December 6, 1958
Social Security No.:	527-21-5201
Date of Examination:	June 17, 2014
Examiner:	Dr. Robert L. Smith
Diagnostic Procedures:	Diagnostic Interview

Referral Information: Joseph Rudolph Wood, III, a 55 year old divorced Caucasian male, was referred for a psychological/chemical dependency assessment by his defense counsel, Dale Baich and Jennifer Garcia, of the Federal Public Defender in Phoenix, Arizona. Mr. Wood was evaluated on June 17, 2014 at the Arizona State Prison Complex, ASPC Eyman, Browning Unit in Florence, Arizona. Mr. Wood indicated that he was convicted of two counts of first degree murder and aggravated assault. The instant offense was reported to have occurred on or about August 7, 1989 in Tucson, Arizona. The victims of the offense were Mr. Wood's girlfriend, Debra Dietz, and Ms. Dietz's father, Eugene Dietz. They each died as the result of gunshot wounds. In reviewing his case, Mr. Wood demonstrated an understanding of his trial, conviction and sentencing. He was able to provide an accurate description of the role of the Defense Counsel, Prosecutor, Judge and Jury. He was also able to describe the appeal process and his role in working with his attorneys in this process. It was explained that the results of the examination were not confidential and that a summary would be provided to the Federal Public Defender and potentially the Government. Mr. Wood agreed to proceed with the evaluation under these conditions. The following is a summary of the evaluation of Mr. Wood and is not intended to be a transcript of the interactions with him.

Sources of Information: The evaluation of Mr. Wood involved one personal interview by the undersigned examiner at the Arizona State Prison Complex, ASPC Eyman,

Browning Unit in Florence, Arizona on June 17, 2014. In order to corroborate the information provided by Mr. Wood regarding his background, the defense counsel provided the following materials for review:

1. Joe Wood, III pre-sentence report
2. Rule 11 Evaluation by Dr. Morenz
3. Rule 11 Evaluation by Dr. Morris
4. Pre-Rule 11 Evaluation by Dr. Boyer
5. Evaluation by Dr. Allender
6. Affidavit of Dr. Allender dated 4-22-96
7. Affidavit of Dr. Allender dated 6-11-96
8. Raw data from Drs. Morris & Allender
9. Affidavit of Joe Wood Jr. dated 11-13-98
10. Notes from prior counsel's interview of Joe Wood Jr. dated 7-31-98
11. Interview of Joe Wood Jr. on 7-5-91
12. Interview of Joe Wood Jr. on 8-7-89
13. Affidavit of Mary Wood dated 8-5-98
14. Interview of Mary Wood on 7-22-98
15. Interview of Diana Smith
16. Interview of Pamela Wood on 9-25-90
17. Sentencing transcript dated 7-12-91
18. Joe Wood, III pre-sentencing report from Nevada prior case
19. Joe Wood, III military personnel & medical records
20. Joe Wood, III VA medical records
21. Joe Wood, III Tucson Unified School District records
22. Joe Wood, III ADOC medical records from 1991-1998
23. Tucson Police Department report re: 1986 disorderly conduct charge
24. Tucson Police Department report re: 1987 assault charge
25. Tucson Police Department report re: carrying concealed weapon charge
26. Tucson Police Department report re: 1989 assault charge
27. Tucson Police Department report re: 1989 criminal damage charge
28. Tucson Police Department report re: 1989 other offenses
29. Tucson Police Department report re: 1987 assault charge
30. Tucson Police Department report re: 1983 criminal damage charge
31. Tucson Police Department report re: 1984 suspicious activity
32. Tucson Police Department report re: 1984 fraud and disorderly conduct charge
33. Tucson Police Department report re: 1988 assault charge
34. Tucson Police Department report re: 1988 disorderly conduct charge
35. Tucson Police Department report re: narcotics possession charge
36. Transcript of AT&T phone messages left for the victim by Joe Wood
37. Joe Wood Jr.'s indictment for 2001 Aggravated DUI & allegation of priors
38. Joe Wood Jr.'s pre-sentence report & addendum in 1988 DUI case
39. Texas Department of Public Safety Rap Sheet for Antonio Ramirez
40. Texas Department of Public Safety Rap Sheet for Joe Ramirez
41. Partial record of Joe Wood Jr.'s VA medical records
42. Death Certificate for Joe Wood Jr.

43. Death Certificate for Mary Wood
44. Carondelet Health Print Out for Mary Wood
45. Report of suicide of Mr. Wood's paternal cousin, Tommy Hawkins (previously sent by e-mail on 6-10-14)
46. Joe Wood Jr.'s federal employee medical file
47. Medical Examiner's file re: Michael Wood's suicide
48. Pima County Sheriff Department list of incident calls to Wood family residence
49. Death certificate of maternal uncle, Antonio Ramirez
50. Texas DPS criminal history for maternal uncle, Frank Ramirez
51. Birth certificate of maternal uncle, Joe Ramirez
52. Texas DPS criminal history for maternal aunt, Pauline Ramirez
53. Pima County Sheriff Department incident reports involving Joe Wood Jr.
54. Neuropsychological Evaluation of Joseph Wood, III by Dr. Kenneth B. Benedict

Diagnostic Impressions: Based upon the diagnostic interview and review of records the following are the diagnoses for Mr. Wood at the time of the instant offense. The diagnoses are based upon the American Psychiatric Association's Diagnostic and Statistical Manual- Fifth Edition (DSM V)

Axis I:

Persistent Depressive Disorder, Early Onset, Severe

Stimulant Use Disorder – Severe (i.e., cocaine, methamphetamine)

Alcohol Use Disorder – Severe

Neurocognitive Impairment – As determined by Dr. Kenneth Benedict

Axis II: None

Opinion: The following opinions and conclusions are given to a reasonable degree of psychological certainty. It is my professional opinion that based upon the background materials and collateral sources that were in existence at the time of Mr. Wood's trial a qualified mental health professional at the time of trial could have identified similar mitigating factors and offered similar conclusions and opinions to those reached in this report. Furthermore, it is my professional opinion with a reasonable degree of psychological certainty that Mr. Wood suffered from a number of mental diseases at the time of the instant offense, including: a history of severe childhood trauma (i.e., physical, emotional and verbal abuse); Persistent Depressive Disorder, Early Onset, Severe;

Stimulant Use Disorder – Severe (i.e., cocaine, methamphetamine) and Alcohol Use Disorder – Mild; and neurocognitive impairment (i.e., difficulties with sustained attention, speed of processing information, and adaptive problem-solving under stressful and changing conditions). The neurocognitive impairment referenced in this report was established by Kenneth B. Benedict, Ph.D. following his comprehensive neuropsychological evaluation and is described in detail in his report of July 20, 2014. In order to fully understand Mr. Wood's emotions, cognition and actions at the time of the instant offense, it is important that each of his psychological issues be explained and their interaction discussed. The most significant area to be reviewed is the family environment that Mr. Wood endured as a child. Both of his parents were chronic alcoholics and this contributed to both his depression and his own development of alcohol and drug addiction. Mr. Wood was the second oldest child of Joseph Rudolph Wood, II and Mary Ramirez. Mr. Wood had one younger biological brother, Michael, and one older half-sister, Diana. Mr. Wood recalled that his father served in the U.S. Air Force for approximately 21 years and received an honorable discharge. Upon discharge, he worked several short-term positions (e.g., security guard, salesclerk, etc.). With regard to his mother, Mr. Wood indicated that she worked part-time as a cashier/clerk with a drug store. Mr. Wood related that his parents were married from 1957 until his father's death in 2001. Mr. Wood noted that his parents abused alcohol throughout his childhood and he never questioned it or thought it was unusual. He recounted that during high school, he began to realize that "their alcohol abuse was the source of all of their problems. All of their arguments occurred when they were drinking. From my earliest memory, they were always drinking. I thought it was normal. Sometimes, it became physical- Mom was always the one to start it. She would push, shove and hit. Then, Dad would hit back. They would have bruises, black eyes, cuts." Mr. Wood related that he and his brother were frightened and concerned that someone would be seriously injured or killed. He stated that in approximately 1982 his parents separated due to the ongoing fights. He estimated that they were apart for approximately 10 months. Mr. Wood added that "the police were frequently called and parents were charged with domestic violence and disturbing the peace." Mr. Wood noted that his father eventually went to alcohol treatment with the Veteran's Hospital and was sober for a period of time. Mr. Wood

noted, however, that his mother never entered treatment or attempted sobriety. Thus, he received a mixed message regarding whether alcohol abuse was a problem and when treatment was appropriate. Furthermore, his father was unable to sustain his sobriety and returned to daily abuse of alcohol.

Overall, Mr. Wood suffered ongoing trauma as a child. He recounted the following stressors: parents arguing and fighting near daily; father emotionally and physically abusive to Mr. Wood and his mother and siblings; father experiencing flashbacks of Vietnam and responding in a violent manner; father being arrested for Domestic Violence and driving under the influence; parents treating Mr. Wood in a cold, distant and unaffectionate manner; Mr. Wood struggling with depression; mother abusing alcohol; father abusing alcohol; Mr. Wood exposed to alcohol at a young age; Mr. Wood abusing alcohol as an adolescent; and Mr. Wood's brother abusing alcohol and drugs. These ongoing events that occurred throughout Mr. Wood's childhood resulted in his having difficulty with trust; developing low self-esteem, believing that he was inadequate and a failure, and being unable to form healthy relationships. Mr. Wood was plagued by overwhelming feelings of sadness, guilt, shame, embarrassment, frustration, fear, anxiety, anger and rage. He struggled with a distorted self-perception, feelings of hopelessness and helplessness to improve his circumstances. At points, he felt a sense of despair and futility about his life. This led to his development of a severe form of depression, Persistent Depressive Disorder, Early Onset, Severe.

As corroboration of Mr. Wood's self-report, the Veteran's Hospital medical records for Mr. Wood's father, Joseph Wood, Jr., were reviewed. As early as the period between 1978 and 1982, those records note that Mr. Wood's father suffered from alcoholism, had withdrawal seizures and liver disease.

As noted, Mr. Wood had one biological brother, Michael. Mr. Wood became very somber as he recounted that his brother was "tortured by our chaotic childhood. He was depressed and seemed intent on self-destruction. He abused excessive amounts of alcohol and drugs. He was reckless and was always flirting with disaster. He belonged

to a motorcycle gang and was always living on the edge." Mr. Wood recounted that he and Michael abused alcohol and drugs together. "He introduced me to cocaine and crank. It became an everyday thing for both of us." Mr. Wood added that "We also shared a love of motorcycles. He got me to riding motorcycles with a group of guys, selling drugs, feeling I had a place where I belonged."

Mr. Wood noted that his half-sister, Diana, was very different from him and Michael. He described her as married, employed and "living a different lifestyle. She had a different father and different childhood growing up. I always admired her for her success."

Research has demonstrated that children who grow up in a dysfunctional family environment are at increased risk for the development of depression and substance abuse. (Sources: National Institute of Drug Abuse- NIDA, National Institute of Alcoholism and Alcohol Abuse - NIAAA, and Substance Abuse and Mental Health Services Administration - SAMHSA) These children often develop psychiatric symptoms, such as Mr. Wood's Persistent Depressive Disorder, and they learn to self-medicate their symptoms with alcohol and other drugs. This was the case for Mr. Wood. He described ongoing use of alcohol and drugs to "self-medicate" his sense of depression and despair. Mr. Wood recounted that he had very few real friends as he was growing up, primarily acquaintances during middle school and high school. He noted that this pattern continued into adulthood with the exception of his involvement with his brother, the motorcycle gang, and his relationship with Pamela. Given that Mr. Wood endured repeated trauma and neglect throughout his childhood, he developed a distorted self-identity and very unhealthy interpersonal relationships. His impaired personality development resulted in his struggles with his female relationships. He did not have adequate coping skills or strategies and was overwhelmed by the frustration and sadness at having failed relationships. As a result, Mr. Wood developed a severe form of depression entitled Persistent Depressive Disorder. This depression began in childhood and continued throughout his adult years up until his arrest for the instant offense. He experienced symptoms of decreased energy, low self-esteem, feelings of hopelessness and despair. At points, his symptoms included poor appetite and hypersomnia. He was

never adequately diagnosed or treated. Thus, he began attempting to treat himself through his use of alcohol and other drugs. Unfortunately, his substance use only served to exacerbate his depression and sense of isolation and suspicion of others. Mr. Wood reported two instances of suicidal intent. He recalled that both occurred in 1983. He stated that the first involved an overdose of various medications and he was hospitalized and treated. The second incident involved his threatening to cut his wrist with a razor blade. He stated that his parents called the police and they intervened and he was again taken to the hospital. Mr. Wood explained that he had just returned from his military service in Korea and was "overwhelmed by sadness, disappointment with my life and I felt like a failure. My alcohol and drug abuse had escalated."

The next psychological disorder affecting Mr. Wood was his Substance Use Disorder. He abused stimulants (i.e., cocaine and methamphetamine) and alcohol. All of these substances impaired the functioning of Mr. Wood's central nervous system, resulting in mood swings, poor impulse control, difficulty with attention and concentration, disrupted processing of information and sensory input, poor judgment, difficulty with decision-making, aggressive behavior and distorted perception and memory. Mr. Wood had an extensive history of abusing these substances in combination. He related that he was introduced to alcohol at age eight. He shared that he was at a family gathering in Tennessee and he was introduced to "white lightning" (i.e., pure grain alcohol, often with a proof above 100) by his Father. He noted that his use of alcohol was infrequent until approximately age 14. He acknowledged that his use progressed and involved alcohol with his peers on a weekly basis. He stated that once he enlisted in the Air Force his use quickly progressed to near daily, up to 10 to 12 beers per occasion. "I came to realize that I was drinking to escape my life. I did not want to think of my past and my present was falling apart. I was no longer drinking in a social manner. I was drinking to be numb. I didn't want to talk to anyone. I was drinking to get drunk." Mr. Wood also disclosed that his drinking changed his personality. "When drinking, I had no patience; I was quick to anger; I reacted to the slightest events and became involved in fights." Mr. Wood recounted that his use led to his being admitted to Veteran's Hospital and treatment in their substance abuse program. He stated that following treatment he was free of alcohol

for almost two years, but he related that he was introduced to cocaine by his brother after only one year of sobriety. He recalled that he began spending time working on motorcycles, riding with a motorcycle group and using drugs regularly. Mr. Wood reported that his use of cocaine (snorting) continued for two years. He noted that he sold drugs to support his use and, at times, had an unlimited supply. Mr. Wood estimated that his first use of methamphetamine or "crank" was in 1986. He shared that his brother "disliked the impact of cocaine on me. He saw me losing weight, irritability, using more and more. He thought crank would be better for me. I noticed a big difference with crank. Cocaine would pick me up, but then it would drop me. Crank, on the other hand, would pick me up and I could coast for hours. I shifted to crank from that point on. Eventually, I put alcohol and crank together and my mind told me this was a good thing. It was some screwed up logic. When I would get too far out there on alcohol the crank would pull me back. If I was crashing on the crank, the alcohol softened the fall. I believed I was in control with the crank. I just did things faster. That was how I saw it." Mr. Wood noted that his daily use of alcohol and crank continued up until his arrest for the instant offense. He noted that he and Debra Dietz used together on a daily basis. During the days leading up to the offense, he relied upon Debra to acquire drugs for both of them to use. Mr. Wood reported periods of blackouts or loss of memory due to intoxication, as well as binge periods on the crank with no sleep. He recalled up to three days without sleep and only being able to come down with alcohol and Valium. He indicated that he attempted to limit the 'runs' on crank because he would become "suspicious, agitated, obsessive (e.g., taking equipment apart and putting it back together over and over), cleaning compulsively, etc.

Mr. Wood's addiction to alcohol and stimulants was the direct result of both genetic and environmental factors. (Sources: National Institute of Drug Abuse- NIDA, National Institute of Alcoholism and Alcohol Abuse - NIAAA, and Substance Abuse and Mental Health Services Administration - SAMHSA) The literature indicates that children of parents who abuse alcohol and other drugs are five to seven times more likely to develop an addiction. (Sources: National Institute of Drug Abuse - NIDA, National Institute of Alcohol Abuse and Alcoholism - NIAAA, and Substance Abuse and Mental Health

Services Administration - SAMHSA) With regard to his parents, Mr. Wood reported that both his mother and father were chronic abusers of alcohol. In addition to his parents, Mr. Wood noted that his paternal relatives were heavy, chronic users of alcohol, as well as his maternal relatives. Finally, Mr. Wood indicated that his biological brother, Michael, abused alcohol and drugs up until his death. Consequently, Mr. Wood was genetically predisposed to develop his own addiction.

Furthermore, the research regarding alcohol and drug dependence indicates that children who grow up in a dysfunctional family environment are at increased risk for substance abuse. (Sources: National Institute of Drug Abuse- NIDA, National Institute of Alcoholism and Alcohol Abuse - NIAAA, and Substance Abuse and Mental Health Services Administration - SAMHSA) These individuals often develop psychiatric symptoms and/or disorders that they learn to "self-medicate" with alcohol and other drugs. Mr. Wood suffered a chaotic childhood, involving alcohol abuse, violence, constant uncertainty, neglect and emotional abuse. The result for Mr. Wood was sadness, frustration, anger, and dysfunctional relationships. In addition, Mr. Wood was genetically predisposed to depression due to the history of mental illness within his paternal relatives. As a result of his depression, Mr. Wood turned to cocaine, methamphetamine and alcohol in an attempt to cope with his emotional pain. It is important to note that Mr. Wood had no control over his genetic make-up; the behavior of his parents and family members; or the type of environment where he grew up. These were factors were "given" to him. He had no choice or options regarding these circumstances. Furthermore, he did not use drugs with the intent of becoming addicted nor did he know how to manage his addiction, depression and neurocognitive impairments. Finally, Mr. Wood's mother and father were fully aware of his abuse of substances throughout his teen years and they failed to take any action to intervene, educate or treat his addiction.

The last area to be considered was Mr. Wood's neurocognitive impairments as reported by Kenneth B. Benedict on July 20, 2014. Dr. Benedict noted that prior to trial "Mr. Wood received intelligence, memory and personality testing. However, until the present evaluation, he has never received an in-depth neuropsychological evaluation, despite a

disclosed history of head injury and substance abuse and dependence." Based upon his assessment, Dr. Benedict concluded that "the composite pattern of test results indicates that Mr. Wood has neuropsychological weaknesses in the areas of auditory and visual working memory, the speed with which he is able to process and react to information and the efficiency and adaptability of his problem-solving when he is in novel or more complex situations involving changing or unexpected conditions." He opined that these neuropsychological weaknesses were present prior to Mr. Wood's commission of the instant offense. Dr. Benedict noted that "with respect to the etiology of the neuropsychological weaknesses found in this evaluation, and suspected in the 1990 evaluation, it is difficult to know for certain whether they reflect constitutional or acquired problems, or some combination of both. However, review of school and medical records leads the evaluator to place somewhat greater emphasis on acquired factors given the multiple closed head injuries reported and the degree of substance abuse and dependence, both of which are known to aggravate and/or cause the functional problems just described." Dr. Benedict explained that "in terms of functional ramifications, the aforementioned difficulties will be associated with slow and/or inconsistent completion of tasks, problems remembering (or actually encoding) lengthier sets of instructions, and inconsistent attention to detail. Individuals with this profile are prone to "spacing out" when dealing with large amounts of incoming information. Under stress, adaptive coping behavior is likely to deteriorate more quickly than would be expected of someone with average intelligence. Unresponsiveness to corrective feedback and inflexibility of behavior may also be expected during times of stress, as would be brief periods of impulsive responding." It is important to note that Mr. Wood's impairments were evident developmentally and have been compounded by his alcohol and drug abuse, and cumulative episodes of closed head injury. Dr. Benedict opined that "brain-based difficulties with sustained attention; speed of processing information and adaptive problem-solving under stressful and changing conditions served as exacerbating influences at the time of Mr. Wood's offense."

In considering all of Mr. Wood's disorders at the time of the instant offense (i.e., Persistent Depressive Disorder- Early Onset, Severe, Substance Use Disorders and

neurocognitive impairments), it is my professional opinion with a reasonable degree of psychological certainty that these disorders were sufficient to significantly impair his emotions, cognition, perceptions and behavior at the time of the instant offense. In combination, these disorders had a synergistic effect. Each disorder exacerbated the effects of the other and directly contributed to his behavior at the time of the instant offense.

In considering the presentation of mitigating factors during Mr. Wood's trial, it is my professional opinion that a qualified mental health professional could have identified similar mitigating factors and offered similar conclusions and opinions regarding the childhood trauma, depression, and substance abuse. Data provided for my review demonstrates that Mr. Wood suffered from significant mental illness at the time of the offense, including Persistent Depressive Disorder – Early Onset, Severe; Alcohol Use Disorder – Severe; Stimulant Use Disorder – Severe; and neurocognitive impairments. Furthermore, the data regarding Mr. Wood's substance abuse is compelling. His self-report of abuse of alcohol and stimulants leading up to the days prior to the instant offense is corroborated by witnesses. These disorders, depression, neurocognitive impairments and substance use disorder, co-occurred at the time of the offense and were exacerbated by the fact that Mr. Wood had gone for an extended period of time without sleep. Thus, Mr. Wood was suffering from a significant mental illness (i.e., Persistent Depressive Disorder and neurocognitive impairments) and was affected by the alcohol and methamphetamine that he consumed on a daily basis up until only two days prior to the commission of the instant offense. Mr. Wood recounted that "I was using more and more. I would be late for work or not show at all. I felt it all slipping away and I couldn't stop it. I was surrounded by drugs and alcohol. I tried to convince myself that I could control it, but now I know that was a lie. I was out of control and my mental and emotional processes were going sideways- depressed, suspicious, agitated. I was lost and I saw my family and career slipping away. I loved everything about my marriage to Pam and having a child, but I found myself pulling away from the ones I loved. That is a pattern in my life, pulling away and not trusting the ones I love. I spent more and more time away from them, drinking and drugging. I let them go- like I was sabotaging myself."

Mr. Wood noted that he lost his first wife due to his substance abuse and he thought he found the perfect second wife, Meredith, because "she drank as much as I did." He noted that 'this was not true. In fact, the relationship with Meredith was simply a crutch to help me cope with the loss of my wife and child. In the end, it was a horrible mistake. We were constantly drinking, suspicious of one another, and jealous of everyone around us. We would get drunk, argue and fight. It was a disaster. It ended after only six months." Mr. Wood identified that this pattern of unstable and dysfunctional female relationships continued when he began dating Debra Dietz. He emphasized that her parents were very protective of her and "I did not know how to deal with them. They tried to convince her to stay away from me, but we were sneaking around and still seeing one another. As time passed, I became more and more suspicious of her. I wasn't sure that I could trust her. I fell back into old patterns, thinking 'this is just temporary,' I can't trust her and if I commit she will only betray me and I will be hurt. This fit with all I had learned from my family – it can all fall apart at any minute and you cannot trust anyone. Of course, abusing the alcohol and crank did not help anything." Mr. Wood recounted that "I had too much failure. I lost my career in the Air Force, lost my opportunity at working in HVAC, messed up my first marriage, impulsively tried a second marriage, and alienated my son. I would tell myself to just hang in there and that I could fix everything. I tried to push back the frustration, hurt and anger so that I could put everything back on track. The alcohol and drugs just took over and I had no control. I felt hopeless and desperate." Mr. Woods recalled that when Ms. Dietz suddenly stopped visiting with him and communicating he had no funds and no access to alcohol and methamphetamine. He explained that for the first time in his life he was "so out of control that I had no income from selling drugs and no contacts on the street to front me drugs" (i.e., give me drugs now and I would pay for them later). He emphasized that he had become dependent upon Ms. Dietz to bring him drugs. He stated that after one day he began experiencing withdrawal (i.e., depression, agitation, unable to focus or concentrate, headaches, mood swings). Mr. Wood recounted that during the last two days prior to the offense he had minimal sleep, no access to alcohol or methamphetamine, and became progressively more emotionally labile and confused. This period of withdrawal was significant and impaired his cognitive and emotional functioning. Thus, there was a causal relationship

between Mr. Wood's mitigating circumstances and the crime. In combination, his disorders (i.e., depression, neurocognitive impairments, substance abuse, sleep deprivation, and history of being a victim of trauma) overwhelmed Mr. Wood's ability to control his behavior at the time of the offense. Furthermore, as a result of the combined effect of his disorders (i.e., Persistent Depressive Disorder, neurocognitive impairments, and substance abuse), Mr. Wood's capacity to conform his conduct to the requirements of the law was significantly impaired. As Dr. Benedict concluded, the neurocognitive impairments were exacerbated by "stressful and changing conditions." At the time leading up to the instant offense, Mr. Wood was overcome with a sense of failure, despair, and depression. Due to the affects of his depression, addiction and neurocognitive impairments, he was overwhelmed and unable to cope with the changes and stresses in his life at that time.

It is important to note that Mr. Wood like all children of alcoholics/addicts, are at extreme risk for developing their own addiction. Specifically, children of alcoholics/addicts are five to seven times more likely to develop an addiction to alcohol and other drugs than their peers. This susceptibility is directly related to a genetically inherited trait. In considering Mr. Wood's family, the data indicated that his parents, maternal relatives, paternal relatives and brother had a significant history of abusing alcohol and other drugs. This positive family history for substance abuse placed Mr. Wood at risk for developing his own addiction to alcohol and other drugs. It is important to note that he was unaware of this risk and he did not have any control over his genetic susceptibility.

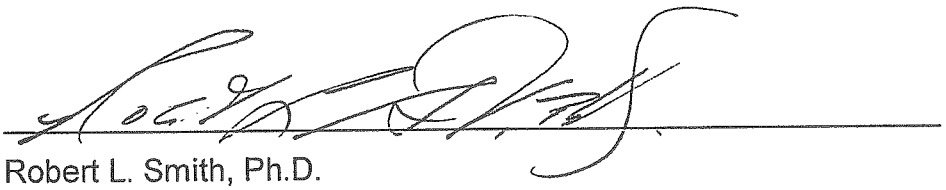
The research regarding alcohol and drug dependence also indicates that children who grow-up in a dysfunctional family environment are at increased risk for substance abuse. (Sources: National Institute of Drug Abuse- NIDA, National Institute of Alcoholism and Alcohol Abuse - NIAAA, and Substance Abuse and Mental Health Services Administration - SAMHSA) These individuals often develop psychiatric symptoms and disorders that they learn to "self-medicate" with alcohol and other drugs. Mr. Wood experienced a number of significant stressors as a child and had inadequate strategies to cope with these circumstances. As a result of these traumatic events which he could not control, he developed low self-esteem; viewed himself as inadequate and ineffectual; and

suffered from feelings of despair and depression. He learned early in life that he could escape his emotional pain by abusing alcohol and stimulants. Unfortunately, he did not realize his susceptibility to addiction or the fact that his substance abuse exacerbated his mood swings, adding to his problems. Furthermore, the research regarding alcohol and drug dependence indicates that children who grow up in a dysfunctional family where alcohol and drug abuse is accepted come to believe that substance abuse is "normal." As a result, they do not recognize the negative risks associated with substance use or the negative consequences associated with abuse. Mr. Wood was surrounded by family and peers abusing alcohol and other drugs throughout his life.

To further understand Mr. Wood's craving for substances and relapse following treatment, it is imperative that the biological processes underlying compulsive use, cravings and the struggle with abstinence be adequately explained. In considering Mr. Wood's abuse of alcohol and stimulants, the research has demonstrated that the chronic use of these substances results in the release of very high levels of a neurotransmitter, dopamine. (Sources: National Institute of Drug Abuse- NIDA, National Institute of Alcoholism and Alcohol Abuse - NIAAA, and Substance Abuse and Mental Health Services Administration - SAMHSA) This release of dopamine occurs in areas of the brain that regulate feelings of pleasure called the "reward center." The result of this excess of dopamine is and experience of intense euphoria. As Mr. Wood's abuse of these substances continued, the ability of his brain to produce dopamine was significantly reduced and he experienced a drop in the level of dopamine, resulting in an intense craving for more alcohol and stimulants. As his level of dopamine repeatedly dropped, he required higher and more frequent doses of each of the substances in order to achieve the same level of intoxication or "high." When he attempted to discontinue his use of these substances, he felt intense cravings, depression, agitation, irritability and physical withdrawal. Based upon Mr. Wood's self-report, and the accounts of his family members and friends, Mr. Wood abused alcohol and stimulants for many years and displayed symptoms of acute intoxication and withdrawal at various times. This intense addiction and the related physiological changes in brain chemistry resulted in Mr. Wood's struggle to achieve abstinence and his history of relapse.

In light of Mr. Wood's struggle with neurocognitive impairments, depression and addiction, it is important to review his attempts at treatment. First, Mr. Wood's parents were fully aware of his alcohol abuse as a teenager and they took no action to address his addiction. Mr. Wood related that as an adult, and the records confirmed that he attended a drug treatment program at the Veteran's Hospital in 1984. It is important that the treatment staff were unaware of Mr. Wood's neurocognitive impairments and depressive disorder. Thus, the staff did not know that they needed to modify their educational approach to assist Mr. Wood in fully comprehending his addiction and the steps required to sustain his abstinence. In addition, the staff did not realize that Mr. Wood had a longstanding history of depression that he treated with various substances. Thus, his treatment focused solely upon his abuse of substances, but did not consider the impact of his depression and neurocognitive deficits upon his recovery. As a result, Mr. Wood's treatment was inadequate to assist him in achieving sustained abstinence. Based upon the research regarding the treatment of individuals with co-occurring mental illness, neurocognitive impairments and substance dependence, Mr. Wood required an intensive treatment program, with coordinated services, including: individual counseling, group counseling, case management, modified education that was adapted to overcome his learning deficits, instruction regarding co-occurring disorders, psychotropic medication, life skills training, vocational skills development and stable, sober housing following treatment. Unfortunately, Mr. Wood did not receive this type of care and, despite his sobriety from alcohol and drugs for one year; he was unable to sustain his abstinence. He related that one year after his treatment, he was introduced to cocaine by his brother and he quickly progressed to regular use. He stated he was then introduced to methamphetamine and shifted his use from cocaine to methamphetamine. Two years after treatment, Mr. Wood returned to abusing alcohol. From that point forward, he abused alcohol and methamphetamine (i.e., "crank"). He indicated that he used alcohol and crank to cope. Mr. Wood's pattern of alcohol and methamphetamine abuse continued up to the time of the instant offense. As a result of the combined effect of his disorders (i.e., Persistent Depressive Disorder, neurocognitive impairments, and substance abuse), Mr. Wood's capacity to conform his conduct to the requirements of the

law was significantly impaired. As Dr. Benedict concluded, the neurocognitive impairments were exacerbated by "stressful and changing conditions." At the time leading up to the instant offense, Mr. Wood was overcome with a sense of failure, despair, and depression. Due to the negative impact of his depression, addiction and neurocognitive impairments, Mr. Wood was completely overwhelmed and unable to cope with the changes and stresses in his life at the time of the instant offense. He responded to these stressors in an impulsive and erratic manner that ended in aggression and violence toward the victims, resulting in their deaths.



Robert L. Smith, Ph.D.
Clinical Psychologist/Certified Addiction Specialist

7/21/2014
Date

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Joseph Rudolph Wood, III, Petitioner, vs. Charles L. Ryan, et al., Respondents.	No. CV-98-00053-TUC-JGZ Death Penalty Case Order **Execution Scheduled for July 23, 2014 at 10:00 a.m.**

Before the Court is Petitioner's Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e). The Court orders that the Motion is GRANTED and further orders that the execution of Joseph Rudolph Wood III scheduled for July 23, 2014 at 10:00 a.m. is STAYED.

Dated this ___ day of _____ 2014.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Joseph Rudolph Wood, III, Petitioner, vs. Charles L. Ryan, et al., Respondents.	No. CV-98-00053-TUC-JGZ Death Penalty Case Order

Before the Court is Petitioner's Motion to Alter or Amend Judgment Pursuant to Fed. R. Civ. P. 59(e). The Court hereby orders that it grants a Certificate of Appealability.

Dated this ___ day of _____ 2014.