State of Arizona v. Clarence Wayne Dixon
Exhibits to Motion to Determine Mental Competency to be Executed

Exhibit 1	Psychiatric Evaluation Report by Otto Bendheim, M.D., September 2, 1977
Exhibit 2	Psychiatric Evaluation Report by Maier Tuchler, M.D. September 2, 1977
Exhibit 3	Minute Entry (ordering civil commitment proceedings), *State v. Dixon*, No. CR 98107 (Maricopa Cnty. Super. Ct. Jan. 5, 1978)
Exhibit 4	Indictment, *State v. Dixon*, No. CR 2002-019595 (Maricopa Cnty. Super. Ct. Nov. 26, 2002)
Exhibit 5	Psychological Report by G. Carl, April 23, 1981
Exhibit 6	Attorney Garrett Simpson Memorandum Letter to Clarence Dixon, October 25, 2005
Exhibit 7	Attorney Vikki Liles Letter to Attorney Larry Hammond, November 14, 2005
Exhibit 8	Draft Motion to Suppress DNA Evidence by Clarence Dixon, May 2003
Exhibit 9	Psychiatric Evaluation Report by Lauro Amezcua-Patino, M.D., March 31, 2022
Exhibit 10	Can & Do the Courts Collude by Clarence Dixon, 2001
Exhibit 11	Complaint Against a Judge filed by Clarence Dixon, March 12, 2002
Exhibit 12	Attorney Larry Hammond Letter to Clarence Dixon, August 7, 2000
Exhibit 13	Neuropsychological/Psychological Evaluation Report by John Toma, Ph.D., June 30, 2012
Exhibit 14	Positron Emission Tomography (PET) scan and Diffusion Tensor Imaging (DTI) Scan Clinical Correlation Report by Joseph Wu, M.D., March 18, 2013
Exhibit 15	Psychiatric Evaluation Report by Lauro Amezcua-Patino, M.D., September 7, 2012

Exhibit 1

OTTO L. BENDHEIM, M.D.
CAMELBACK PROFESSIONAL BUILDING
5051 NORTH 84TH STREET
PHOENIX, ARIZONA 85018
TELEPHONE 955-8200 955 1090

FILED
Sep 14 1977 11:27 AM
BY [illegible]

RECEIVED
SANDRA D. O'CONNOR
SEP 7 1977
JUDGE OF THE SUPERIOR COURT

September 2, 1977

98107

The Honorable Sandra D. O'Connor
Judge of the Superior Court, Division 29 I
Superior Court Building
Phoenix, Arizona 85003

re: Clarence W. Dixon
Cr # 98107

Dear Judge O'Connor:

Clarence W. Dixon was examined upon your request. The examination took place at my office in Phoenix on August 26, 1977. The interview lasted for one hour and 45 minutes but due to the condition described below, the examination was not entirely satisfactory and no very definitive conclusion could be reached. For this reason the defendant was asked to return to my office on August 31, 1977. He was then given another hour and 15 minutes of intensive psychiatric interview on August 31, 1977. After spending more than the usual time with this defendant, I arrived at the following opinion:

Opinion

1. While the defendant is of normal or superior intelligence, while he is well oriented and fully aware of his present circumstances, he is so severely depressed, he blocks so much and hesitates between answers to the extent that many questions remained totally unanswered, that I feel he is at this time not able to stand trial; and while he understands the nature of the proceedings against him, he is not able to assist counsel in the preparation of his own defense.

2. While the defendant has a substantial and competent awareness of his legal rights, he cannot make competent decisions regarding the waiver of these rights. I feel that while he has a factual understanding of the consequences of entering a plea of guilty, this understanding is not rational because repeatedly during the interview the defendant said, "I just want to get sentenced. Maybe I should get sentenced and go to prison for three years," this with many tears, with suppressed sobbing and with the attitude of utter despair and desperate depression.

3. I believe that this man is suffering from very severe depression, possibly with an underlying psychosis. The exact nature of his mental illness could not be determined but a schizophrenic psychosis is considered to be the most likely diagnosis.

4. I consider it quite likely that given time and proper treatment, this defendant will become competent to stand trial within two to six months.

5. It is recommended that the defendant be admitted to the Arizona State Hospital for a period of intensive observation and therapy until his competency is restored.

001327

Opinion

6. In view of the police reports and the transcript of the preliminary precinct hearings, it is my opinion that there is a potential dangerousness to others. From my own observation, I found the defendant definitely "gravely disabled."

7. The victim of the alleged crime as well as the investigating police officer considered this man confused, disoriented and irrational at the time and shortly after the alleged offense. I would agree with this estimation of his mental condition and would further state that the possible motive, which the defendant mentioned in explanation of his act of violence, is irrational, and would indicate presence of serious mental illness.

One could conclude, tentatively, that he was not fully aware of the difference between right and wrong, not fully in control of his actions, not fully aware of the nature and consequences of these actions, and that he was unable to conform to the requirements of the law and of society at that time.

8. I have a strong feeling that without presence of the mental disturbance, the act of violence would not have taken place.

I had available background material made available to me through the courtesy of Paul Lazarus, Esq., of the County Attorney's Office. This material consisted mainly of police reports and transcript of the preliminary hearing. These were carefully reviewed and taken into consideration.

Examination

Identification

The defendant is a very slightly built, young adult, full blooded Navajo. He stands 5' 8", weighs only 115 pounds. He has long dark hair, wears eye glasses, has no beard. He appears quite poorly developed and the face appears quite emaciated. His expression is one of severe depression. There is much crying and suppressed sobbing during the entire interview. I believe that the defendant cooperated to the best of his capacity.

History

He told me that he was born in Fort Defiance in 1955. Both parents were full blooded Navajos. They were divorced after they had eight children. The father was a well educated high school principal, later an Educational Specialist for the BIA. He died following surgery on his legs several years ago. The mother is living and well. There are four brothers and three sisters living and well.

The defendant is not aware of any neurological or psychiatric disease within the family except that his father used to suffer from migraine headaches and consulted a psychiatrist in Farmington, New Mexico.

History

The defendant states that he was the only one of the eight brothers and sisters who got along with their father. The others did not like him and for this reason, he is the only one who is trying to achieve a college education.

The defendant was graduated from high school in Fort Defiance at age 19, with average grades. He is now attending Arizona State University with the objective of an engineering degree. At the present time he is working steadily as an automobile mechanic at a service station in Chandler. He has held thisjob for one year. Before that he held another similar job, also for about a year.

Health He states that his own health has been poor. He had cardiac surgery apparently for a valvular defect when he was 12 years of age. He states that he made a good recovery. He has never had any fainting spells, epilepsy, head injuries or any other serious illness except for heart disease.

Legal He has had no prior experiences with legal authorities except one arrest for disturbance of the peace in Window Rock some three or four years ago, when he was drinking and making a nuisance of himself.

Marital He was married a year and a half ago. There are no children. He describes his marriage as unhappy, which is described below.

Mental Status

He is very well oriented. He knows the exact time of day, day of week, date, etc. He knows the address of the professional building, knows that I am a psychiatrist, "a person trained to analyze mental disorders." He knows that he came in order to see "if I was mentally sane."

He knows that he is charged with assault with a deadly weapon, defines this term quite correctly, and knows that this would be criminal and punishable. He has an excellent idea of the functions of judge, jury and prosecuting attorney. After hesitating a great deal, he finally gives the name of his own attorney, Mr. Balkan. He hopes that he can trust him but, after long hesitation and much urging, he tells me that he cannot tell his own attorney everything that he knows. Neither can he tell me, his court appointed psychiatrist, because it is too difficult and he just cannot talk.

He tells me however that he remembers all the incidents on that particular night. He had not been drinking, he had not been taking any illegitimate drugs, marijuana, etc.

He has an excellent understanding of the meaning of waiver of rights but I do not believe that he can act rationally upon such a decision because on several occasions he assures me that he wants to be sentenced and put into prison, that he is very remorseful, and that he is totally puzzled, bewildered, and cannot talk about what has happened.

He has an understanding of the meaning of plea of guilty, knows its consequences, "a prison sentence," but again I do not believe that he can rationally enter such a plea.

Mental Status

I tried to go over the scene of the crime again and again. The defendant is unable to open up, relax and talk about it, except as mentioned on a separate page. He did tell me however, "I was irrational that night."

The defendant displays a superior intelligence, good fund of general knowledge, excellent mathematical abilities, sufficient capacity to interpret proverbs, define differences, etc. etc.

I found no evidence of true delusions or hallucinations with the one marked exception of a possible delusional thought content at the time of the act of violence.

Throughout the entire interview the defendant spoke in a low, monotonous voice, interrupted by sobbing and crying, and at times inaudibly low so that I had to repeat my questions frequently. Often there was a pause of one to three minutes before he could answer. Often he did not answer at all.

During the second interview, on August 31, 1977, the defendant was equally depressed, blocked, appeared at times retarded in psychomotor activities, and always preoccupied with most unpleasant and sad thoughts. His facial expression was one of utter despair, the voice again very low, at times unintelligible, and he cried on several occasions.

He readily admitted to me that something was wrong with him and that he didn't know quite what it was. When I suggested that he undergo treatment for his obvious severe depression, he hesitated for a long time and then came up with his fear that if he were to be hospitalized at this time, it would curtail his progress in college and he may lose an entire semester. I indicated to him that in his present condition, he could hardly be expected to perform well in engineering school, whereupon he answered that somehow he feels he could handle his studies, this not brought forth with a great deal of conviction, and again was interspersed with sobbing, hesitation, ambivalence, doubtfulness and uncertainty.

When I asked him to go again over the alleged crime, he made a statement very similar to the one given on a separate page, which he had made during the previous interview.

He again talked about the unhappiness in his marriage, the fact that he had considered divorcing his wife on several occasions, that while he has not displayed any violence in her presence nor had any intent to hurt her, nevertheless he did not consider it impossible at all that a substitute for his wife, for instance the victim who was totally unknown to him, could have served as an object of his suppressed despair, anger and disappointment in his wife.

Respectfully submitted,

OTTO L. BENDHEIM, M. D.

OLB:dl

Name Clarence W. Dixon

77 0099 016

Date 8/26/77

COMPETENCY TO STAND TRIAL

1. Does the defendant have the mental capacity to appreciate his presence in relation to:

A. Time — 11:30 AM, Friday, August 26, 1977

B. Place — Professional building in Phoenix

C. Person — You are a psychiatrist, a person trained in analyzing mental diseases

D. Things — to see if I was mentally sane

2. Are his mental processes such that he apprehends that he will be in a court of justice charged with a criminal offense? yes

A. What is the charge? — assault with a deadly weapon

B. Definition — assault - striking someone
deadly weapon - any object that could inflict harm upon a person

C. Is this a crime? — yes

D. Is it punishable? — yes

3. Does he apprehend that there will be a judge on the bench? yes

A. What is his function? To see that justice is carried out for both sides

4. Does he apprehend that a prosecutor will be present who will try to convict him of a criminal charge? yes

What is his function? — to defend the State and the innocent

5. Does he apprehend that there may be a jury present to pass upon evidence adduced as to his guilt or innocence of such charge? yes

What is its function? — they make the final decision whether a person is guilty or not guilty

6. Does he apprehend that he has a lawyer who will undertake to defend him against that charge? yes

What is his name? — Mr.Baikan

001331

Name Clarence W.Dixon

COMPETENCY TO STAND TRIAL

77 009016

7. Does the defendant believe that he can trust and confide in his lawyer?

Yes

8. Does the defendant apprehend that he will be expected to tell his lawyer the circumstances and the facts surrounding him at the time and place where the law violation is alleged to have been committed, to the best of his mental capacity (whether colored or not by mental aberration)?

Long hesitation -- I don't want to tell him everything

9. Does the defendant have memory sufficient to relate those things in his own personal manner? yes

A. Was he intoxicated? no

1. How much did he drink? nothing

2. In what period of time?

3. Had he eaten during the 12 hour period prior to the event? yes

B. Was he under the influence of alcohol? no

C. Was he under the influence of drugs? no

1. Name of drugs none

2. Quantity

3. Time of consumption

10. Waiver of rights

A. What is meant by waiver of rights? when you push away your rights

B. Do you know that you do not have to talk to me about the events leading to the charges? yes

C. If you choose to talk to me about this, do you know that your statements will be quoted in my report to the court? yes

11. What does a plea of guilty mean? It means to admit that you have done something wrong.

12. What are the consequences of entering a plea of guilty? a prison sentence

OTTO L. SPIEGEL, M. D.

001332

Defendant Statements pertaining to events leading to charges

The following statements were made by the defendant voluntarily, knowing that his remarks would be quoted to the court. He understood that he did not have to talk to me about the events.

The defendant stated that on the night of June 4 he felt quite bad. He had had difficulties with his wife, particularly since the visit of her little nine year old brother. The defendant felt that in the presence of her brother, his wife had tried to be a fine wife, an exemplary housekeeper etc., but when there were no witnesses, she would treat him, the defendant, like a little puppy or infant. She would just sit around the house reading, sleeping, doing nothing, some times not even cooking for him. "She would just do nothing."

He was particularly irritated with her and on that particular day, he had had a fight with three customers, a fight which he had provoked. He had told one of the customers that he considered him stupid because the customer asked where he should put the oil into his car. After the defendant called him stupid, the customer called him a dumb Indian, was sarcastic and the defendant began a fight with all three of them. He was beaten up by the three.

Later on at midnight, he left his service station at the termination of his work, but instead of going home, he drove around; then parked silently somewhere in the neighborhood; then proceeded to drive again; got out of his car, took a metal pipe into his pocket, and when he approached the victim, whom he did not know at all, he made an innocent remark to her and then hit her over the head.

When I asked him how he could explain this, there was a long pause of perhaps two minutes. He could not talk, just sobbed and cried, then came out with the following statement, "Some times I keep thinking that this girl was my wife. Maybe subconsciously I wanted to hit my wife. She does not do anything, she sleeps and sits around." He then gives an expression of extreme unhappiness, again blocks, is unable to talk, unable to make any further statements.

OTTO L. BENDHEIM, M. D.

Exhibit 2

MAIER I TUCHLER, M.D.
[illegible] NO 36TH STREET
PHOENIX, ARIZONA 85018
955-6470

FILED
SEP 14 1977
WILSON D. THOMAS, Clerk
By B Bowers Deputy

RECEIVED
SANDRA D. O'CONNOR
SEP 15 1977
JUDGE OF THE SUPERIOR COURT

September 2, 1977

The Honorable Sandra D. O'Connor
Judge, The Superior Court
Maricopa County Courthouse
Phoenix, Arizona 85003

Re: Clarence W. Dixon
CR: 98107

Dear Judge O'Connor:

Clarence Dixon presented at this office in the afternoon of August 29, 1977, for psychiatric evaluation pursuant to your authorization. The following is a report.

Clarence Dixon is a twenty-two year old Navajo, born at Fort Defiance August 2[illegible], 1955. He was educated at Window Rock High School between 1971 and 1972, with further training at Huntington Park night school when working in Los Angeles as a gas station attendant in 1972 to 1973. He returned to Chinle where he lived with his mother, attended Chinle High School and graduated in 1974.

The above brief resume was reported in a soft spoken voice which could hardly be heard, with much blocking. He spoke in monosyllables and although the material above presented is relatively without sensitivity, he had great difficulty in reporting even so brief a history.

He moved with his mother to Tryea from Chinle after his father died in 1975. His father was a teacher in Chinle. Clarence is the fourth of a sibship of eight.

As a boy of twelve he was treated at Children's Hospital in Phoenix for heart murmur and underwent cardiac surgery.

Since the Summer of 1976 he has been attending A.S.U. and is starting his sophomore year. He is living in Tempe with his wife at 950 South Terrace Road. He married in 1976. His wife is a navajo whom he met at Window Rock. The above few paragraphs were obtained with great difficult and it was equally difficult for the patient to report that he had been involved in disturbing the peace in Window Rock. He was arrested for disturbing the peace while intoxicated at a friend's home.

He recognizes that he becomes personally disturbed when drinking which leads to his spontaneous comment that his wife states he does not care about anything or anybody. He describes many bouts with loneliness and on June 5th, he reported he had had a bad day at work. He works at a service station between three and eleven o'clock, in Chandler, a job he has held since August of lost year.

He got into a quarrel with a Chicano when out in a tow car, pulling a broken down vehicle to the station. He was on his way home when the incident occurred. He states he didn't feel like going home although he does not know what got him upset. He pulled off a side street and parked. He sat in the car for fifteen minutes he recalls, stating "It was a nice night."

He does not know why he put a pipe in his pocket and walked. He related the facts of the incident quite as he had reported them to the police. As he reports his history, in those areas of sensitivity, he blocks and breaks into tears.

It becomes obvious that he has had difficulties with his marriage. She wanted him to live at home and on one occasion he went to the gas station where he stayed over night. His wife broke windows in their apartment and called the police on him when they were having a fight. He states, "It was all saved up, all my anger."

There is no immediate history of drugs involving alcohol, the usual psychedelics or l.s.d. While living in Los Angeles he tried cocaine, barbiturates and marijuana but there is no evidence of drug intoxication prior to this reported incident.

In reviewing the Justice Court transcripts of June 22, 1977, the arresting office, Mr. Philip Cicero, reported the patient seemed confused but could not give the officer a reason why he did it.

On this date Mr. Dixon is able to review the Constitutional rights waived on entering a plea of guilty which were read to him, and he was able to respond with a moderate degree of blocking but certainly with comprehension of the consequences of entering such a plea of guilty , on both a rational as well as a factual basis.

He understood he was to appear before a Judge, before a jury with prosecution and defense attorneys pleading each side of the alleged assault with a deadly weapon for which he is charged.

Clarence is a college level student but it is extremely difficult to understand through this examination, the degree of his emotional difficulties for the mental status examination reveals several characteristics which are clearly abnormal. Although he is oriented for time, place and person, and is fairly well educated, he is exceedingly slowed in responses, markedly withdrawn and obviously depressed. Blocking is characteristic and has prolonged the interview interminably.

As the patient reports on his relationship with his wife, his contents become somewhat bizarre and it is the opinion of this examiner that Clarence Dixon was under the delusionary belief that the victim, Christy Guerra, may have been identified in his mind as his wife. In other words, he was slashing out at a stranger while responding to fantasies that he was attacking his wife.

His marriage is indeed in a stormy situation and much rage is felt toward the wife although he has great difficulty expressing it. It is the opinion of this examiner that at the time of the commission of the offense Clarence Dixon was presenting a transient mental illness in which reality was lost to him, and he presented as an undifferentiated schizophrenia.

I would thus feel that he is not now competent to stand trial although he is able to

understand the nature of the proceedings against him he cannot assist counsel in the preparation of his defense. At this time he presents symptoms of undifferentiated schizophrenia, in partial remission.

He remains depressed and is markedly blocked and has great difficulty controlling his tears. His affect is flat and it is exceedingly difficult to make contact with him. This is the type of case where a second and a third interview are frequently needed as well as an interview with the patient's kinfolk.

Lacking this latter opportunity, I would urge that he be evaluated at the State Hospital for I would consider him dangerous to self and probably gravely disturbed. That he has been dangerous to a fifteen year old is in evidence.

This undifferentiated schizophrenia is the cause of the incompetency. The defendant may become competent to stand trial after reasonable treatment at the State Hospital as recommended in view of his therapeutic needs and potential danger to the community.

Very truly yours,

Maier I. Tuchler, M.D.

mit:mgf

Exhibit 3

IN THE SUPERIOR COURT
OF
MARICOPA COUNTY, STATE OF ARIZONA

OFFICE DISTRIBUTION

APPEALS	
BONDS - REFUND	
FORFEITURE	
CHANGE OF VENUE	
JURY FEES	
REMANDS	
SENTENCING	

78 0 5909

29-T January 5, 1978 HON. SANDRA D. O'CONNOR
DATE JUDGE OR COMMISSIONER

WILSON D PALMER, Clerk
Lucy Martinez Deputy

CR 98107

STATE OF ARIZONA

vs

CLARENCE WAYNE DIXON

98107

County Attorney
by: Paul Lazarus

Adult Probation Office

Public Defender
by: Peter Balkan

Maricopa County Sheriff's Office

Arizona State Hospital

This is the time set for Rendition of Verdict. Paul Lazarus, Deputy County Attorney, is present for the State. Defendant is present with Counsel, Peter Balkan. David Minder, Court Reporter, is present.

Defendant's Exhibit 5 is marked for identification and is stipulated directly into evidence - Original four-page report of Dr. Otto L. Bendheim.

This matter having been submitted to the Court for Rendition of Verdict based on Exhibits in evidence, Exhibits 1 through 5, and Defendant having waived trial by Jury, and this matter having been under advisement until this date, and the Court having considered all of the evidence submitted,

IT IS ORDERED finding Defendant not guilty by reason of insanity.

IT IS ORDERED directing the County Attorney, Civil Division, to commence civil committment proceedings within ten days of this date in accordance with the statutes of this State, Arizona Revised Statutes, Section 36-501, and following, that a certified copy of this order is sufficient compliance with A.R.S. 36-501 to begin such proceedings.

Defendant may remain released pending civil proceedings.

Sandra D. O'Connor
HON. SANDRA D. O'CONNOR

CLERK OF THE COURT
MAIL DISTRIBUTION CENTER
Received: JAN 5 1978
Processed: JAN 6 1978

001360

Exhibit 4

RICHARD M. ROMLEY
MARICOPA COUNTY ATTORNEY

Juan M. Martinez
Deputy County Attorney
Bar Id #: 003469
301 West Jefferson, 5th Floor
Phoenix, AZ 85003
Telephone: (602) 506-5780
MCAO Firm #: 00032000
Attorney for Plaintiff

QUADRANT UA/COMPLEX CASE

DR 78-00248 - Tempe Police Dept.

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA,	)	NO. CR 2002-019595
	)	
Plaintiff,	)	301 GJ 357
	)	
vs.	)	INDICTMENT
	)	
CLARENCE WAYNE DIXON,	)	**COUNT 1:** FIRST DEGREE MURDER,
	)	A FELONY
Defendant.	)	**COUNT 2:** RAPE IN THE FIRST DEGREE,
	)	A FELONY

The Grand Jurors of Maricopa County, Arizona, accuse CLARENCE WAYNE DIXON, on this 26th day of November, 2002, charging that in Maricopa County, Arizona:

COUNT 1:

CLARENCE WAYNE DIXON, on or about the 7th day of January, 1978, with premeditation and malice aforethought, willfully, deliberately and unlawfully, killed DEANA LYNN BOWDOIN, in violation of A.R.S. §§ 13-451, 13-452 and 13-453.

IN THE ALTERNATIVE

CLARENCE WAYNE DIXON, on or about the 7th day of January, 1978, committed or attempted to commit Rape in the First Degree and, in the course of and in furtherance of such offense, CLARENCE WAYNE DIXON caused the death of DEANNA LYNN BOWDOIN, in violation of A.R.S. 13-451, 13-452 and 13-453.

COUNT 2:

CLARENCE WAYNE DIXON, on or about the 7th day of January, 1978, engaged in sexual intercourse with DEANNA LYNN BOWDOIN, a female not his wife, by overcoming her resistance by force or violence in violation of A.R.S. 13-611, 13-612 and 143-614.

A TRUE BILL
("A True Bill")

RICHARD M. ROMLEY
MARICOPA COUNTY ATTORNEY

JUAN M. MARTINEZ
DEPUTY COUNTY ATTORNEY

JMM:mp/OK

Date: November 26, 2002

TERRY WIRTH
FOREPERSON OF THE GRAND JURY

Exhibit 5

ARIZONA DEPARTMENT OF CORRECTIONS
Arizona Correctional Training Facility
Route 7, Box 777
Tucson, Arizona 85777
Telephone (602) 294-5451

DATE TESTS BEGUN 23APR1981
DATE TESTS COMPLETED 23APR1981
DATE OF REPORT 28APR1981

NAME: Dixon, Clarence Wayne 38977 ISSUE: P-12 FILE NUMBER: ARIZACTF-127

AGE: 25 GENDER: MALE REFERRED BY:

P S Y C H O L O G I C A L R E P O R T

This 25 year old prisoner is here evaluated from a mental health standpoint; thus the focus and language of this report are directed toward such a context.

INTELLECTUAL FUNCTIONING

Inmate Dixon achieved an IQ of 106, a level of functioning best described as high average. (For full listing of tests and scores, see technical appendix.) Psychosis may be producing inefficiency of intellectual functioning; the prisoner may be more competent than the IQ data imply.

TEMPERAMENT AND HABITS:

Inmate Dixon is a highly introverted person who seeks stimulation from his own thoughts and feelings. His friendships are likely to be few, long lasting and quite deep. The pattern also suggests a pessimistic outlook on life.

The prisoner operates on an intuitive, feeling level, with much less regard for rationality and hard facts. He may find it easy to empathize, to understand, and to respond to subtleties of feeling, but can thus be easily hurt, and may err in his judgments by overdependence on intuition and on personal relationships.

Inmate Dixon is a person who takes his responsibilities more seriously than the average person, but without excessive moralizing. Conflict with less dedicated people may be a problem, but his dependability and discipline can be desirable features.

Reviewed 4/28/94 G. Carl
G. Carl
Mental Health Psychotherapist

The prisoner is likely to be fairly tactful in dealing with people, but may experience some difficulty when openness and candor are required. Situations in which relations with people are on a superficial level are most congenial; those which stress expression of genuine feelings less so.

Inmate Dixon is more in tune with broad goals than with the details of their accomplishment, but not to any extreme degree. He will be most comfortable in situations where creative effort is more valued than highly objective focus.

MOTIVATIONAL PATTERNS:

Inmate Dixon seeks status and prestige through (usually legitimate) self assertion. Habits of status striving seem more involved than deep seated need; one may expect less concern about prestige as the situation permits or reinforces giving priority to other goals.

The prisoner is highly motivated toward career success. However, while he deeply desires vocational achievement, he has not developed the habits and daily behaviors that lead to such accomplishment. He needs opportunities, supervision, encouragement, counseling; otherwise, he will have to settle for less than the fulfillment of the career goals.

Inmate Dixon values sensual pleasure and responds strongly to sexual and romantic stimulation. Much of this orientation is at the level of desire rather than fulfillment and thus some frustration is implied. Counseling, increased sexual opportunity, or diversion of sexual energies into sublimated forms of expression all may help resolve the substantial conflict.

Looking at less intense motives that contain conflict, Inmate Dixon vacillates between independent, mature behavior and feelings of dependency upon the parents. Continuing, low level efforts to complete the emancipation process, or to accept limited dependency, can be anticipated.

PSYCHOPATHOLOGY

The prisoner reported grossly disturbed perceptual and thought patterns, clear paranoid ideation, feelings of frustration, and moderate agitation. The pattern of data is that most typical of a severely confused and disturbed prisoner.

THERAPY AND PROGNOSIS

Specific suggestions about treatment for this prisoner tend to be redundant with the report of symptoms. However, some additional factors can be reported. Since distorted thinking and perception have been rather clearly reported by Inmate Dixon, suppression of schizophrenic symptoms is quite likely to help control the disorder. Some elements of chronicity suggest a guarded prognosis with treatment.

TECHNICAL APPENDIX

The followins scores have been analyzed in the precedins narrative; they are printed here for future use as a basis for assessment of chanse, or as an aid in addressins new issues.

ABILITIES AND APTITUDES

ALL SCORES ARE EXPRESSED IN THE "IQ NUMBER SYSTEM" (M=100,SD=15) FOR EASE OF COMPARISON. "BAN" REPRESENTS A SCORE BELOW ALL NORMS.

CULTURE FAIR INTELLIGENCE TEST, SCALE 2: IQ = 106

SUMMARY OF ACHIEVEMENT GRADE LEVELS: READING = 12.0
ARITHMETIC = 8.9
WRITING = 11.7

EDUCATION COMPLETED (IN YEARS, AS REPORTED BY THE CLIENT): = 14

SIXTEEN PERSONALITY FACTOR TEST, FORM C
Norms used = Male Inmates, Arizona

?	STEN SCORE	FACTOR	LOW MEANING	PROFILE 1 2 3 4 5 6 7 8 9 10	HIGH MEANING
	7	A	RESERVED	' *	OUTGOING
	8	B	DULL	' *	BRIGHT
	8	C	EASILY UPSET	' *	CALM
	3	E	SUBMISSIVE	* ' '	DOMINANT
	1	F	SOBER, SERIOUS	* ' '	HAPPY-GO-LUCKY
	7	G	EXPEDIENT	' *	CONSCIENTIOUS
	2	H	SHY, TIMID	* ' '	VENTURESOME
	6	I	TOUGH-MINDED	' * '	TENDER-MINDED
	4	L	TRUSTING	* ' '	SUSPICIOUS
	7	M	PRACTICAL	' *	IMAGINATIVE
	8	N	FORTHRIGHT	' *	SHREWD
	5	O	PLACID, SERENE	' * '	APPREHENSIVE
	6	Q1	CONSERVATIVE	' * '	EXPERIMENTING
	9	Q2	GROUP ORIENTED	' *	SELF DIRECTED
	4	Q3	UNDISCIPLINED	* '	DISCIPLINED
	7	Q4	RELAXED	' *	TENSE, DRIVEN
	8	MD	OPEN	' *	DEFENSIVE

ITEM RESPONSES BY POSITION: LEFT = 45, MIDDLE = 11, RIGHT = 49.

COMPOSITE SCORES FROM PERSONALITY FACTOR DATA

ANXIETY LEVEL	5.3	INDEPENDENCE	5.1	EXTROVERSION	1.7
NEUROTICISM	6.6	BEHAVIOR CONTROL	5.7	DISCREETNESS	8
EMOTIONALITY	9.4	ACTING-OUT TENDENCY	4.6	SUBJECTIVISM	7

VOCATIONAL INFERENCES FROM PERSONALITY FACTOR DATA

INTERPERSONAL CONTACT PREFERENCE	4.4	ATTENTION TO DETAIL	7.3
LEADERSHIP ROLE COMPATIBILITY	3.9	REGARD FOR RULES AND REGULAT'NS	5.6
SCHOOL ACHIEVEMENT ORIENTATION	7.4	CREATIVE ORIENTATION	7.7
ON-THE-JOB GROWTH TENDENCY	8.8	HUM = 8 INT = 7	

CLINICAL ANALYSIS QUESTIONNAIRE, PART II
Norms used = Male, Inmates, Arizona

?	STEN SCORE	FAC	PROFILE 1 2 3 4 5 6 7 8 9 0 1 2 3 4	HIGH SCORE MEANING
	4	D1	* /	OVERCONCERNED WITH HEALTH MATTERS
	5	D2	* /	DISGUSTED; THINKS OF SELF HARM
	7	D3	*	RESTLESS; EXCITED; HYPOMANIC
-2	9	D4	/ *	EASILY UPSET; FEELS DISTURBED
	7	D5	*	FEELS WEARY; LACKS ENERGY TO COPE
-1	8	D6	/ *	BLAMES SELF; FEELS GUILTY
	9	D7	/ *	BORED WITH PEOPLE; WITHDRAWS
-1	10	PA	/ *	FEELS GRANDIOSE, SINGLED OUT
-2	6	PP	* /	CONDONES ANTISOCIAL ACTS
-2	9	SC	/ *	HALLUCINATES; DISTORTS REALITY
	3	AS	* /	HAS REPETITIVE THOUGHTS & IMPULSES
	4	FS	* /	FEELS WORTHLESS, INCOMPETENT

ITEM RESPONSES BY POSITION: LEFT = 46, MIDDLE = 31, RIGHT = 59.

COMPOSITE SCORES

FEELINGS OF DEPRESSION	6.2	FEELINGS OF CONFUSION, INADEQUACY	8.6
OVERT DISTRESS	3.6	BIZARRE (PSYCHOTIC) THOUGHTS	7.2
ANTISOCIAL BEHAVIOR TENDENCIES	4.7	RISK OF DANGER TO THE SELF	5.6
DENIAL OF PSYCHIATRIC SYMPTOMS	4.4		

MOTIVATIONAL ANALYSIS TEST

UNINT	INTED		PROFILE * 1 2 3 4 5 6 7 8 9 10		TOTAL CONFLICT	
9	5	Ca	/ I / U	Career	8	10
7	3	Ho	I / U	Home/Parent	5	10
6	5	Fr	/ I U /	Fear	6	7
3	7	Na	U / I	Narcism	4	1
5	7	Se	/ U I	Superego	6	4
3	5	SS	U / I /	Self Sentiment	2	4
9	5	Ma	/ I / U	Mating/Sex	8	10
3	4	Ps	U I /	Pugnacity	1	5
7	9	As	/ U I	Assertiveness	10	3
5	6	Sw	/ U I /	Sweetheart	5	5

* I = Integrated
U = Unintegrated
B = Both scores same

TOTAL INTEGRATION	6
TOTAL CONFLICT	7

ARIZONA DEPARTMENT OF CORRECTIONS
Arizona Correctional Training Facility
Route 7, Box 777
Tucson, Arizona 85777
Telephone (602) 294-5451

DATE TESTS BEGUN 23APR1981
DATE TESTS COMPLETED 23APR1981
DATE OF REPORT 28APR1981

NAME: Dixon, Clarence Wayne 38977 ISSUE: H-40 FILE NUMBER: ARIZACTF-127

AGE: 25 GENDER: MALE REFERRED BY:

Psychological Report to Medical Staff

LIFE STYLE PATTERNS:

Inmate Dixon is a highly introverted person who seeks stimulation from his own thoughts and feelings. His friendships are likely to be few, long lasting and quite deep. The pattern also suggests a pessimistic outlook on life which may predispose depressive feelings at critical times in the life process.

The prisoner operates on an intuitive, feeling level, with little regard for rationality and hard facts. The continuous risk of emotional insult engendered by this oversensitivity subjects the prisoner to some physiologic stress, and the pattern is unlikely to change greatly without major psychological intervention.

Inmate Dixon is a person who takes his responsibilities more seriously than the average person, but without excessive moralizing. Conflict with less dedicated people may be a problem, but his dependability and discipline can be desirable features.

The prisoner is likely to be fairly tactful in dealing with people, but may experience some difficulty when openness and candor are required. Situations in which relations with people are on a superficial level are most congenial; those which stress expression of genuine feelings less so.

Inmate Dixon is more in tune with broad goals than with the details of their accomplishment, but not to any extreme degree. He will be most comfortable in situations where creative effort is more valued than highly objective focus.

MOTIVATIONAL PATTERNS:

Inmate Dixon seeks status and prestige through (usually legitimate) self assertion. Habits of status striving seem more involved than deep seated needs; one may expect less concern about prestige as the situation permits or reinforces giving priority to other goals.

The prisoner is highly motivated toward career success. However, while he deeply desires vocational achievement, he has not developed the habits and daily behaviors that lead to such accomplishment. He needs opportunities, supervision, encouragement, counseling; otherwise, he will have to settle for less than the fulfilment of the career goals.

Inmate Dixon values sensual pleasure and responds strongly to sexual and romantic stimulation. Much of this orientation is at the level of desire rather than fulfilment and thus some frustration is implied. Counseling, increased sexual opportunity, or diversion of sexual energies into sublimated forms of expression all may help resolve the substantial conflict.

Looking at less intense motives that contain conflict, Inmate Dixon vaccilates between independent, mature behavior and feelings of dependency upon the parents. Continuing, low level efforts to complete the emancipation process, or to accept limited dependency, can be anticipated.

HEALTH RISK PATTERNS:

Inmate Dixon stands at only average risk from stress related disorders. If symptoms of such conditions do appear, the prisoner should respond to counsel regarding conscious stress avoidance / reduction, coupled, of course, with appropriate medical management of the disease process.

Focussing specifically upon coronary artery disease, Inmate Dixon stands at less than average risk from a psychological standpoint. Thus, no remedial steps, other than appropriate medical care, seem indicated.

The prisoner seems able to give normal attention to the demands of risky situations; he does not seem "accident prone". There are no guarantees, but it seems that Inmate Dixon needs only to exercise normal caution, and is likely to do exactly that.

MEDICAL / PSYCHIATRIC FACTORS (FOR PHYSICIAN USE):

Inmate Dixon shows evidence of substantial, generalized psychotic pathology, which tends to make his behavior withdrawn and ineffective. Antipsychotic drugs may well improve performance and personal well-being. Since extreme paranoid ideation was also shown, a medication like "Stellazine" may be worth considering. Some arrangement to monitor possible side effects should be made. "Haldol" is likely to be an effective substitute for the phenothiazines if blood pressure is elevated, or if photosensitivity or other skin problems should arise. Substantial doses of any "major tranquilizer" may, of course, require covering dosage of anti-parkinsonian agents.

The medical suggestions above need to be considered within a framework of two major reservations, as follows:

(1) While the decision logic used conforms to generally accepted psychiatric standards, it cannot substitute for the judgment of the physician who accepts and exercises his responsibility for his patient.

(2) The suggestions are based upon limited knowledge of the inmate, and upon data that can, by their nature, never be perfect.

Exhibit 6

October 25, 2005

Confidential Memorandum

To: Mr. Clarence Dixon
From: Garrett Simpson, Deputy Public
cc: Vikki Liles, Deputy Public Defender

re: *pro se* Motion to Suppress DNA Evidence

Dear Mr. Dixon:

I am one of your attorneys; co-counsel to Ms. Liles in this case. The purpose of this memorandum is to report to you my review of your proposed motion to suppress DNA evidence. It may assist you in evaluating my report to know something about me: I have practiced law in Maricopa County continuously since 1977. I am in my 21st year as a deputy Maricopa County Public Defender. I have 28 years experience in Arizona criminal practice; 18 of these years were spent in full-time appellate practice at before the Arizona Court of Appeals and Arizona Supreme Court. I have handled — with some success — capital cases on appeal and in the trial court since 1987.

Introduction:

In 1978 Tempe police recovered a possible suspect's DNA from a murder victim's body. Seven years later you were sent to prison in an unrelated 1985 case out of Flagstaff. Under a law passed in 1993, prison officials took samples of your DNA in an effort to build a genetic identification database. Your DNA was eventually compared by the state to the sample found on the Tempe victim; it allegedly "matches." You want to suppress the DNA taken from you in 1995 so that it cannot be used to link you to the 1978 murder. Your basis for suppression is the assertion that the Northern Arizona University Police were not a legal entity when you were arrested in 1985.

Facts:

You were arrested for sexual assault in Flagstaff June 10, 1985. In December of that year a jury convicted you of seven counts and in January 1986 you were sentenced to seven consecutive life terms. In 1987, the Arizona Supreme Court upheld your convictions and sentences in a published opinion. About the facts of your case, the Supreme Court wrote that after the assault,

> "The victim returned to her NAU dorm where she was a resident assistant. The NAU police were called and the victim was taken to the Flagstaff Hospital where she received medical treatment.
>
> The victim gave a description of her assailant to Officer Bolson of the NAU Police Department. Before noon, the police broadcast an "attempt to locate" call for a male Indian about six feet tall, thin build, with long, black hair in a ponytail, wearing blue Levi jeans, a tan tank top with horizontal stripes, blue tennis shoes with white stripes, and a pair of wire-rim glasses. The attempt to locate call indicated that the suspect had told the victim that he would be leaving the Flagstaff area immediately. Officer Michael Terrin, of the Flagstaff Police Department, testified that he heard the attempt to locate call, including the description of the sexual assault suspect, where the assault occurred and the suspect's intention to leave Flagstaff immediately. Officer Terrin was patrolling an area near where the assault had occurred, Lone Tree Road and Interstate 40. Shortly after noon, he spotted defendant attempting to hitchhike, with a sign stating Albuquerque. Officer Terrin stopped and talked to defendant and, according to routine departmental procedure, filled out a field

> interview card. Defendant mentioned during the interview that he had been in the Arizona State Penitentiary. Officer Terrin radioed in for a more detailed description of the suspect. After confirming that the suspect had black hair to the middle of his back in a ponytail, wire-rim glasses and blue striped shoes, Officer Terrin arrested defendant." State v. Dixon, 153 Ariz. 151, 735 P.2d 761 (1987).

The record from your appeal shows you were arrested by a Flagstaff City Police Officer, not an NAU officer. The NAU officer merely drove the victim to the hospital and began the investigation by broadcasting the victim's description(s) of her assailant. The record shows you had no interaction with the NAU officer. Rather, the Flagstaff City Police used the information provided by the NAU officer to locate and arrest you.

Evidence of your DNA was apparently *not* taken by the NAU or Flagstaff police when they arrested you. Instead, ten years after you were imprisoned, the Department of Corrections required you to give a sample of DNA for an identification database which was later used by Tempe Police to allegedly connect you to the 1978 slaying. You now seek to suppress the DNA evidence taken from you in prison in 1995 on grounds that the NAU Police Department was not legally established and could not act as a police force. Therefore, you reason, you wouldn't be in prison on the sexual assault charge if the Flagstaff Police hadn't acted illegally in arresting you based on a report from the so-called "NAU police;" it was illegal, you argue, for the NAU officer to act as a police officer. Therefore, you would not have been in DOC and could not have been required to give a DNA sample if you weren't being illegally held by the DOC in 1995.

You did *not* raise this issue at trial or on appeal. See, Dixon, 153 Ariz. 151-157, 735 P.2d 761-766. But four years later, in 1991, you filed a Petition for Post-Conviction Relief. In the Petition you claimed that under the case Goode v. Alfred, 171 Ariz. 546, 828 P.2d 1235 (1991), the NAU police department did not have the authority to investigate criminal cases.

In Goode, a Tucson justice of the peace had ruled that the Arizona Board of Regents did not have authority to create a police department for the University of

Arizona and therefore the university police officer who arrested the defendant for DUI in Goode had no authority to act. However, the justice of the peace's ruling was *overturned* by the Pima County Superior Court. Goode filed a special action in the Court of Appeals, which *affirmed* the trial court's reversal of the justice court. The Court of Appeals held in Goode that the Board of Regents had implicit statutory authority to create a police department, especially since the community colleges of Arizona had specific statutory authority since at least April 1981 (Session Laws 1981, Ch. 187, § 2) to hire certified officers as security guards, Goode, 171 Ariz. 548, 828 P.2d 1237. A statute explicitly empowering the Board of Regents to hire certified officers, A.R.S. § 15-1444, was enacted in August 1985. Concededly, this was *after* you were arrested, but Goode makes it clear that Universities had implicit authority to hire certified officer prior to 1985. I searched the case history on Goode. It has never been reversed, distinguished or even criticized by another appellate court. It remains good law in Arizona. What is more significant is that Goode was decided strictly under state law. In other words, whether the Board of Regents had authority to employ certified police officers on June 10, 1985 is a state-law question that does not raise federal constitutional issues.

The trial court in Flagstaff rejected your petition. The Arizona Court of Appeals took jurisdiction of your PCR, granting review in 1 CA-CR 92-0171-PR. On December 3, 1992 it denied relief, finding on the merits that the claim that the NAU police had no jurisdiction was disposed of by Goode. It further found you were procedurally precluded from raising the issue in a PCR because you did not raise it at trial or on appeal. The Supreme Court denied review on August 31, 1993 in CR-93-0198 PR. You later brought a series of special actions, petitions for review and state-court petitions for writs of *habeas corpus* on this claim, all of them unsuccessful.

Analysis:

- In 1993 the legislature passed A.R.S. § 13-610 requiring all persons committed to the DOC to give blood for DNA sampling. This provision remains good law. The Arizona Court of Appeals has held that DNA sampling is not punishment and does not violate *ex post facto* provisions of the Constitution. See, In Re the Appeal in Maricopa County Juvenile Action Nos. JV-512600 and JV-512797, 187 Ariz. 419, 930 P.2d 496 (App. 1996).

- In order to suppress in our case what happened in the Coconino County matter, you must first successfully attack the Coconino County conviction, see, e.g., Glaze v. Larsen, 207 Ariz. 26, 83 P.3d 26 (2004). Final convictions for sexual assault exist against you. Unless litigation in the Flagstaff cases reverses those convictions, any court today would find that the DOC was lawfully holding you from 1986 onward and could lawfully require you to give DNA samples.

- However, the legality of your DOC custody was already fully litigated by you in your 1991 PCR and you lost procedurally — and on the merits — both in the trial court and on appeal. The case you rely on, Goode, does *not* support your position. It stands for the *contrary* proposition, that the universities could hire police officers, even without express authority. Further, the issue does not present a federal question, so resort to the United States District Court is not available.

- In "Paragraph II" of your motion you misconstrue the holding in Goode. The holding in Goode does *not* depend on the 1985 amendments. Instead, Goode holds that the Board has "implicit authority" under A.R.S. § 15-1626(A)(2), *et seq.*(1981) to hire officers, a conclusion the court holds is supported by the amendments you are apparently referring to.

- You have *no standing* to raise the issue of whether the NAU police were properly constituted because the NAU police did nothing to you. All the NAU patrolman did was to drive the victim to the hospital and notify the Flagstaff city police of the victim's description of her assailant. If the NAU police illegally obtained evidence, they did not illegally obtain it from you. They merely gave the victim a ride to the hospital and broadcast the suspect's description. The Flagstaff city police took it from there. Any private citizen could have legally done what the NAU officer did.

- Therefore, there was no "state action" against you by the NAU police.

- The Arizona Court of Appeals settled in Goode that the Board of Regents had implicit authority under state law at the time you were arrested to establish University police departments. The Court of Appeals repeated that holding when they denied relief in 1993 in your PCR.

- You have already *fully litigated* the issue that you want to raise now. You raised it in your 1991 PCR and you lost at every stage, *on the merits*. A new attack is collaterally estopped under the legal doctrine of *res judicata*. "Our supreme court has held that "[t]he traditional elements of collateral estoppel are: [1] the issue sought to be re-litigated must be precisely the same as the issue in the previous litigation; [2] a final decision on the issue must have been necessary for the judgment in the prior litigation; [and][3] there must be mutuality of parties." State v. Whelan, 208 Ariz. 168, 91 P.3d 1011, ¶ 13 (App. 2004). You are seeking to litigate precisely the same issue as you did in the 1991 PCR. The trial court reached a final decision on this issue and the Court of Appeals affirmed it. The issue was necessary to the judgment in your PCR, and the parties to the action — namely you and the state — were identical. The courts will not reconsider the issue now. The matter is legally closed.

- We cannot ethically bring this motion for you. The rules of professional responsibility prohibit lawyers from bringing motions in bad faith. Arizona Supreme Court Rule 42, Ethical Rule 3.1 provides

> A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous . . .

Conclusion

I regret to report this issue is not viable. It has already been determined with finality by the Arizona Court of Appeals and Arizona Supreme Court. You are estopped from re-litigating it because you have already litigated it all the way through the Arizona judicial system. Even if you could litigate it anew, it would *not* preserve a federal question because whether the NAU police had statutory authority to act is purely a matter of state law. Finally, even if there was hope of getting relief on your motion, the first step would be to get the Flagstaff conviction reversed and dismissed. We can only act in cases where we are appointed. We are not appointed in the Flagstaff case. But if I were appointed to represent you in the Flagstaff case I would have to report to the Coconino County Superior Court that your case has no meritorious post-conviction issues.

Exhibit 7

OFFICE OF THE PUBLIC DEFENDER
MARICOPA COUNTY

JAMES J. HAAS
Public Defender

JEREMY D. MUSSMAN
Special Assistant

PAUL J. PRATO
Chief Trial Deputy

November 14, 2005

Mr. Lawrence A. Hammond
Osborn Maledon, P.A.
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85067-6379

RE: *State v. Clarence Wayne Dixon*, CR 2002-019595

Dear Larry:

Some time ago, I discussed with you Mr. Dixon's desire for the assistance of the American Judicature Society in litigating an issue in his case. At that time, if you remember, you believed that the issue was not one upon which Mr. Dixon would receive relief. Mr. Dixon is insistent, however, that the materials relevant to this issue be presented to you in hopes that you will file an *amicus* brief and/or litigate the issue directly for him. He is permitting me to waive his attorney/client privilege in the hopes that you will assist him in pursuing this issue. I realize that you are very busy, but pray that you will review the enclosed materials for Mr. Dixon. This is an issue of great importance to him, and my representation of him is at an impasse so long as he believes he can prevail on the issue before the trial court or on appeal.

Mr. Dixon is currently charged in a capital case involving the sexual assault and murder of an Arizona State University student in 1978. In 1985, Mr. Dixon was convicted in Coconino County on seven counts arising from the sexual assault of a student on the campus of Northern Arizona University ("N.A.U."). Because he was on parole at the time of these offenses, he received seven consecutive life sentences in that case, as detailed in *State v. Dixon*, 153 Ariz. 151, 735 P.2d 761 (1987), a copy of which is enclosed for your review.

Mr. Dixon was indicted in the pending case following a "cold hit" matching his DNA on file in the CODIS database with semen found at the crime scene. His DNA was in the database because, as an inmate in the Arizona Department of Corrections, he was required by law to give a sample to law enforcement. The state has alleged the 1985 convictions as aggravating circumstances pursuant to A.R.S. § 13-703(F)(1) in the pending case. Thus, he will most certainly be found to be eligible for the death penalty if he is convicted of first-degree murder.

In 1992, Mr. Dixon began to litigate a claim under Rule 32 of the Arizona Rules of Criminal Procedure. Essentially, Mr. Dixon claimed in a petition for post-conviction relief that his counsel in the 1985 Coconino County case was ineffective for failing to challenge the authority of the N.A.U. Police Department to conduct criminal investigations. I do not have a copy of the original petition or

the ruling of the trial judge. The remaining chronology of this litigation is enclosed, and summarized as follows:

1. On December 3, 1992, in a memorandum decision, the Arizona Court of Appeals denied relief on Mr. Dixon's petition for review of the trial judge's denial of the petition for post-conviction relief. The Court of Appeals based its decision on *Good v. Alfred*, 171 Ariz. 94, 828 P.2d 1235 (App. 1991), *rev. dismissed* 1992, a copy of which is enclosed.

    a. On August 31, 1993, the Arizona Supreme Court denied a petition for review.

    b. On July 8, 1994, the Arizona Supreme Court denied a petition for special action.

2. On April 19, 1995, Mr. Dixon filed a second petition for post-conviction relief that attempted to litigate again his claim that the N.A.U. police lacked jurisdiction to investigate the case that led to his conviction in 1985.

    a. On August 4, 1995, Judge J. Michael Flournoy of the Coconino County Superior Court denied the petition.

    b. On July 11, 1996, the Arizona Court of Appeals denied a petition for review.

    c. On December 9, 1996, the Arizona Supreme Court denied a petition for review.

3. On October 1, 2001, Mr. Dixon filed a third petition for post-conviction relief. In this petition, Mr. Dixon alleged that his prior petitions for post-conviction relief were denied because the judges were biased and intentionally violated his rights.

    a. On February 2, 2002, Judge Flournoy denied the petition.

    b. On February 4, 2003, the Arizona Court of Appeals denied review.

It appears from the contents of these and other documents that Mr. Dixon filed at least one *habeas* petition in the federal courts that culminated in a denial of a petition for *certiorari* by the United States Supreme Court in 1998. I do not have copies of any of the federal litigation.

While the final petition was pending, Mr. Dixon filed a judicial complaint against Judge Flournoy. The Commission on Judicial Conduct dismissed the complaint, finding that the issues raised involved legal or procedural matters outside the Commission's jurisdiction. A copy of the materials raised in the complaint is enclosed.

In 2001, Mr. Dixon wrote an article entitled "Can & Do the Courts Collude?" A copy is enclosed. Essentially, Mr. Dixon claims that all the judges involved in the 1985 case and all petitions for post-conviction and habeas relief filed in that case were involved in a "cumulative, continuous and concerted effort by state and federal judges [that] smacks on its face of collusion and conspiracy or, at the least, conspiracy."

Mr. Dixon has prepared a motion he wishes to be filed in the pending case, a copy of which is enclosed. Mr. Dixon believes that the DNA evidence in this case should be suppressed because he was illegally confined in the Department of Corrections at the time his DNA sample was obtained and added to the CODIS database. He was illegally confined, according to Mr. Dixon, because the 1985 conviction was unlawfully obtained. In making this claim, he relies on the exact same argument made in all three petitions for post-conviction relief, namely that the N.A.U. police were without jurisdiction to investigate his arrest for sexual assault in 1985. The motion also contains an argument that the judges who denied his petitions for post-conviction relief and review acted in bad faith in those denials.

Mr. Dixon wishes this issue to be litigated in this case. I have told him that neither I nor co-counsel, Garrett Simpson, can ethically claim that any of the judges involved in any aspect of the 1985 case acted in bad faith, as there is no evidence to support this claim. He has also been told that the motion is not case-dispositive, as he claims, because the issues have already been litigated on their merits and his conviction in the 1985 case is absolutely final. Nevertheless, Mr. Dixon wishes that the motion be filed so that he can have his "day in court."

Mr. Dixon believes that this is an issue the American Judicature Society would be interested in litigating for him. At his request, I am asking that you review the enclosed materials and determine if this is an issue you believe should be or can be raised in this case.

Thank you for your time. If you have any questions, please call me at 602-506-7669.

Sincerely,

MARICOPA COUNTY PUBLIC DEFENDER

Vikki M. Liles
Deputy Public Defender

cc: Mr. Clarence Dixon
Inmate # A896911
Maricopa County Towers Jail

Encl.

Exhibit 8

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA, Plaintiff, v. CLARENCE DIXON, Defendant.	No. CR 02-19595 MOTION TO SUPPRESS DNA EVIDENCE (Evidentiary Hearing / Oral Argument Requested)

COMES NOW the Defendant, by and through his undersigned attorney, and hereby moves this court to suppress all DNA evidence prior, arising and subsequent to the indictment of the Defendant on November 26, 2002. This motion is based upon the Memorandum of Points and Authorities attached hereto and made a part hereof by this reference.

DATED the ____ day of May, 2003.

/s/ Vikki M. Liles
Attorney for Defendant

MEMORANDUM OF POINTS AND AUTHORITIES

I FACTS:

On or about the middle of 1995 (or 1996?) Defendant Dixon (Dixon) was ordered to surrender his blood and saliva samples by Arizona Department of Corrective medical personnel in accordance with A.R.S. § ____ for the purpose of his inclusion in a state and national DNA data base for crime comparison analysis.

On or about ____ DNA analysis indicated Dixon's semen/blood/saliva was present on the bedspread/panties/vagina swab taken from the crime scene/body of Deana Lynn

Bowdoin, murdered on January 7, 1978 in Tempe, Arizona.

On June 10, 1985, Dixon was arrested for the sexual assault of a N.A.U. coed. N.A.U. police, in the weeks following, investigated gathering evidence, interviewing witnesses and the victim, obtained two search warrants and one court order, and testified at Dixon's December 1985 trial. Dixon was found guilty by jury and on January 6, 1986 sentenced to seven consecutive life sentences. State v. Dixon, 153 Ariz. 157, 735 P.2d 761 (1987).

On July 31, 1991, Dixon filed his first Crim. Rule 32 petition after hearing of a DUI suspect's challenge to University of Arizona police authority. The Honorable Robert Duncan, Justice Court, found the university police lacking statutory authority and the State appealed. The Pima County Superior Court reversed and the defendant sought special action. In Gooley v. Alfred, 171 Ariz. 94, 828 P.2d 1235 (App. 1991), the appellate court found that statutes 'amended in 1985' did grant the state Board of Regents authority to establish and maintain a police force. Gooley v. Alfred, 171 Ariz. 94, 96, 828 P.2d 1235, 1237.

The Honorable Richard K. Mangum, retired, ruled that Gooley v. Alfred, supra, applied to Dixon's claim that N.A.U. police lacked statutory authority to investigate the crime he stood convicted of although Public Defender Linda M. Haule informed the court of the applicability of statutes effective in 1981. Ms. Haule filed a timely motion for rehearing which was denied on January 13, 1992. Cocanino County Superior Court No. CR 85-11654. Dixon's petition for review from superior court was denied relief by Judges Gerber,

III

McGregor and Toci on December 3, 1992. Court of Appeals, Div. One, CA-CR 92-0121 PR. Dixon's petition for review by the supreme court was denied without comment or discussion on August 31, 1993 by Justices Feldman, Corcoran and Zlaket. Arizona Supreme Court No. CR 93-0195 PR. Dixon continued in the state courts with a habeas corpus petition in the supreme court dismissed April 15, 1993 by Justice Zlaket. Arizona Supreme Court No. HC 93-0006; a habeas corpus petition in Pinal County transferred to Coconino County as a 2nd Crim. Rule 32 petition denied on August 4, 1995 by Judge Flournoy, No. CR 85-1165Y; a petition for review from Supreme Court denied on July 11, 1996 by Judges Gerber, Lankford and Snell, Court of Appeals, Div. 1, CA-CR 95-0831 PR; a petition for review by Supreme Court denied on December 9, 1996 by Justices Feldman, Zlaket and Jones, Arizona Supreme Court No. CR 96-0449 PR; a special action petition was dismissed by the supreme court on July 8, 1994 by Justice Moeller, Arizona Supreme Court No. M-94-0014, Pinal County No. CV 94-04034; a 2nd Crim. Rule 32 petition denied by Judge Flournoy on February 4, 2002, No. CR 85-1165Y; a petition for review from supreme court denied on _____ by Judges _____, _____ and _____, Court of Appeals, Div. One, No. CA-CR 01-0203 PR; and a petition for review to the supreme court denied on April 17, 2002 by Justices Beck, Ryan and Hurwitz, Arizona Supreme Court No. CR 02-0076 PR.

In all Dixon's petitions, he has brought forth the claim that N.A.U. police lacked sufficient statutory authority or jurisdiction to conduct criminal felony investigations on June 10, 1985 and up to

IV

August 6, 1985.

II. LAW AND ARGUMENT:

Defendant Dixon's 1985-86 convictions and sentences in State v. Dixon, 153 Ariz 151, 735 P.2d 761 (1987) were unlawfully obtained because M.A.U. police under color of state law were, at the time of the offense and Dixon's arrest, without statutory authority implied or explicit. See A.R.S. § 15-1627 (1981), particularly Paragraphs F and G. The use of unlawfully obtained evidence at trial is impermissible and fundamental error through the doctrine of the Exclusionary Rule. Wong Sun v. United States, 83 S.Ct. 407, 371 U.S. 471 (1963) "APPROPRIATE ARIZONA CITATION" And because the State is now using DNA comparison evidence obtained from Dixon in mid-1985 (or mid-1986) while illegally incarcerated, it too must be suppressed as "'fruit of the poisonous tree' simply because it would not have come to light but for the illegal actions of the police." Wong Sun v. United States, 83 S.Ct. 407, 417, 371 U.S. 471, 488, ___ Ariz. ___,

Dixon was arrested on June 10, 1985, the day of the offense. State v. Dixon, 153 Ariz. 151, 735 P.2d 761 (1987). A DUI suspect's challenge to the authority of the University of Arizona police became known to Dixon and he filed his first Crim. Rule 32 petition on July 31, 1991, Coconino County Superior Court No. CR 85-11651.

In 1981, A.R.S. § 1-215(23), which defines who is a Peace Officer, added "and commissioned personnel of the department of public safety." (Added by Laws 1981 Ch. 1 § 28, effective July 28, 1981).

In 1985, A.R.S. § 1-215(23) was amended adding, "police officers appointed by the Arizona Board of Regents who have received a

certificate from the Arizona Law Enforcement Officer Advisory Council," which became effective August 7, 1985.

In 1981, A.R.S. 15-1627 granted the Board of Regents the authority to adopt rules similar to the Arizona Motor Vehicle Code; sanctions; and security officers. Included in the 1981 statute were subsections F and G which read as follows:

F. The security officers of each of the institutions shall have the authority and power of peace officers for the protection of property under the jurisdiction of the board, the prevention of trespass, the maintenance of peace and order, only insofar as may be prescribed by law, and in enforcing the regulations respecting vehicles upon the property.

G. The designation as "peace officer" shall be deemed to be a peace officer only for the purpose of this section.

A.R.S. § 15-1627 (1981) (Added by Laws 1981 Ch. 1 § 2, effective January 23, 1981).

These pre-August 7, 1985 statutes were made known to Judge Mangum by Public Defender Houle in the amended petition for post-conviction relief and motion for rehearing filed in late 1991. Judge Mangum did not apply these statutes but cited Cowles v. Alford, supra, to deny Dixon relief.

These substantial statutory changes were made known to all the state courts reviewing Dixon's petitions from 1991 to the present.

It can be inferred from the circumstances that when Judge Mangum denied Dixon's first Crim. Rule 32 petition, he knew 1981 A.R.S. § 1-215(23) and A.R.S. § 15-1627 applied. It can be inferred from the circumstances

that all the other appellate courts likewise knew of the existence and applicability of the amended 1981 statutes.

In State v. Johnson, 173 Ariz. 279, 842 P.2d 1287 (1992) Justice Zlaket wrote on the importance of reinstructing a jury on the burden of proof involving the same trial judge 4 times, "Even where evidence of guilt appears overwhelming, we have an obligation to ensure that the judicial process is properly accomplished ... and we are unable to sit idly by while prescribed judicial procedures are ignored out of personal preference or convenience, or for any other unjustifiable cause. There is no suggestion in this record that the trial judge had a valid reason to ignoring the legal precedents previously recounted." State v. Johnson, 173 Ariz. 279, 276, 842 P.2d 1287, 1289 (1992). At no time and in no way was "the judicial process properly accomplished" with respect to Dixon's claim nor will anyone find 'a valid reason for ignoring the legal precedents' in Dixon's case.

A judge shall not be swayed by partisan interests, public clamor or fear of criticism, Rule 81, Supreme Court of Arizona, Canon 3(B)(2), Adjudicative Responsibilities. It can be inferred from the circumstances that partisan interests or public clamor or fear of criticism or bad faith in general of all of the above were present and active in continuously denying Dixon a fair and impartial hearing on his claim that M.P.D. police lacked statutory authority to investigate the crime Dixon stands convicted of and as a result, evidence gathered under and after such an illegal conviction is now being used against him in another capital case.

A judge who has knowledge or who receives reliable information that another judge has committed a violation of this code shall take

or initiate appropriate action. Rule 81, Supreme Court of Arizona, Canon 3(D)(1), Disciplinary Responsibilities. Dixon asserts that appropriate action would be to suppress the DNA evidence, dismiss the charges against him and issue a writ of habeas corpus on Dixon's initial 1991 claim of illegal N.A.U. police activity.

It cannot be disputed that on June 10, 1985, certain 1981 statutes should have been applied and interpreted according to basic tenets of statutory construction and the appropriate relief afforded Dixon.

Under the Rule of Law and among men and women of reason there is a clear and convincing argument that Dixon was and is illegally convicted and as such, the DNA comparison samples he surrendered in 1995 (or 1996) were and are 'tainted' as defined by the United States Supreme Court in Wong Sun v. United States, supra, ___ Ariz. ___, and must be suppressed as fruit gathered from the poisonous tree.

Dixon respectfully requests this court for specific findings of fact and conclusions of law evidentiary hearing and oral arguments notwithstanding.

RESPECTFULLY SUBMITTED this ___ day of May, 2003

X

Ms. Vikki M. Liles
Attorney for Defendant

Exhibit 9

Metropolitan Consulting Corporation, PC.

Lauro Amezcua Patino, MD, FAPA[1]

4055 W. Chandler Blvd. Suite 5
Chandler, AZ 85226
602-339-3779
480-393-7175 (Fax)

Patient Name:	Dixon, Clarence
Age:	66 years old
DOB:	08/26/1955
Sex:	Male
Ethnicity:	Native American
Date of Evaluation:	August 25, 2021, February 17, 2022, March 10, 2022
Court Case Number:	CR2002-019595
Referral Source:	Office of the Federal Public Defender, District of Arizona
Psychiatrist:	Lauro Amezcua-Patino, MD, FAPA.

Psychiatric Evaluation

The patient was referred for psychiatric re-evaluation by the Federal Public Defender, District of Arizona. Mr. Clarence Dixon was informed of his attorney's request for evaluation and the limits of confidentiality, and he provided verbal informed consent for the review. Clarence was previously evaluated by this writer in 2012 at the age of 55 for a psychiatric diagnostic assessment at the Browning Unit of the Arizona State Prison Complex in Florence, Arizona.

Referral Questions:

1. Is Clarence Dixon's mental state so distorted, or his concept of reality so impaired, that he lacks a rational understanding of the State's rationale for his execution?

2. Would Death Watch increase the likelihood that Clarence Dixon would manifest or experience a worsening of any impaired mental states described in Question 1? If so, why?

Method:

Clarence was evaluated by this writer in Central Unit at the Arizona Department of Corrections facility in Florence, Arizona for approximately 2 hours for a Clinical Interview and verification of history on Wednesday, August 25, 2021; again for approximately 1 hour on Thursday February 17, 2022, at the same facility; and for a third time for approximately 1 hour on Thursday, March 10, 2022, at the same location.

[1] My CV is attached hereto as Exhibit A.

Records provided for review:

The records provided for my review are attached hereto as Exhibit B.

History:

Mr. Clarence Dixon is a 66-year-old Native American currently residing in the Central Unit of the Arizona State Prison Complex in Florence, Arizona. Since my prior report approximately 11 years ago, Clarence has developed significant visual deterioration, to the point of being declared legally blind in 2015. (FPD 5069.)

He was cooperative and eager to participate in a conversation with this writer. He reported that he has been experiencing significant difficulty sleeping, primarily problems with sleeping irregularly and at different times of the day. He admits to feeling occasionally fatigued.

Past Psychiatric History:

Mr. Dixon has a long history of mental disturbances affecting his life. He remembers suffering from severe depression at age ten and manifested by feelings of hopelessness, helplessness, decreased energy, decreased motivation, and a lack of interest. He states he suffered from three such episodes prior to his incarceration.

On June 5, 1977, Clarence was arrested by the Tempe Police Department for assaulting Christy Guerra, age 15, with a metal pipe, causing a severe cut to the top of her head. Ms. Guerra stated that Clarence walked up to her stating “Nice evening, isn't it?” before striking her. Ms. Guerra screamed and Clarence retreated to his vehicle followed by Ms. Guerra. Tempe Police arrived on the scene and took Clarence into custody. He was charged with Aggravated Assault with a Deadly Weapon.

Dr. Maier Tuchler and Dr. Otto Bendheim were retained by the Maricopa County Superior Court to determine if Clarence was competent to stand trial.

On September 2, 1977, Dr. Tuchler found Clarence incompetent to stand trial and further opined that Clarence exhibited "several characteristics which are clearly abnormal. Although he is oriented for time, place, and person, and is fairly well educated, he is exceedingly slow in responses, markedly withdrawn, and obviously depressed. Blocking is characteristic and has prolonged the interview interminably." Dr. Tuchler stated his belief that Clarence may have been lashing out at the victim, Christy Guerra while responding to fantasies that he was attacking his wife. He further stated, **“It is the opinion of this examiner that at the commission of the offense Clarence Dixon was presenting a transient mental illness in which reality was lost to him, and he presented as an undifferentiated schizophrenia (sic).”**

On September 2, 1977, Dr. Otto Bendheim found the defendant incompetent to stand trial, stating "he is so severely depressed he blocks so much and hesitates between answers to the

extent that many answers remain totally unanswered." He further stated, "I believe this man is suffering from very severe depression, possibly with an underlying psychosis. The exact nature of his mental illness could not be determined, but schizophrenic psychosis is considered to be the most likely diagnosis. " Dr. Bendheim opined, **"without the presence of the mental disturbance, the act of violence would not have taken place."**

On September 15, 1977, Clarence was placed at the Arizona State Hospital to restore competency. On October 6, 1977, David L. White, Ed.D stated that he believed Clarence's poor emotional condition to be the result of a poor marital situation which he has perceived as being without a solution. He was seen as being racked by guilt and depression, and, although Clarence believed he would not harm himself, he could manage to "accidentally" die or be killed by someone else.

Clarence (has reported) further hat on one occasion, his father beat him severely and, for this and other reasons, he harbored animosity towards his father. On October 26, 1977, Clarence was believed to be competent to stand trial by John W. Marchildon, MD. Dr. Marchildon stated that Clarence did not have a mental illness at the time of his evaluation, diagnosing him with Social Maladjustment without Manifest Psychiatric Disorder and Marital Maladjustment.

On December 12, 1977, the Honorable Sandra Day O'Connor requested an opinion of the doctors as to whether the defendant was in "such a state of mind that he did not know right from wrong and whether the defendant knew the quality and nature of his acts and consequences thereof at the time of the commission of the alleged offense." On January 5, 1978, Clarence was found not guilty by reason of insanity. The Court ordered the County Attorney's Office to commence civil commitment proceedings, but Clarence remained out of custody. Two days later, Deana Bowdoin was found in her apartment, sexually assaulted and murdered.

Clarence has consistently reported experiencing auditory and visual hallucinations on many occasions. He is somewhat guarded and defensive when asked about these perceptions, and it is obvious he doesn't like talking about them.

This writer conducted a psychiatric evaluation of Clarence on September 7, 2012, for approximately two hours at the Browning Unit of the Arizona State Prison Complex in Florence, Arizona. I noted that Clarence was guarded and defensive in his demeanor, especially when discussing his psychiatric history. I diagnosed him with schizophrenia, paranoid type, chronic and major depression, recurrent.

John Toma Ph.D. evaluated Clarence in excess of fourteen hours over the following dates: 04/18/2012, 04/19/2012, 05/02/2012, and 06/26/2012. This evaluation consisted of clinical interviews, as well as a battery of neuropsychological testing to determine if Clarence suffered from any psychological abnormalities. There were several elevated scales on the Minnesota Multiphasic Personality, indicating Clarence is mistrustful of others, and not comfortable in social situations, has unrealistically high expectations about other people while at the same time being fearful of others, believing they may harm him.

Clarence's scores on the Schizophrenia scale indicate he experiences "a number of unusual beliefs, that he may become withdrawn, may rely excessively upon fantasy and that he may be generally sad, blue, anxious and on the Restructured Clinical scale. Clarence showed a significantly elevated response to the Antisocial Behavior scale (RC4). "This scale indicates Clarence has trouble conforming his behavior to the law, and it reflects his years of illicit drug and alcohol abuse."

On the Rorschach Inkblot Test, Clarence consistently gave responses showing paranoid ideation and psychotic content, as well as some morbid responses indicating difficulties with depression. He also made a number of very bizarre comments or made several responses that included symbolism which is almost exclusively given by schizophrenic patients. During this test, Clarence became quite agitated and paranoid, and at the end of the test, he angrily accused Dr. Toma of "getting into my head."

Dr. Toma diagnosed Clarence as suffering from schizophrenia, paranoid type and considered ruling out schizoaffective disorder, depressed type, and cognitive disorder, NOS. He further diagnosed alcohol dependence by history. In his conclusions, Dr. Toma states, "It is clear now, with the test data obtained during this evaluation, that the Rule evaluators for his first conviction in 1968 were accurate in their opinions that he suffered from a psychotic disorder. At the time of the murder of Deana Bowdoin, he would have been in the early stages of a schizophrenic illness."

Substance Abuse History

Clarence stated that he started smoking marijuana at age fourteen. He said he was "never a regular smoker" but would use the drug when available. He stated that he sometimes used this substance with his wife Geraldine Eagleman but was not a hard-core user. He has said that he used methamphetamine a couple of times but never really liked the drug.

Clarence reportedly began using alcohol at around age sixteen on an occasional basis. He stated that his drinking increased to the point that he was drinking probably every night. Clarence reportedly drank daily from 1977 until he went to prison in September of 1978. He said he would usually drink beer but sometimes drink a bottle of vodka. He stated that he experienced frequent blackouts from vodka at this time. He described his blackout frequency from vodka as "about once every two or three weeks."

Medical History

Clarence has experienced various medical issues throughout his lifetime. He was born with a congenital heart defect known as coarctation of the aorta (FPD 001.) Before reaching the age of two, he experienced seizures. (FPD 039-040.) On September 6, 1959, at age four, he was seen for a cut on his forehead due to hitting a door and received stitches. (FPD 006.) On June 29, 1960, Clarence received services from a physician after a mirror fell and shattered, cutting his right leg and necessitating sutures. (FPD 008.)

Medical records show Clarence continued to suffer from cardiovascular problems. In 1961, at around age six, he was noted to lack a palpable pulse in his lower extremities. (FPD 009-010.) In 1967, Dr. M. Molthan noted 12-year-old Clarence had a murmur, a history of leg cramps, and a cardiac catherization done in the past. (FPD 035.) Dr. Molthan concluded Clarence suffered from coarctation of the aorta and recommended surgery. (FPD 035.) On February 6, 1968, Clarence had open-heart surgery in Phoenix to repair his aorta. (FPD 035-036.) It should be noted that when Clarence was on his way home from the hospital, he was preoccupied with fear at his father's perceived anger at him since he had forgotten his shoes at the hospital. (FPD 122.) About three weeks after undergoing heart surgery, on February 20, 1968, Clarence was hospitalized for three days due to weakness and discomfort at the operative site.

As an adult in his mid-twenties, Clarence was noted as having a history of rheumatic fever, aorta complications, and a heart murmur. (FPD 291.) An electrocardiogram (EKG) report dated January 5, 1979, indicated possible left atrial hypertrophy or intraatrial conduction defect. (FPD 545.) When Clarence was in his early forties, in October 1997, an EKG noted moderate to severe aortic insufficiency with normal left ventricular dimension and systolic function. (FPD 385.)

Clarence was diagnosed with glaucoma in 2000. (FPD 557.) On February 6, 2015, Dr. Michael Horsely deemed Clarence legally certified as blind in both eyes. (FPD 5069.) In June 2020, EKG results indicated sinus bradycardia, possible left atrial enlargement, rightward axis, incomplete right bundle branch block, and abnormal. (FPD 1443.) In July 2021, Clarence started receiving treatment for Coccidioidomycosis, also known as Valley Fever. (FPD 5207.) He has intermittently received a special wasting diet since 2012 (FPD 783, 779, 837, 916, 1045) with an order recently placed in January 2022 due to his underweight body mass index (BMI). (FPD 5800.)

Psychosocial History:

Clarence was born on August 26, 1955, at the Navajo Medical Center in Fort Defiance, Arizona, the third of six children of Wilbur and Ella Dixon and reportedly born as a “blue baby” due to a congenital heart condition known as coarctation of the aorta. He was apparently delivered in breech presentation, weighed less than six pounds, and remained in an incubator his first month of life.

Clarence has described his upbringing as troubled due to his belief that his father was cold and domineering with no praise for the children. He has described his mother as a tranquil and passive person.

As a child, Clarence feared his father who reportedly spoke to Clarence and his siblings in a demeaning manner, frequently telling them they were worthless. His father was belligerent and abusive. If one child did something to anger Clarence’s father, he would punish all children. He would reportedly line the children up and hit them with a belt until they cried. It should be noted that Clarence’s father suffered from migraine headaches, has been described as having “mental problems,” and was prescribed Darvon and Librium.

Clarence's mother did nothing to stop his father's violent tirades and never asserted herself to protect the children. Clarence has reported feeling betrayed by his mother.

In high school, Clarence recalls being beaten up by his father for a minor transgression. He was sent to California to live with his sister Ellen. According to Clarence's brother Perry Dixon, Clarence was "pretty beat up" when placed on the bus to California.

On March 18, 1975, Clarence married Geraldine Eagleman in Window Rock, Arizona. They moved in May 1976 to Tempe, Arizona, where both planned on attending college. This was, by all accounts, an unhappy marriage. Clarence stated that the girl he assaulted in 1977 bore a "superficial resemblance to his wife." Geraldine divorced Clarence in 1979 while he was in prison.

Mental Status Examinations:

Interview summary August 25, 2021

Mr. Dixon was brought into a private interview room with assistance from guards due to his blindness, sat straight in front of me, and agreed to have a conversation with this writer. During the interview he stated, "The State is trying to execute me" and "They charged me with first-degree murder in 2002." When confronted with the state of his recent legal issues related to the death sentence, he stated, "There are issues of jurisdiction that can be brought up anytime; it is the black letter of the law." Clarence became excited about the conversation and when confronted with the number of appeals he has submitted on this issue he stated, "They never explain why my claims are denied."

When asked about what it is like to be on death row, he stated, "I have been in prison for 35 years, I hold my biological imperative, I need to further myself, I have a strong biological imperative, I need to further myself."

He further stated, "They believe I am guilty" and conveyed his belief that it was for no other reason that because they "say so." "They are not following their own rules," he said. He denied feeling that being Native American or Navajo explains this.

We discussed Clarence's history of psychiatric illness and he was asked about his recollection of being found Not Guilty by Reason of Insanity. He stated, "I was found incompetent in court in the past, I was ordered to the Arizona State Hospital, and someone dropped the ball."

He reported that when he was young, he was "weak and stupid." He also stated that: "My wife messed up with my head. She wanted a good life and a good provider. We got married quite quickly. When we moved to Tempe, she took an overdose of aspirin. She felt I did not bring anything to the marriage. I brought nothing to the marriage. I was working at the time."

He reported difficulty trusting anybody. When asked about his hopes, he stated: "I want them to recognize the Law. They are not disagreeing with me; they just want to kill me for murder. They are ignoring the law."

Clarence reported that when he feels the guards are nudging him, he tries to go to sleep and follow "Andy." He believes that Andy is his deep self, and when he wakes up, he says, "I am not going to be weak and slow."

Clarence admitted to hearing voices speaking to him inside his head. He stated, "There is something inside of me that is loose. I am loco, I am broken."

He admitted to feeling quite angry about himself. "The anger comes from somewhere." He also reported during this interview that there are two ghosts inside of his cell and that "somebody touches me in my shoulder, I turn around, and nobody is there."

Interview summary February 17, 2022

Mr. Dixon was brought into the private interview room by a guard who assisted him to his chair due to his blindness. The interview was initiated by re-introducing myself, obtaining verbal informed consent for the interview, and explaining the purpose of the visit.

He was asked initially if he was aware that the State of Arizona may have filed for a date of execution in his case. He reported being aware. When asked about his feeling about this filing, he stated:

> Sometimes I feel a tinge of fear. Other times I feel a sense of adventure. At times, I feel a sense of relief. I have been locked up for 35 years. I am reaching the endpoint. I either be released from prison or will be released from prison on my legal claim.

When questioned about the nature of his hope to be released from prison, he stated:

> I filed a petition for a writ of certiorari with the United States Supreme Court. Only a handful of applications are selected, and mine was selected. The Supreme Court gave me a docket number. They also told the State Attorney General to respond to my petition. They responded, and yesterday, my attorney and I finished my reply. My claim is straightforward; it is easy to understand.

Clarence continued that, "Since 1991, every judge and every jurist, or appellate judge to this date, they have denied my claim even though it is straightforward, it is a good claim."

When asked who believes it is a reasonable claim, Clarence stated, "Based on two state statutes. One Statue did not include campus police as peace officers before the law was changed in August 1985; the crimes occurred in June 1985."

When confronted with all the appeals he has submitted since 1991 to different jurisdictions and judges, he admitted that his requests had been denied. He stated, "Yes, different judges, what I say is that they are in denial. They have never given me statements of fact."

We again discussed his history of incarceration for the last 35 years and his life before imprisonment. He reported that before he was incarcerated, he was "stupid and weak." He continued:

> "Stupid because I did not know what I had, and weak because I was gullible and easily lead astray, childish and manipulated." He also stated, "Now I have my own sense of self. I know that when I get out, I know where to go to get help. Find a job, find a place to stay, and all that sort of stuff. I have three women, my attorney, my mitigation specialist, and my investigator. There are many women that will help me get situated there in Phoenix.

When asked about how he is different now than before incarceration, he stated:

> Back then, I was beginning my adult life. And I had no value. I didn't attach any value to it. Now, I'm an older adult male. I know I only have a few years to live. And I'm not all that. I'm not ambitious. I've wasted my entire adult life in prison. If I get out, I just want to enjoy the days when I enjoy the people I come in contact with. I'm going to experience freedom.

I asked if the appeals to the Supreme Court and the multiple appeals he had done before were based on the two laws. He replied:

> For the United States Supreme Court justices to rule on my behalf, they have to rule that my 1985 conviction was unlawful. And that means that my convictions back then were unconstitutional and unlawful. And that means that the convictions now were partially based on the conviction back then also become illegal, illegal or unlawful, and unconstitutional. My conviction must be overturned. And they will remand me back to the Coconino County Superior Court.

During this interview, Clarence was questioned about the voice he hears inside of his head, and he stated:

> I have heard the voice for a while, almost all my life, and I have learned to put it in a bit of a compartment. The first time I heard the voice, I was in third grade on the playground, and I heard someone say 'Clarence,' looked around, and nobody was close to me. It was not that frequent—every 2 to 3 months. It didn't tell me to do anything bad, just saying my name.

Clarence reported that after he moved to live at a Methodist mission when he was about ten years old, he started developing an intense sense of aloneness and emptiness that he has had since. He admitted liking being alone since he was little and enjoyed reading a lot, especially about World War II. He reported that books took him to different places, like an escape. He admitted that he felt "separate" from other people and said that he enjoys "jeopardy" on his tablet.

He reports his belief that he has a tumor in his head. He also reports visual hallucinations, including seeing dead children that are watching him.

When we further discussed deathwatch and the details of isolation and being watched around the clock, Clarence reported feeling that isolation and constant surveillance is cruel punishment.

Interview summary March 10, 2022

The visit with Mr. Dixon started at around 9 a.m. and lasted for approximately 1 hour and 5 minutes. Our conversation focused on the issues related to his pending appeals and interaction with his legal team.

He was specifically questioned regarding the multiple appeals he has submitted and the nature of the denials. Clarence stated, "The judges and justices have never given me statements of fact and conclusions of law as to why they denied my claim." He added that "The closest they got was to tell me that the law was against me in relation to the claim of police jurisdiction." When questioned further about specific rulings, opinions of judges, and his own attorneys' views he replied: "There is no word, they just say 'We deny it.'"

I asked directly if he considered the courts' blanket denials as an indication that his arguments are correct. In response, he stated:

> They can't explain it. Okay, here it is. One statute said that the NAU police or the State University Police had jurisdiction over certain crimes on campus and that stay on campus; then they have this other statute that defines who is a peace officer. Then University Police are not included in the definition of a peace officer.
>
> And these two statutes, they were in effect, full force, and the effect was in June of 1985. They were in full effect on campus. Now, I say I tell him, okay the crime occurred, a mile and a half off-campus. They don't have the powers to investigate. To bolster my claim, they aren't even peace officers, although they call themselves police officers, they could not serve a search warrant because they were not peace officers. They were working outside of their jurisdiction.

When questioned about the judicial system's rationale for denying his claims, Clarence stated that he did not think the judges, attorneys for the state, or his own attorneys were plotting against him, but stated his belief that this reflected that they are, "Not against me but have a firm and decided philosophy that the law enforcement should always be backed up."

He stated that at one point, one of his attorneys (Vikki Liles) tried to convince him to not file an appeal on his NAU issue. When questioned about why his own attorneys do not agree with him filing appeals based on this issue he stated: "Judges are part of the bread and butter. They really can't eliminate the bread and butter. Right? Because here I am. I'm trying to push this unpopular claim. And if they push it for me, the judge may look at it unfavorably. So the next time they come with another client, that client is going to suffer because of me."

When asked about his NAU claim sounding illogical to multiple attorneys he stated:

> My claim is logical. If NAU police do not have the authority to investigate crimes off-campus, and the crime occurred off-campus, then logically, they should have kept their head out of it. That means they have no power to investigate off-campus.
>
> What I'm saying is that collectively, they have a mindset. As Arizona's judges, almost all of these judges in Arizona don't come from the public defender's side of the bar, they come from the prosecutor services bar. And that's for a reason. No wonder an FBI study done back in 1985 or '84, someone came out and said that 5% of the people incarcerated in state and federal prisons are innocent. Right? That's an awful lot of people doing innocent time. We're doing someone else's time. Doing time for somebody else's crime. It is a corrupt system. How long do you think all these black men and women were lynched in America? Decades. And then the men who got charged for the lynching are found not guilty.

When confronted with the fact that he interprets the law differently than the judges who have reviewed his NAU claim, he stated: "I have a case, I am advocating for myself using the law. I am giving the Judges the best and most favored law."

When asked if there was any possibility his interpretation of the law was faulty or incorrect, he stated:

> There is no possibility at all. You can ask my attorney Amanda if my legal reasonings are incorrect. She's a lawyer and she will tell you certain things. So if my legal reasoning was not correct, why is it the United States Supreme Court wanting to look at it? All the help I need from my attorneys is assistance. I write up my own position. I give it to Amanda and she fills in the date and checks the references, and gives it back to me for signature. That is what they do. The Supreme Court is looking at my claim, and they will issue a decision before April 5th.

Clarence appears his stated age; he is medium tall and medium build and required assistance with ambulation with a cane due to blindness; however, his gait was appropriate. He was noted to be clean and well kept, without evidence of malnourishment or physical violence.
He was alert and talkative, with an indifferent mood and somewhat blunted affect. He was noted to be guarded and somewhat distrustful.

His thought processes are pretty rigid and somewhat circumstantial, and his ability to problem solve appears quite limited by his distorted thinking and inability to exercise objective judgment, as evidenced by his deluded understanding of the legal process regarding his appeals. He also seems to have a deluded sense of the law as it applies to his arrest. He admits to visual, auditory, and tactile hallucinations, and his thought content seems to be contaminated by grandiosity and concreteness. His ability to exercise objective judgment appears to be quite limited and tainted by his hallucinations and thought content disturbances. His memory seems intact, but his ability to concentrate is poor.

Diagnoses:

- Schizophrenia Paranoid Type.
- Major Depression Disorder
- Alcohol Dependence in Full remission
- Glaucoma with Secondary Blindness
- Non24 sleep cycle disorder

Assessment:

It is my professional opinion, which I hold to a high degree of medical certainty, that Clarence suffers primarily from the mental disorder of schizophrenia.

Schizophrenia starts in early adulthood and is marked by premorbid and prodromal subthreshold symptoms leading up to full onset. People with schizophrenia typically have corresponding deficits in neurocognitive functioning, which persist even with medication. Schizophrenia is chronic and debilitating and affects every aspect of functioning.

Schizophrenia is a neurodevelopmental disorder. It is diagnosed based on the presence and severity of symptoms, including hallucinations, delusions, thought disorder, and negative symptoms. Symptoms are typically grouped into three domains: positive symptoms, which include delusions and hallucinations; negative symptoms, which include avolition, social withdrawal, loss of interest or motivation, and lack of hygiene; and thought disorder, which provides for impaired cognitive functioning in many areas (executive functioning, memory, attention and concentration, information processing and social cognition). Typically, the cognitive dysfunction results in unstable employment, poor relationships, and difficulty with independent living. To be diagnosed with schizophrenia, a person does not usually have all these symptoms. The presence of only positive symptoms is sufficient for diagnosis.

Schizophrenia is a complex neurodevelopmental disorder that in most individuals has a pre-illness lower than average intelligence that continues to decrease as the illness progress. However, there is a subgroup of individuals with high intelligence that tends to manifest continued high intelligence during the course of the illness and tend to manifest fewer negative symptoms. In some cases, these patients may appear normal to the untrained observer.

Based on my evaluation of Clarence and the available records reviewed, Clarence presents with both positive, cognitive, and negative symptoms of schizophrenia.

In patients who have schizophrenia, substance abuse is a common co-morbid condition. Clarence's history of substance abuse is consistent with the high rates of comorbidity substance-related disorders in schizophrenia.

Referral questions:

1. Is Clarence's mental state so distorted, or his concept of reality so impaired, that he lacks a rational understanding of the State's rationale for his execution?

   In my best opinion, Clarence suffers from a psychiatrically determinable impairment that significantly affects his ability to develop a rational understanding of the State's reasons for his execution.

   Clarence is disconnected with reality, especially as it relates to his legal case. His visual, auditory, and tactile hallucinations further aggravate his disconnect with reality. Clarence's thought process is contaminated by concrete thinking, which is common in those diagnosed with schizophrenia. Clarence's concrete thinking causes him to fixate on an issue that is unrelated to his execution, limiting his ability to abstractly consider why he is to be executed. This results in his inability to form a rational understanding of the State's reasons for his execution.

   Clarence holds a fixed delusional belief that his incarceration, conviction, and forthcoming execution stem from his wrongful arrest by the NAU police in 1985. That belief has no basis in fact—since it was the Flagstaff Police, *not* the NAU police, that arrested him (FPD 7027-7029)—nor is Clarence able to grasp that this belief has no basis in fact, which renders Clarence's understanding of why he'll be executed irrational.

   For decades, Clarence has fixated over and pursued this delusional belief to his detriment: He fired his court-appointed attorneys and represented himself at his capital trial after they refused to raise this factually baseless issue; and he has filed appeals over this issue nearly thirty times in numerous state and federal courts.

   Despite explanations from prior lawyers and the courts for why the issue is baseless, Clarence is unable to rationally understand why he has not obtained relief on this issue.

   Clarence's pro se filings reveal his delusional, paranoid, and conspiratorial thought content. He has, for instance, expressed the irrational beliefs that: his prior lawyers "purposefully exclude[ed] the [NAU] issue" (FPD 6547); courts have "refused and ignored applying relevant law" because of the nature of his crime and possibility of his release (FPD 6562); relief has been denied on this claim because "[t]he State is embarrassed that for many years [the NAU police] has operated without statutory authority[]" (FPD 6563); the courts' action on the NAU issue reflects their deliberate and "continued evasion" of his right to relief (FPD 6780); the courts have engaged in "obvious subterfuge" (FPD 6790, FPD 6952) and are purposefully in "collusion" to deny him his rights (FPD 6973-6980); that the "cumulative, continuous and concerted effort by state and federal judges on its face smacks of collusion and conspiracy or, at the least, complicity and the reader is left considering the circumstantial weight to tell if judicial collusion is found[]" (FPD 6980; *see also* FPD 6983); and that judges have engaged in deliberate "obstruction" in denying his NAU claim (FPD 6988) evidencing their "spirit of ill-will towards [him]" (FPD 7356–7357). Clarence also believes that the courts have denied his claim "because to follow and apply the law would have been politically disastrous, a dark embarrassment to the state universities." (FPD 6962.)

While Clarence can verbalize a surface awareness that the State intends to execute him for a crime that occurred in 1978 and for which he was convicted, it is my professional opinion that Clarence nonetheless lacks a rational understanding of the State's reasons for his execution. That is because, at bottom, Clarence ultimately believes that he will be executed because the NAU police wrongfully arrested him in 1985 and the judicial system—and actors in it, including his own lawyers—have conspired to cover up that fact.

As the records, Clarence's history, and my evaluations illustrate, while Clarence can verbalize an awareness of the legal process and has a limited capacity to exercise rational judgment in some areas of life, his beliefs about why he is incarcerated and why the State seeks to execute him are fundamentally irrational. His capacity to understand the rationality of his execution is contaminated by the schizophrenic process which results in his deluded thinking about the law, the judicial system, his own lawyers, and his ultimate execution despite multiple attempts over many years to disabuse him of his irrational beliefs.

2. Would Death Watch increase the likelihood that Clarence Dixon would manifest or experience a worsening of the impaired mental states described in Question 1? If so, why?

It is a well-known fact that extreme isolation of any individual leads to severe psychological and psychiatric distress; vulnerable individuals such as those with mental disorders are particularly more susceptible to decompensations.

In Clarence's case, the psychosocial and physical stress related to increased isolation, lack of any privacy, and 24-hour supervision is likely to worsen his delusional and paranoid thinking, initiate a new depressive episode, and worsen his anxiety. In the context of his blindness, deathwatch becomes a new challenge with new uncertainties that will challenge all of his acquired abilities to manage his blindness.

Under his circumstances, deathwatch isolation is analogous to psychological torture that is highly likely to lead to psychiatric decompensation.

Lauro Amezcua-Patino, MD, FAPA.

Lauro Amezcua-Patino MD

Digitally signed by Lauro Amezcua-Patino MD
Date: 2022.03.31 07:06:12 -07'00'

03/31/2022

Date

Exhibit A

Metropolitan Consulting Corporation PC

Lauro Amezcua-Patiño, MD, FAPA.

Corporate Office , Testing and rTMS office
4055 W. Chandler Boulevard, Suite #5
Chandler, AZ 85226

Clinical Office
70 N. McClintock Suite #4
Chandler AZ 85226

480-464-4431, Cell: 602-339-3779
480-464-2338 Fax
E-mail:LauroAP@metronbi.com
www.metronbi.com

CURRICULUM VITAE

LICENSURES & CERTIFICATION

Licensures	Arizona #17900, DEA # BA1622061, XA1622061(Buprenorphine License)
Certification	*Fellow, American Psychiatric Association* *Diplomate, American Board of Psychiatry & Neurology,* *Diplomate, Diplomate America Board of Adolescent Psychiatry,* *Diplomate, American Board of Forensic Medicine*
Languages:	*English and Spanish*

PROFESSIONAL EXPERIENCE

(Current Positions)

Medical Director-CEO -President	***Metropolitan NeuroBehavioral Institute, PLLC***	***2005 - Current***
President	***Metropolitan Consulting Corporation***	***2008 - Current***
Medical Director	***Oasis Behavioral Health Hospital***	***2013 - Current***
Medical Director	***Footprints to Recover Detox Residential***	***2017 - 02/2019***

(Past Positions)

Adolescent Medical Director	Aurora Behavioral Healthcare Tempe Hospital	2012 - 2013
Medical Director	Youth Development Institute (sex offender RTC) Metropolitan	1999 - 2007
Medical Director - CEO Chairman	Psychiatric Physicians, PC	1994 - 2005
Adolescent Services Director Medical	Aurora Behavioral Health Hospital	2010 - 2012
Director Crisis Services Director of Crisis	Banner Desert Medical Center	2001 -2006
Assessment Medical Director	MBC/Biodyne Arizona	2000 - 2005
Director of Assessment	St. Luke's Behavioral Health Center Arizona	1993 - 2001
Medical Director Crisis/UM Director C.	Partnership for Youth and Families	1996 - 2001
Dependency Services Director	Desert Vista Hospital	2001 - 2003
C. Dependency Services Associate Med.Dir	Charter Behavioral Health System Charter Medical - East	1995 - 1999
Medical Director	Valley Desert Vista Hospital	1996 -1996
Medical Director	ComCare	1991 - 1995
Medical Director	Maricopa Clinical Management	1992 -1994
Medical Director	East Valley Behavioral Health Assoc.	1992 - 1993
Emergency Psychiatry Director Hispanic	Maricopa Medical Center-Director ER Psych	1990 - 1992
Consultant	Arizona State Hospital	1989 - 1991
Staff Psychiatrist	Camelback Community Counseling East	1988 - 1990
Consulting Psychiatrist Emergency Psych.	Valley Alcoholism Council	1988 - 1990
Consultant	Human Dynamics Institute	1988 - 1990

EDUCATION	*INSTITUTION*	*GRADUATION*
Psychiatry Residency	Maricopa Medical Center	1989
Family Medicine Externship	University of California, Irvine.Dept. Family Medicine	1984
Clinical Internship	Instituto Mexicano del Seguro Social, Mexico	1982
Medical Degree	Escuela de Medicina de Mexicali, UABC, Mexico	1981
College Degree	Instituto Salvatierra, UABC, México	1977

HOSPITAL STAFF PRIVILEGES

Oasis Behavioral Health Hospital

Prior Privileges at St. Joseph's Hospital/Barrows Neurological Institute, St. Luke's Hospital and Medical Center, Banner Desert Medical Center, Desert Vista Hospital, Maricopa Medical Center, Mesa General Hospital, Chandler Regional Hospital. Tempe St. Luke's, Aurora Behavioral Healthcare Tempe, Scottsdale Health Care Systems, Honor Health.

PROFESSIONAL ASSOCIATIONS:

American PsychiatricAssociation
Fellow. 2003 to Date

Arizona Psychiatric Society -
Past President 1997 - 1998
President 1995 - 1997
President Elect - 1994
Vice President - 1993
Secretary - 1992
Treasurer - 1990 - 1991
Government Relations Committee - Co-chair- 1990 -
2001 Ad Hoc Committee, Legislative Issues - Chair 1990

American Neuropsychiatric Association American

GOVERNOR'S APPOINTMENTS:

Member, Joint Legislative Committee on Sex Offender Treatment-Summer-Fall 1997 Governor's Behavioral Health Action Committee, Member 1993-94
State of Arizona, Psychiatric Security Review Board, Member 1997 to February 2006
Vice-Chairman, June 1999 to 2001
Chairman, April 2001 to February 2006
Member, Arizona State Hospital Capital Construction Committee Jan 2000 to Dec 2002

ACADEMICS:

Adjunct Assistant Professor of Medicine-Midwestern University, Phoenix, Arizona. 7/1998 to Date
Adjunct Assistant Professor of Medicine-AT Still University, Arizona. 02/2014 to Date

FOUNDATIONS AND NOT FOR PROFIT ORGANIZATIONS:

Board Member, Ballet Arizona, 1990-1993

CORPORATE DISCLOSURES:

Prior Member of Speaker's Bureau for: Astra-Zeneca, Lundbeck/Takeda Pharmaceuticals, Lilly Pharmaceuticals, Pfizer, Merck.

Current Member Speaker Bureau for Otsuka Pharmaceuticals

Prior Member Cultural Diversity Board and Zyprexa Board, Lilly Pharmaceuticals. Member, Advisory Board, Republic Bank, AZ.

Member, Governing Board, Oasis Behavioral Health Hospital Dec 2013 to Date.

PUBLICATIONS:

Removing the Mask. Mental Health and the Hispanic Patient"

Cover Story **April 2006 http://www.mdnetguide.com/departments/2006-april/mc_cover.htm**

"What you should know and are afraid to ask, Drugs among children and adolescents" a parent's guide. Publish America, 2004. ISBN 1-4137-2647-X. www.publishamerica.com

Most recent Research Experience/Principal Investigator:

2008 Pfizer protocol A1281158, 2008

Otsuka Aspire 246 Protocol,

2009 Covance 31-07-246 Protocol.

2018 Molindone Double Blind Protocol, Aggression Associated with ADHD

2017 Ketamine Infusion for the treatment of Post Partum depression

2019 OCD Double Blind New compound Study

Forensic Medical Experience

Extensive forensic medico-legal experience in both Criminal and Civil Cases, particular expertise in Death Penalty Cases involving mental health issues, including high profile cases, locally and nationally. (list of cases upon request)

Metro NBI
Metropolitan Neuro Behavioral Institute

Exhibit B

Experts/Medical
Ft. Defiance Indian Hospital records, 1957–1976

Arizona State Hospital (ASH) records, 1977

Psychiatric examination report by Otto Bendheim, M.D., September 2, 1977

Psychiatric examination report by Maier Tuchler, M.D., September 2, 1977

Psychiatric examination report by John Marchildon, M.D., October 26, 1977

Rule 11 report by Sushila Sampat, M.D., July 22, 1985

Rule 11 evaluation by Dean Gerstenberger, M.D., July 25, 1985

Report re propensity by Steven Gray, Ed.D., June 16, 2005

Neuropsychological/Psychological evaluation report by John Toma, Ph.D., June 30, 2012

Psychiatric evaluation report by Lauro Amezcua-Patino, M.D., September 7, 2012

PET scan & DTI scan report by Joseph Wu, M.D., March 18, 2013

Final Mitigation Report by Jeffrey Trollinger, 2013

Declaration of Bhushan Agharkar, M.D., April 13, 2021

Declarations/Notes
Declaration of Lota Dixon, October 4, 2012

Interview notes of Perry Dixon by Jeffrey Trollinger, July 30, 2012

Declaration of Jeffrey Trollinger, November 20, 2012

Declaration Garrett Simpson, March 3, 2013 [SEALED]

Declaration of Vikki Liles, March 22, 2013

Declaration of Ellen Geshick, September 18, 2014

Declaration of Kenneth Countryman, December 11, 2014

Declaration of Ty Mayberry, December 17, 2014

Declaration of Victoria Washington, May 5, 2015

Declaration of Kerrie Droban, May 5, 2015

Declaration of Vikki Liles, June 9, 2015

Arizona Department of Corrections, Rehabilitation & Reentry (ADCRR)
ADCRR medical records through January 2022

ADCRR and ASH records summaries combined by FPD

Arizona Department of Corrections offender records, 1978–2021

Court records
Petition for Writ of Certiorari: Intro and Claim 2, filed March 16, 2020

Ninth Circuit opinion, filed July 26, 2019

Opening Brief: Introduction and Claims 1-2, 5, filed February 17, 2017

District Court order denying habeas petition, filed March 16, 2016

Habeas Petition: Introduction and Claims 1-4, 16, 34, filed December 19, 2014

Superior Court minute entry dismissing PCR, filed July 3, 2013

Attorney Peter Balkan letter to Judge Reyes, October 5, 2012

Colleen Proffitt testimony re XYY, December 12, 2007

Documents from old cases
All "NAU Issue" documents combined 1991-2022, and NAU Issue summary of filings by FPD

Presentence report from Coconino County Superior Court No. 85-11654, January 2, 1986

Presentence report from Maricopa County Superior Court No. CR-103940, November 2, 1978

Preliminary hearing transcript from Maricopa County Superior Court No. CR-098107, June 22, 1977

Documents from Maricopa County Superior Court No. CR-098107

Documents from Maricopa County Superior Court No. CR-103940

Tempe Police Department Departmental Report No. 77-06700

Tempe Police Department Departmental Report No. 77-14127

Tempe Police Department Departmental Report No. 78-11825

Documents regarding executions
ADCRR Department Order 710

Death Watch Diary by Robert Towery, 2012

Robert Jones pre-execution watch logs, 2013

Joseph Wood observation records, 2014

Articles
Evaluating Competency for Execution

Crazy Pleas Confuse Justice

Exhibit 10

Clarence W. Dixon 38977
P.O. Box 3300
Florence, AZ 85232
SS# 585-84-9186
No Telephone
Word Count - 1870

CAN & DO THE COURTS COLLUDE?

by

Clarence W. Dixon, c2001

Can state and federal judges conspire to deny a person a lawful right? To collude is to act in collusion or conspire, especially for a fraudulent purpose. Collusion is a secret agreement for fraudulent or illegal purpose; conspiracy. Webster's New World Dictionary, 3rd College Ed., c1994, page 274.

Acts of conspiracy are difficult to prove. Without the testimony of one or more conspirators, only the circumstances and evidence surrounding the acts will weigh and tell. The numerous judicial answers to the appeals and petitions in this particular case will weigh and tell with each reader.

Recognizing and interpreting an amended statute in one criminal case while refusing to recognize the same statute in another case would lead one to believe foul is afoot. In the one case, the appellate court found for the governing Board of Regents that authority exists for the creation of a law enforcement agency. Goode v. Alfred, 171 Ariz. 94, 828 P.2d 1235 (App. 1991). In the other case, the courts misapplied case law to uphold criminal

convictions and a police force's pre-August 1985 authority and, therefore, its existence.

After a July 1990 arrest, a Tucson motorist challenged the University of Arizona police officer's jurisdiction to stop and arrest off-campus. In his ruling, Pima County Justice of the Peace Robert Donfeld opined that the Board of Regents lacked statutory authority to establish a police department and dismissed several traffic citations and a DUI. State v. Goode, Pima County Justice Court, No. CR 90-008744, June 19, 1991.

The State filed a special action and Pima County Superior Court Judge Michael D. Alfred vacated the dismissal, remanding for further justice court proceedings. Goode v. Alfred, 171 Ariz. 94, 828 P.2d 1235 (App. 1991).

Judge Alfred found for the university and the State. Mr. Goode appealed. The Court of Appeals, Div. Two, held that the Board of Regents had implicit statutory authority to establish a police force concluding that A.R.S. § 15-1626(A)(2) is broad enough to include authorization to establish a police force. The appellate court's conclusion was supported by A.R.S. § 1-215(23) which included within the very definition of a peace officer, "police officers appointed by the Arizona Board of Regents who have received a certificate from the Arizona Law Enforcement Officer Advisory Council." Goode v. Alfred, 171 Ariz. 94,96, 828 P.2d 1235,1237 (App. 1991).

In mid-1991, a post-conviction relief (PCR) petition was filed challenging the Northern Arizona University (NAU) Police Department's alleged authority to conduct criminal investigations. The petitioner

informed public defender Linda M. Houle that an applicable statute read quite differently than one cited in Goode v. Alfred, supra. In petitioner's amended supplement to his PCR petition, Ms. Houle included the claim questioning the legal basis for the existence of the police department. State v. Dixon, Coconino County, Amended Supplement, No. CR-11654, October 18, 1991.

After receiving the county prosecutor's response, Ms. Houle's reply included:

> A.R.S. § 1-215(23), as amended in 1985, then, clearly defines University police as peace officers. As it existed at the time of defendant's arrest, however, A.R.S. § 1-215(23) defined peace officers as "sheriffs of counties, constables, marshals, policemen of cities and towns, and commissioned personnel of the department of Public Safety." The version of A.R.S. § 1-215(23) cited in the Goode case was enacted in June o 1985 and became effective in August of 1985, after defendant's alleged offense. Goode is not, therefore, dispositive of the issues raised by petition.

State v. Dixon, Reply, Coconino County, CR-11654, Dec. 12, 1991.

After Coconino County Superior Court Judge Richard K. Mangum, ret., dismissed the PCR, Ms. Houle submitted the required motion for rehearing including the following statement that:

> "the court overlooked the fact that Goode v. Alfred, 97 Ariz. Adv.Rep. was based on statutory construction and that the statutes cited had been amended subsequent to petitioner's arrest and conviction. Changes in A.R.S. §1-215(23) and A.R.S. 14-1627* after petitioner's arrest may well have conferred that ability upon NAU police officers where it did not exist previously."

Dixon, Motion, Coconino County, CR-11654, December 24, 1991. (14-1627 is a typo and should have read "15-1627")

Before August 7, 1985, A.R.S. § 1-215(23) in its definition of who is a Peace Officer did not include university security officers. A.R.S. § 1-215(23)(Added by Laws 1981 Ch. 1 § 28 eff. July 25, 1981.

Before August 7, 1985, A.R.S. § 15-1627 granted the Board of Regents the authority to adopt rules similar to the Arizona Motor Vehicle Code; sanctions; and security officer powers. Included in the pre-August 7, 1985 statute are pertinent subsections F and G.

A.R.S. § 15-1627, F & G, 1981, read as follows:

> F. The security officers of each of the institutions shall have the authority and power of peace officers for the protection of property under the jurisdiction of the board, the prevention of trespass, the maintenance of peace and order, only insofar as may be prescribed by law, and in enforcing the regulations respecting vehicles upon the property.
> G. The designation as "peace officer' shall be deemed to be a peace officer only for the purpose of this section.

A.R.S. § 15-1627, F & G, (Added by Laws 1981 Ch. 1 § 2, eff. Jan. 23, 1981).

Superior Court Judge Mangum denied the July 31, 1991 PCR petition without acknowledging and interpreting the pre-August 7, 1985 statutes. Addressing this specific claim, the court wrote:

> "The authority cited by Defendant, a Justice of the Peace Court opinion, has been reversed by the Arizona Court of Appeals; so there was no reason for counsel to raise this issue at trial, as the law was and is against him."

State v. Dixon, Order, CR-11654, Dec. 16, 1991.

The Court of Appeals, Div. One, Rudolph J. Gerber presiding with Ruth V. McGregor and Philip E. Tocí participating, granted review and denied relief. In its Dec. 3, 1992 not for publication Memorandum Decision, the appellate court relied upon Goode v. Alfred, supra, to deny the claim stating:

> "Regarding the NAU Police Department's authority, Dixon relies upon a now-reversed opinion rendered by a justice of the peace on the jurisdiction of campus police. This authority is no longer the law. Goode v. Alfred, 171 Ariz. 94, 828 P.2d 1235 (App. 1991)."

Ct. of Appeals, Memo Decision, No. CA-CR 92-0171-PR, Dec. 3, 1992.

After an untimely but accepted filing of a motion for reconsideration, a pro se supplement to motion for reconsideration and a pro se petition for writ of habeas corpus in the Arizona Supreme Court, the court without discussion denied the PCR and habeas corpus petitions by a panel of Chief Justice Feldman, Justice Corcoran, and Justice Zlaket. Dixon, Supreme Court, No. CR-93-0198-PR, August 31, 1993; Dixon v. McFadden, Habeas corpus, Supreme Court, No. HC-93-0006, dismissed, April 15, 1993.

After Dixon brought his first PCR petition through the state courts, he continued with a petition for writ of habeas corpus in Pinal County which was transferred to Coconino County as a second PCR petition denied on August 4, 1995; a petition for review by the supreme court (PCR) denied on December 6, 1996; and a special action petition to the supreme court challenging the transfer of the second habeas corpus petition which was dismissed on July 8, 1994. In all the state proceedings, Dixon raised the claim that NAU police lacked sufficient authority or jurisdiction to conduct criminal investigations.

The United States District Court dismissed without prejudice Dixon's first petition for writ of habeas corpus so unexhausted claims could be pursued in the state courts. Dixon v. Lewis, CIV 95-1852-PCT-EHC (SLV), June 17, 1996.

After state supreme court summary denial of the second PCR petition, Dixon filed his second federal habeas corpus petition. In denying the habeas corpus petition, United States District Court Judge Earl H. Carroll adopted the Report and Recommendation of Magistrate Stephen L. Verkamp which in part read:

"Federal habeas relief is not available for alleged errors in the interpretation or application of state law. Estelle v. McGuire, 502 U.S. 62, 112 S.Ct. 475, 480, 116 L.Ed.2d 385 (1991); Miller v. Vasquez, 868 F.2d 1116, 1119 (9th Cir. 1989); Middleton v. Cupp, 768 F.2d 1082, 1085 (9th Cir. 1985), cert. denied, 478 U.S. 1021 (1986)."

Dixon v. Steward, Report, CIV 97-250-PHX-EHC (SLV), page 10, July 2, 1997.

In response to the Report, Dixon in part replied:

"As stated in Peltier v. Wright, 15 F.3d 860 (9th Cir. 1994), 'A writ of habeas corpus is available under 28 U.S.C. § 2254(a) only on the basis of some transgression of federal law binding on the state courts. It is unavailable for alleged errors in the interpretation or application of state law. Middleton v. Cupp, 768 F.2d 1083, 1085 (9th Cir. 1985)(citations omitted), cert.denied, 478 U.S. 1021; 106 S.Ct. 3336, 92 L.Ed.2d. 741 (1986). Furthermore, "state courts are the ultimate expositors of state law," and we are bound by the state's construction except when it appears that interpretation is an obvious subterfuge to evade the consideration of a federal issue. Mullaney v. Wilbur, 421 U.S. 684, 691, 95 S.Ct. 1881, 1886, 44 L.Ed.2d 508 (1975). Peltier v. Wright, 15 F.3d 861-62 (9th Cir. 1994)."

Dixon, Reply to Report, CIV 97-250-PHX-EHC (SLV), page 7, July 14, 1997.

In accepting the Report and Recommendation, Judge Carroll ignored a basic tenet of law; that issues of jurisdiction are derivative, Anonymous Wife v. Anonymous Husband, 739 P.2d 791 (Ariz. 1986); that issues of jurisdiction are never waived and can be raised on collateral attack, United State v. Cook, 997 F.2d 1312, 1320 (9th Cir. 1993); that subject matter jurisdiction and court's jurisdiction can be brought for the first time appeal, Mammo v. State, 675 P.2d 1347 (Ariz.App. 1983); and that issues of jurisdiction are reviewed de novo, Kelly v. Michaels, 59 F.3d 1044, 1057 (10th Cir. 1995). The above cases were cited in Dixon's habeas corpus petition.

A notice of appeal and a motion for issuance of a certificate of probable cause was filed on September 12, 1997. The certificate was denied on September 23, 1997.

In an October 1, 1997 letter, Dixon requested appointment of counsel which was never ruled upon by the United States Court of Appeals for the Ninth Circuit.

On October 27, 1997, a request for issuance of certificate of appealability was denied.

Another letter construed as a motion to reconsider was denied on November 28, 1997.

On February 23, 1998, Dixon submitted his pro se Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit. The petition was denied by United States Supreme Court Justice William K. Suter on May 18, 1998. Dixon's pro se Petition for Rehearing was denied by Justice Suter on August 12, 1998.

From Petitioner's first post-conviction relief petition of July 31, 1991 to the Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit of February 23, 1998, the state and federal courts have refused not to re-interpret statutes but to apply correct statutes in an effective effort to deny relief of a constitutional magnitude. A meritorious claim was raised only to be thwarted by judicial rulings that are more than simple mistakes or oversights but cognizant actions to deny a petitioner guaranteed protection under the Due Process Clause of the Fourteenth Amendment to the United States Constitution and Article 2, Section 4 of the Arizona Constitution.

Albert Goode received a fair and impartial adjudication of his police jurisdiction claim finally to his disadvantage. Dixon also sought relief under the same but previously amended statutes. But because his claim was definitively to his advantage, he was thwarted by a specious application of state law that did not and still does not apply.

This cumulative, continuous and concerted effort by state and federal judges on its face smacks of collusion and conspiracy or, at the least, complicity and the reader is left considering the circumstantial weight to tell if judicial collusion is found.

XXXX

Exhibit 11

COMPLAINT AGAINST A JUDGE

TO THE COMMISSION ON JUDICIAL CONDUCT:

I allege that Judge J. Michael Flournoy of the (check one) ☐ municipal court; ☐ justice court; ☒ superior court; ☐ court of appeals; or ☐ supreme court located in Flagstaff, Arizona, has committed judicial misconduct that involves (check all that apply):

☐ The commission of a criminal act.

☐ A disability that interferes with the performance of judicial duties.

☐ Willful misconduct in office.

☐ Willful and persistent failure to perform duties.

☐ Habitual intemperance (addiction to alcohol or drugs).

☒ Conduct that brings the judicial office into disrepute.

☒ A violation of the Arizona Code of Judicial Conduct.

In support of these allegations, I have answered the following questions truthfully and completed the attached statement of facts describing my experience with the judge.

1. Did you have a case before this judge? ☒ yes, ☐ no. If yes, what is the case number? CR 85-11654
2. What is the name of the case? State of Arizona v. Clarence W. Dixon
3. List the names of any attorneys, who appeared in the case: Linda M. Houle, Michael S Reddig, Kaign Christy, Bruce Griffen, John Ellsworth, Wendy F. White, H. Allen Gerhardt, Susan V. Sterman, Michael Hinson, R. Wayne Ford, Jill L. Evans,
4. Are you involved in a lawsuit that is still pending before this judge? ☐ yes, ☒ no.
5. List your telephone numbers: Daytime: N/A; After hours: N/A
6. Street Address: Arizona State Prison-Eyman Complex, Meadows Unit
7. City: Florence, State: Arizona Zip Code: 85232
8. Print your name: Clarence W. Dixon Today's Date: March 12, 2002
9. Clarence W. Dixon

Signature (signed in front of a notary and notarized below)

VERIFICATION

SUBSCRIBED AND SWORN to before me this 12 day of March, 2002

OFFICIAL SEAL
ELIZABETH D. MINER
Notary Public - State of Arizona
PIMA COUNTY
My Comm. Expires Nov. 9, 2002

Notary Public

11/9/2002
My Commission Expires

Rev. 1-24-01

STATEMENT OF FACTS

NAME: Clarence Dixon JUDGE'S NAME: J. Michael Flournoy DATE: 3/12/02

On June 10, 1985, I was arrested for the sexual assault of a college coed. N.A.U. police investigated obtaining a Court Order and two Search Warrants, gathered evidence, and interviewed witnesses and the victim.

In April 1995, Judge Flournoy was explicitly informed of statutes applicable to my Crim.Rule 32 claim that N.A.U. police lacked jurisdiction at the time of my June 1985 arrest. In August 1995, Judge Flournoy denied my Crim.Rule 32 petition. See attached Petition; pages 1,A-4 & A-5 and Minute Entry Order.

In Sept. 2001, I filed a Crim.Rule 32 petition alleging obstruction by Judge Mangum (ret.) and Judge Flournoy of my right to due process and my right to fair and impartial hearings. Again, I specifically mentioned the 1981 statutes. Initially assigned to Judge Coker, my petition was reassigned to Judge Flournoy who without recusing himself, denied my petition on Feb. 7, 2002. See attached Petition; pages 1,A-4,A-5,A-6 & A-7, and Minute Entry Order.

This is my third Crim.Rule 32 petition and because the superior court judges and appellate state courts will not order a fair and impartial hearing on my due process claim, I seek suspension or censure of Judge J. Michael Flournoy.

////

Exhibit 12

JUSTICE PROJECT
ARIZONA ATTORNEYS FOR CRIMINAL JUSTICE
C/O LARRY A. HAMMOND, CHAIR
2929 N. CENTRAL AVE.
21ST FLOOR
PHOENIX, AZ 85012

CONFIDENTIAL – ATTORNEY WORK PRODUCT

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

August 7, 2000

Clarence W. Dixon (#38977)
Arizona State Prison
P. O. Box 3300
Florence, AZ 85232

Dear Mr. Dixon:

I have your letter of July 16, 2000, which was received by AACJ on July 25 and forwarded to our office on August 3. I have also looked at your evaluation form. The Justice Project is an all volunteer organization with very limited resources. We look for cases of manifest injustice. Our first goal is to find those people who are innocent of the crimes for which they have been charged and to assist them in obtaining relief. Your case does not meet the standards of The Justice Project. I am sorry that we could not be of more help to you.

Sincerely,

Larry A. Hammond

LAH/djt
cc: Sandie Schmidt
348449

Exhibit 13

BILTMORE EVALUATION AND TREATMENT SERVICES

Clinical, Forensic, Neuropsychological

207 East Monterey Way, Phoenix, AZ 85012

Telephone: (602) 957-8822 Fax: (602) 957-0777 email: jtoma@biltmoreevaluation.com

Neuropsychological/Psychological Evaluation CONFIDENTIAL

Client Name: Clarence Dixon **Date of Birth:** 08/26/55
Age: 56 **Sex:** Male
Ethnicity: American-Indian/Navajo **Language:** English
Referred by: Kerrie Droban, Esq. **Examiner:** John J. Toma, Ph.D.
Court Number: CR2002-019595 **Dates of Evaluation:** 04/18; 04/19; 05/02; 06/26/12
Date of Report: 06/30/12

Reason for Referral:

Ms. Droban, who was the attorney for Mr. Dixon, requested a full neuropsychological and psychological evaluation of her client and a report of the findings as they may relate to the planning of Mr. Dixon's defense.

Evaluation Process:

Mr. Dixon was evaluated and tested in semi-private rooms, in the Browning Unit, at the Arizona Department of Corrections facility. The evaluation consisted of clinical interviews and several neuropsychological and personality tests. Overall, over fourteen hours were spent in direct contact with Mr. Dixon.

Limits of Confidentiality:

Mr. Dixon had been informed by his attorney of the examination. He authorized the release of this report to his attorney and legal team. He was apprised of the limitations to confidentiality as a result of the disclosure of information that would indicate a danger to him or others and of my record keeping policies which conform to state and federal guidelines.

Outside Sources of Information:

Ms. Droban provided several documents for my review which are listed in Appendix A of this report.

Acculturation Assessment:

Racial, ethnic, spiritual and cultural background was taken into account when completing this evaluation. A general acculturation assessment was conducted in accord with the DSM-IV-TR - Outline for Cultural Formulation. Mr. Dixon's cultural and spiritual identity, cultural and spiritual explanations for presenting problems, cultural factors related to psychosocial environment and levels of functioning, cultural elements of the relationship between the

examiner and the client, and overall cultural and spiritual factors related to diagnosis and testing, were thoroughly examined and considered with all of the data available during this evaluation.

Mr. Dixon is an American-Indian who is affiliated with the Navajo Nation of Arizona. He was born on the reservation at Fort Defiance. His primary language is English but he stated that since he has been imprisoned he has taught himself the Navajo language (Diné Bizaard). Although Mr. Dixon reported that he has taught himself his native language, when asked if he felt he was connected to the Navajo culture, he responded, "I don't feel connected." He elaborated, "But I'm very proud that I taught myself to read and write in Navajo." He added, "When I daydream about getting out I dream about finding a place in New Mexico, near the reservation but off the reservation, and building myself a Hogan with a basement."

When asked about his spiritual beliefs, he stated that he was reared with the Methodist beliefs and generally referred to himself as a "Methodist" until his "third or fourth year of prison." He said that at that time "I started going to the sweat lodge until January of 1993 but they don't have it on death row." He reported that he is "more or less Agnostic" now in terms of his spiritual beliefs.

There were no barriers to the free exchange of information as Mr. Dixon's primary language is English. I did not see a spiritual or cultural foundation for a mental illness, nor did I see any reason, based upon his beliefs and practices, to modify any of the tests.

Tests Administered:

Intelligence:

Wechsler Adult Intelligence Scale – IV (WAIS-IV)

Language:

Woodcock Johnson-III Tests of Achievement, Passage Completion Subtest
Benton Controlled Oral Word Association Test (COWAT)
Categorical Fluency Test (CFT)
Boston Naming Test

Sensorimotor:

Halstead-Reitan Battery – Finger Tapping Subtest
Halstead-Reitan Battery – Hand Dynamometer Subtest
Halstead-Reitan Battery – Trail Making A Subtest
Halstead-Reitan Battery – Tactual Performance Subtest (TPT)
Grooved Peg Board (GPB)
Handedness Questionnaire

Memory:

Rey Complex Figure Test (RCFT)
Logical Memory Subtest of the Wechsler Memory Scale-III
California Verbal Learning Test-II (CVLT)

Tests of Effort/Malingering:

Test of Memory Malingering (TOMM)
Rey 15 Item Memory Test (RMT)

Auditory Perception/Attention:

Halstead-Reitan Battery – Speech-Sounds Perception Subtest (attempted)
Halstead-Reitan Battery – Seashore Rhythm Test
Mesulam Cancelation Test (attempted)

Executive Functioning:

Wisconsin Card Sorting Test (WCST)
Halstead-Reitan Battery – Booklet Category Test (BCT)
Halstead-Reitan Battery – Trail Making B Subtest
Stroop Color Word Association Test (attempted)

Personality Tests:

Minnesota Multiphasic Personality Inventory-2 (MMPI-2)
Thematic Apperception Test (TAT)
Rorschach Inkblot Test

BACKGROUND

Mr. Dixon reported that he was found Not Guilty by Reason of Insanity (NGRI), for a crime committed in June, 1977. He stated that he was civilly committed to the Arizona State Hospital in January, 1978 but was "never picked-up." He was subsequently arrested and convicted for a burglary and assault. He was sentenced to five years in prison. Following this prison sentence, he was arrested and convicted of several charges related to sexual assault of a woman in 1985. While in prison, in 2002 he was charged with the murder of a woman that occurred, just two days after he was found NGRI in 1978. He explained, "I was in prison and there was a DNA match." He was convicted of this crime and sentenced to death.

Mr. Dixon was married for 2 ½ years and was divorced while in prison in 1979. He reported no current relationship with his ex-wife and they did not have children. Both of his parents are deceased. His father died at the age of forty-eight (in 1975), from a heart condition and his mother died in 2002, at the age of seventy-six. He has three brothers and two sisters. He thought his brother Perry (age fifty-eight) lived in Phoenix. His brother Duane (now fifty-five) lives in Fort Defiance. His brother Willard (age fifty-three) resides in Phoenix, "I guess." His oldest sister Ellen (age sixty-two or sixty-three) lives in Minnesota and his sister Lotta (age fifty-four) resides in Fort Defiance. He has not had contact with his sister Ellen since his father's funeral in 1975. His other siblings have refused to have contact with him since his mother's death in 2002. He said that his siblings "got mad" at him because he did not attend his mother's funeral "but I didn't have the money." Mr. Dixon reported no relationships or connections to anyone outside of the prison.

Mr. Dixon was fully cooperative and open during this evaluation. His disclosures were reasonably consistent with the records that were provided for my review. The test results, given his eyesight limitations, are believed to be an accurate reflection of his current functioning.

Early Development/Middle Childhood:

As indicated above, Mr. Dixon was born in Fort Defiance, Arizona. When I asked him about his birth history, he responded, "My mom told me that I was a breach baby. I came out

butt first. I was born in the PHS ("government hospital"). I was born in the early morning and I was born a month premature. My mom said I was in the incubator for a month." He thought, however, that he reached developmental milestones in a timely manner but later told me that he did not speak until the first grade and that he was held-back a year in kindergarten. He also recalled that was born with a heart murmur for which he later received surgery.

Mr. Dixon said that his mother was a "homemaker" during his childhood and that his father was a teacher and eventually a principle in the school system. His father also apparently held a position as an "Education Specialist" for the BIA (Bureau of Indian Affairs) at one point in his career. Mr. Dixon described his father as "a very smart man but flawed like everyone else." He said that his father was a "Methodist" who did not drink or smoke. His father apparently was "a dissertation short of a Ph.D." He said that others referred to his father as "It" (the English word for a word they used in Diné) because he "married the prettiest girl in high school" and because the school team, which his father coached, "won the state championship." Mr. Dixon noted, however, that his father had several extramarital relationships and that he had several illegitimate children throughout the reservation. He added, "We would have toys and they would disappear. I think he was taking them to my half-siblings throughout the reservation."

When Mr. Dixon was asked about his earliest memories, he recalled, "I guess I was three- or four-years-old and my father was doing this dirt road from the house he was building - my mother's house on her land." He further explained, "My mother's father was a big shot in the army and he got a bunch of land when he retired. My mother got acres of land. My father was a public school teacher and he worked on building my mother's house evenings and weekends. My earliest memory is that I remember crying because he was leaving me behind."

Mr. Dixon initially described his early childhood as being "enjoyable, fun, carefree but nowadays troubling." He said that he had a heart condition resulting in low blood pressure to his legs. He recalled that as a child, on the reservation, "we ran all over bare foot." He elaborated, "I had big calluses on my feet. My legs and feet would hurt in the afternoons because of my heart murmur." He added, "My mother used to be always mad at me for needing to be taken to the hospital. One time she threw a Campbell's soup at me and hit me. I just ran into the tool shed." He said that he was always "treated differently" than his siblings because of his heart problem and the related problems with his legs and feet. He explained, "They [*referring to his parents*] were a little more distant. I didn't feel connected to my mother. I really didn't feel connected to anyone." He said that his siblings "weren't around" and that he spent most of his childhood doing things "alone."

Mr. Dixon said that he "feared" his father. He explained, "He had a temper. I don't remember him beating my mother but he beat us though. Not often but we knew that his word was law when we were really young. A lot of people respected him because he was a dissertation away from a Ph.D." Mr. Dixon described his father with, "He was an excellent provider but a lousy father." He said that he did "not really" feel a connection to his father. He emphasized, "I didn't feel connected to anyone." He recalled that his father saw a psychiatrist for what he believed was related to "trying to balance out his mood. My father was on drugs in the 1960's. He was an angry man. A distant man. There were times when he was friendly and loving but most of the time I was afraid of him. He was mean."

Mr. Dixon said that both of his parents frequently put him down by calling him names such as "stupid." He said his father always called him "stupid" and that his mother "just parroted him." He added, "I was pushed and pulled in both directions. You had to handle the old man a

certain way – walk on eggshells." He described his mother as being a "passive woman." He elaborated, "I loved her to death but I had no respect for her. I guess I dislike women because of her." He recalled, at this time in the evaluation, "I have an anger issue - probably from my father. When I used to do stuff he used to be mad." When I asked him for an example, he recalled, "Like when I was helping build the foundation he would call me a 'stupid ass' and say things like 'don't be doing it that way.'" He then emphasized that his father was a "big shot" because he was an "Education Specialist" for the BIA and "a lot of people thought highly of him." The contrast between how he felt towards his abusive father and how others' perceived his father was something Mr. Dixon appeared to still be struggling with."

Mr. Dixon remembered that he was always hungry. He explained, "We had a beautiful Irish Setter and we went to Gallup, NM every two weeks to buy a big bag of dog food. I used to eat dog food throughout the day. My father had all this expensive stuff and yet we were hungry. He would buy cameras and stuff to pick-up women."

Mr. Dixon said that because he was held back a year in kindergarten he was in the same classes as his brother Duane. He said that they were not permitted to learn the Navajo language in school because "it was against the law." He stated that he performed well in school but remembered that he had to wear shoes that were "too small" in the fourth and fifth grades. He stated that because of this "both of my big toes are in-grown." He remembered that he had to walk to the hospital, several miles on his own, for surgery and that his toes were bleeding. He recalled this event to have occurred when he was eight or nine. He also remembered that in the third grade, when he thought that he was about ten or eleven, he was "extremely depressed." He explained, "I remember being in the playground all by myself. I had no friends. I just cried because I felt so alone. I was extremely tired and felt separated from everybody." He recalled that he experienced this "extreme depression" twice that year. The second time was when he sat alone in a field on a concrete block. He added, "I had the same feelings."

At around the age of ten, Mr. Dixon remembered that his family spent two summers in Hogan, Utah. He said that his father was "working toward his doctorate." He recalled that he was given a model airplane and that he cut his finger on the blade and "I had to get six stitches." He said that his father got mad at his mother and sister because he cut his finger. He added, "He got mad at the stupidest things." He elaborated, "He would be screaming and yelling. He would get mad at my mom for not washing the coffee pot the right way." He further explained, "The mood of our father affected the mood of the house."

Mr. Dixon recalled that "around the same time" [*when he was about ten*] his father "beat the hell out of my sister in her first year of college." He continued, "She got expelled and she spent the afternoon sitting in the station wagon. My father was trying to get my sister back in and he couldn't get her back in so he beat the hell out of her. She leaves and we don't see her for a dozen years."

In the sixth grade he was sent to boarding school. He added, "I hated it." He said that within his first three weeks he "caught lice." He emphasized that he was told "it was against the law" to speak Navajo and he felt this to be oppressing. He recalled no other specific childhood experiences and said that he progressed in school.

I confronted Mr. Dixon with statements in the records that indicated he made a "guillotine" and "cut the heads off of cats." He adamantly denied this. He explained, "I played a lot with tools and stuff but I never made a guillotine and I never cut off cats' heads. The closest thing that I ever did to hurt an animal was when I was twelve or thirteen my mom got me a microscope for my birthday. I dissected a frog and then used the microscope. The only other

thing I can remember is when my father gave us firecrackers to play with I caught a bullfrog and put a firecracker in his mouth. That's the closest thing I ever did that could have been sadistic. He said that this was just one of the things that the "cold case detective made up."

Adolescence:

Mr. Dixon said that at the age of thirteen he had to have heart surgery. He recalled being flown from Fort Defiance to Phoenix Children's Hospital. This was a traumatic experience for him. He explained, "After the operation I couldn't find my shoes. I was worried that dad's gonna be angry because I lost my shoes. I was in pain after the operation but that's all I could think about." He added, "That memory pisses me off. You think I would have been happy because I'm going home to see my brothers and sisters but I'm worried about my shoes. What a fucked-up way to live."

Mr. Dixon said that his father bought a trailer and he lived with his two brothers, in the trailer, when he started his freshman year of secondary school. He said that his father moved from Fort Defiance to Mini Farms because he got a job as a principle. He reported that his father left his mother and moved "eighty miles away." He recalled that his mother worked as a cook in the school. He said that his relationship with his father, at that time, was "not at all good." He recalled that he left the family in his junior year after a big argument with his father. He said that he accused his father of "setting my mom up with a job so he could leave her and that's what he did."

Following his junior year of secondary school, Mr. Dixon said that he moved to Los Angeles for a summer where he stayed with his sister. He said that his sister was the secretary for an "Indian Movement – LA Chapter" and that this was "in the mid-seventies after the movie Wounded Knee." He said that they lived in a "compound outside of LA" and he spent two-to-three months "hitch-hiking around" because "I didn't have transportation." He recalled that he had to hitch-hike to night school. After the summer with his sister he moved back to Fort Defiance to live with his mother. He said that he finished secondary school in 1974.

When I asked Mr. Dixon about the statement in his records that he had molested his sister, he responded, "That's not true either." He said that the only thing that he could remember that would even remotely suggest that was when he was tied in the same bed as Lotta. He explained, "When we were younger, maybe six or seven or maybe younger, we used to run at the window when we were supposed to be taking naps. My mother tied me to the bed with Lotta." He said that his head was at one end of the bed and hers was at the other end but that they were both tied to the bed. He said that nothing sexual occurred.

Adulthood:

After secondary school, Mr. Dixon moved in to the trailer that his father gave to his brother Duane. He said that his father had remarried and he was "not talking to his father" at the time. He recalled that he was working at a gas station in Window Rock. In 1975 his father passed-away after a heart operation. Mr. Dixon was twenty at the time of his father's death.

Mr. Dixon married Geraldine Eagleman at the age of twenty-one, in 1976. They decided to move to Phoenix and Mr. Dixon enrolled at Arizona State University (ASU). In 1977 he was adjudicated NGRI for "assaulting a girl with a pipe." At one point during the evaluation he said that the woman he assaulted was his ex-wife. *I noted in the records that he assaulted a woman*

who "bore some superficial resemblance to his wife." He was not committed to the hospital, however, until January 5, 1978 "but they never picked me up." In September, 1978 he was convicted of burglary and assault on "a college coed in Tempe." He said that he was sentenced to prison from September of 1978 to March of 1985. His wife divorced him while he was in prison in 1979.

After his release in 1985 he went to live with his brother Duane in Flagstaff. He said that he was working for a gas station "pumping gas." He was only out for three months and was arrested and convicted for charges relating to sexual and aggravated assault and kidnapping of a "single woman." He spoke about the Northern Arizona University (NAU) Police "not really being police" which was not considered in his conviction. He brought this issue up several times throughout the sessions I had with him. In spite of this potential defense, he was sentenced again to prison. He said that in November, 2002, while he was still incarcerated, he was charged and eventually convicted for a crime that occurred just two days after he was ordered to present himself to the Arizona State Hospital as NGRI in 1978. He said that the charges were filed as a result of a "DNA match" which they found "thirty years later." He was convicted and sentenced to death. Mr. Dixon has been incarcerated, almost entirely, from 1978.

Education/Employment History:

Mr. Dixon was held-back a year in kindergarten but reported no other difficulties in school. He graduated from secondary school in 1974. He said that he is now fifteen credits short from achieving a bachelor's degree. He reported that he received his Associates Degree from Pima College in General Studies. He said that he achieved this degree while he has been incarcerated.

Mr. Dixon has been incarcerated most of his adult life. His first job was "pumping gas" in Window Rock, Arizona. He was nineteen when he obtained this job. He worked for this gas station for about two years. He said that he worked for a gas station and driving a tow truck while he lived in Tempe and was attending ASU. He was working at this job when he was first arrested.

Substance Use/Abuse History:

Mr. Dixon reported that started smoking marijuana at the age of fourteen. He said that he smoked the drug on a "hit and miss" basis. He explained, "I was never a regular smoker. Just once in awhile. I just smoked it with my ex-wife. I never went hard-core looking for it." He also said that he tried his fathers' "Darvon and Librium" but "they didn't do anything for me."

Mr. Dixon reported that he had a problem with alcohol. He said that he started drinking, on a "catch as - catch can" basis at the age of sixteen. He said that in 1976 he started drinking regularly, which he explained was, "probably every night." He said that in the middle of 1977 to the time when he was sent to prison in September, 1978, he drank every night and experienced blackouts "about once every two weeks or three weeks." He stated that that he "got buzzed on three beers" but that some nights he drank a bottle of vodka. He said that he blacked-out from the vodka whenever he drank it. He added, "I didn't eat much at that time."

Mr. Dixon reported an extensive family history of alcoholism and possibly abuse of illicit drugs. He said that his brother Willard drank excessively. He also reported that his brothers Perry and Willard were convicted of dealing drugs on the Navajo reservation. He said that many

of his extended family members are "drinkers." He elaborated, "Quite a few on my mother's side and my father's father was an alcoholic."

Records indicate that Mr. Dixon previously admitted to using methamphetamine "a couple of times" and that he had condoned the use of "peyote" for ceremonial purposes although there was no indication that he actually used this drug.

Sexual Development/Relationships:

Mr. Dixon said that he is heterosexual and has only had sexual experiences with women. He reported that he was never sexually abused as a child although he recalled his first sexual experience was with an "older woman" when he was sixteen. He explained, "I hated it. She was drunk. She more or less just wanted me to take her home so she gave it to me to get a ride home. It didn't mean anything to her but I was hurt by it."

Mr. Dixon stated that he had a problem which began in 1978. He said that he had difficulty controlling his sexual energy. He has been convicted of sexual crimes related to this difficulty. When asked about the repeated sexual offenses, Mr. Dixon stated that they started when he was in his early twenties. He recalled, "I used to get drunk after work. I'd get off work at around ten and walk around sin city. I'd get home and she'd be gone to work [*referring to his wife*]. I hardly seen my wife. I was getting free booze at work [*he explained that driving a tow truck to accident scenes they would often find unopened bottles of alcohol*]. The first time I was walking around and I noticed a door was open. I went inside and the adrenaline was pumping. I saw a guy sleeping on the couch and I walked around his apartment. I took a calculator from the desk. After that I started checking doors on my night walks. If they were open I'd walk in. Once I saw a girl sleeping on her bed in her panties and a tee-shirt. I didn't do anything but that got me excited." He said that when he was having sex with women "I got aroused from the dominance and the power. I like the idea of control or dominance but I don't like to hurt. Handcuffs hurt but straps don't. I used straps."

Mr. Dixon reported no other unusual experiences except, "I remember I woke-up one morning in this girls' apartment and I don't know how I got there." During the last session, however, I informed him that some of his TAT responses were suggestive of sexual identity issues. He responded, "Well maybe the ten percent of me that is homosexual is coming out. I had these feelings when I was younger. I caught myself walking with a limp hand once and sometimes I wondered what it was like to be a girl. I don't have any identity issues now though."

Mr. Dixon has no current, human contact, outside of the prison. He has not spoken to his siblings since his mothers' death. He stated that prior to prison his relationship with his siblings was "okay." He indicated, however, that he did not feel connected to anyone as a child and still has no feelings of connectedness to anyone now. His parents were abusive (emotionally and physically) and although he "loved his mother to death," he felt that she was distant from him and not connected to him. He said that he did not feel connected to his father.

Mr. Dixon was married for 1 ½ to two years in 1976. As indicated above, he was adjudicated NGRI for assaulting his wife with a lead pipe in 1977. His wife divorced him when he was serving time in prison. He had nothing to say about that relationship other than "I had a lot of resentment" toward her.

Criminal History:

Mr. Dixon reported no involvement with the Juvenile Justice System and no childhood behaviors to warrant such involvement. He said that he was first convicted of a DUI when he was eighteen. He was living in Window Rock, AZ at the time. He reported "a couple more DUI's" when he was eighteen and nineteen in Gallup, NM. He also stated that he was charged with soliciting prostitution in 1978. He said that he spent five days in jail and received a $15.00 fine for this offense.

As indicated above, Mr. Dixon was adjudicated NGRI in 1977 (for assaulting a young girl whom he thought was his ex-wife or she looked like his ex-wife). He was never placed in the Arizona State Hospital. He reported, however, that he has been incarcerated, almost entirely, since 1978 when he was first convicted of assault.

Medical History:

Mr. Dixon stated that he was born with a heart murmur and received surgery when he was thirteen. He stated that has had five surgeries on his eyes and said that he has been diagnosed with Glaucoma in both eyes. He said that he has had a cataract removed from his right eye and that he was no blind in that eye. His vision was seriously compromised and some of the tests could not be administered. He stated that he suffers from shingles on his chest and under his left arm. He is treated with aspirin for his heart condition and is prescribed eye medication. He also thought that he might have a "urinary condition" because he has "bumps" on his stomach buttocks that are sore.

Mr. Dixon reported no history of head trauma, seizures, serious accidents or other serious illnesses.

Psychiatric History:

Mr. Dixon was adamant that he does not suffer from a mental illness. He stated that he has never been treated with psychiatric medications. He reported that he was hospitalized for two months in 1977 after he assaulted a woman with a lead pipe. He said that he had to talk to two psychiatrists. He was adjudicated NGRI for that offense but was never hospitalized. When I asked him why he was adjudicated NGRI if he did not have a mental illness, he said "It was depression. A lot of depression and resentment towards my wife."

***Mood*:**

As indicated above, Mr. Dixon reported two periods of time, in the third grade, when he was "extremely depressed." He described himself as feeling "alone, distant, empty and hopeless." He said that he did not have any friends at the time. When I asked him if there was anything else going on in his life at the time, he was unable to recall anything significantly out of the ordinary.

Mr. Dixon stated that when his father died he experienced a third bout of depression. He said that he was "living by myself" in a trailer and that he had lost his job. He said that he felt "really, really depressed and suicidal" at that time.

He reported that he has been fighting depression, on and off, since his childhood. He said that the depressive episodes "come and go." He reported that he has always felt "mousy," "unassertive," "passive" and like he was a "weakling" throughout his childhood and into his adulthood. He added, "I had huge feelings of inferiority." He said that he ended up getting into a fight (racial reasons) and that he won the fight. He said that after that fight "For the first time I felt like a man. I felt whole. I was finally taking care of myself. Finally these guys were respecting me." He stated that the "chief of the yard" kept him "around" because he was "the educated one. I could write letters to the judge."

When asked how he handles these periods of depression, Mr. Dixon stated, "I fight them with exercise." He stated that he does between six- and seven-hundred push-ups a week and that he runs three-to-four miles a week "Or I walk fast for two hours." He said that he goes to the "rec pen" every chance he can get. He added, "I do lots of weight training." He said that this is not driven behavior, rather it is a way to fight boredom and depression.

When he was asked about excessive energy or other possible driven behaviors, he reported that his energy level does not change much. He said that he is "fastidious" and not "OCD" in terms of his environment. He stated that there are times when he takes everything off the floor in his cell and "cleans every corner." He said that he does this once a month or once every two months. He added, "It used to be more regular when I had long hair." He noted, however, that his socks have to be folded a certain way and "everything in its place and a place for everything." He explained, "I'm not fastidious all the time. It's just routines to occupy myself. It's prison life."

***Thought*:**

Mr. Dixon denied the experience of racing thoughts. He said that he sometimes "giggles to myself" to change his mood. He said that when this happens he thinks about something funny from T.V., when he is depressed, to try and keep himself from being depressed. He added, "Nowadays I have depression a lot because of my eyesight. I can't read anymore so I try to keep busy with other things. We can't get books on tape and I don't have a cassette recorder and no money for a cassette player. I don't have any family support because of not being able to go to my mother's funeral." He said that he was able to work when he was in the general population but he can't work on death row. He also said that other inmates used to pay him to type Rule 32 motions and other "legal stuff" when he was in the general population but he can't do that now. He adamantly denied periods of confusion, disorganized or disturbing thoughts, paranoid ideation, and dangerous thoughts.

It is noteworthy, however, that after he finished the Rorschach test there was an abrupt change in his mood. He was very agitated and started yelling at me that I was "trying to get into my head." It took several minutes to calm him down. When I later reviewed his test results with him and commented that several of the tests suggested paranoid ideation, he said that he sometimes feels that others are going to harm him but attributed it to being in prison. It is also noteworthy that he seemed to obsess or perseverate on some thoughts. For example, he repeatedly brought up the issue that his defense related to the NAU police was never heard. He seemed to be obsessing with this thought and it was apparently noted as problematic during his prior criminal trials. Thought perseveration appears to be a problem.

Perception:

Mr. Dixon reported that he "thought" he was hearing voices" in the "late 1980's." He said that he heard his name being called ("*Clarence, Clarence*") "from a distance." He said that these hallucinations "lasted about a year or 1 ½ years and it went away." He reported no psychiatric treatment at that time, adding, "I've always refused."

Mr. Dixon stated that he keeps seeing someone out of the "corner of my eye and there's no one there or I see a mouse running across the floor." He said that these visual distortions occur about once every two or three days, usually in the evening and only since he has been on death row. He added, "I've always had an active imagination." He then spoke about being a "phase three inmate" and how he only has four "rec days" a week. He also spoke about being in the "hole" and how he had visual distortions when he was there. He thought these were all related to sensory deprivation. He denied other perceptual distortions initially but during the last session he told me that sometimes he has "lapses in time" when he sees something on T.V. and then lapses into fantasy about that "and next thing I know an hour and a half has gone by." He also talked about visions or dreams that he has about future events. He said that he has spoken to the psychologist in the prison about these and that he has been able to dream of things that actually come true later.

Mr. Dixon said that his father was treated with Darvon, Librium and Sudafed to "try and balance out his mood." He recalled that his father took these medications in the 1960's. He described his father as an "angry" and "distant" man. He was unaware of any other family member, aside from dependence on illicit drugs and alcohol, who suffered from a mental illness.

Two Competency evaluations were completed in September, 1977 but Dr. Benheim and Dr. Tuchler. Dr. Bendheim opined that Mr. Dixon suffered from "very severe depression, possibly with an underlying psychosis. The exact nature of his mental illness could not be determined but a schizophrenic psychosis is considered to be the most likely diagnosis." Dr. Tuchler also opined that Mr. Dixon suffered from "indifferentiated schizophrenia." Both evaluators opined that he was not competent. He was subsequently sent to the Arizona State Hospital for evaluation. The discharge summary from the hospital, (dated 09/15/7)7 indicated a diagnosis of "Social maladjustment without manifest psychiatric disorder" and "Marital adjustment." They found no evidence of a mental illness.

Mr. Dixon's ex-wife was interviewed by probation for a sentencing report in 1977. She was recorded as saying that her husband suffers from severe emotional problems and that he was not compliant with psychiatric treatment. She indicated that he was prescribed Prozac.

TEST RESULTS

Mental Status/Behavioral Observations:

Mr. Dixon is a fifty-six-year-old, right-handed, Navajo male. He presented in prison clothing and with good hygiene and grooming. He said that he was 5' 8" tall and that he weighed about 130 pounds. He was bald with brown eyes. There were no distinguishing tattoos. There was a noticeable impairment to his eyes. He was also missing a tooth from the left side of the front of his mouth. Mr. Dixon brought two pairs of glasses with him to correct his vision during some of the tests but they did not always work and one of the tests could not be administered. He made good eye contact and was cooperative throughout all the testing sessions. As indicated

above, he was quite agitated and appeared to be paranoid after the Rorschach test was administered. He also appeared to be paranoid at the beginning of the last session and was agitated and spoke about the detention officers monitoring him. He was easily calmed during this latter session but not after the Rorschach was adiministered.

Mr. Dixon was fully oriented to person, place and time. He was also generally alert and aware. At times he was hyper-alert and very attentive to what was going on outside of the room. He had no difficulty tracking the conversation. He reported no problems related to attention, concentration, or memory. There were no gross deficits observed in these areas during the interview sessions. These functions were formally tested and the results are reported in subsequent sections of this report. His speech typical for rate, tone and volume until the last session when he was angry and spoke rapidly. There were no unusual movements noted.

Mr. Dixon reported his mood to be "good" but clearly stated that he periodically combats depression related to his situation. For the most part, he presented as euthymic. There were two brief periods when he presented with what seemed to be paranoia and anger. He denied sleep or appetite disturbances. He reported no suicidal or homicidal ideation. His thoughts were otherwise generally logical, coherent and goal-directed. I saw no behaviors to suggest that he was actively hallucinating during any of the sessions but he recalled some experiences that sounded like he might perceive himself to be able to see future events.

Mr. Dixon appeared to be giving his best effort for all of the tests. He persisted with difficult tasks without complaint. He attempted every test offered, even if it was clear that he would not be able to complete the task because of his eyesight. He frequently changed his glasses to accommodate the test stimuli. All of the tests reported in the following sections appear to be either unaffected or only mildly affected by his eyesight. There were three tests that could not be administered (Mesulam Cancelation Test and Stroop Color Word Test) as a result of his eyesight problems but he attempted both.

Testing Environment:

All tests were administered and scored according to the standardized procedures. Mr. Dixon brought two pairs of reading glasses and alternated between them throughout the testing sessions. There were three tests that could not be administered as a result of his visual problems (Stroop, Mesulam, and Speech-Sounds Perception). There were no auditory difficulties reported or observed. The auditory version of the MMPI-2 was also used or available to assist with visual problems, in spite of adequate reading comprehension abilities. There were no other modifications needed for the other tests.

The test scores were interpreted in light of all the data obtained during this evaluation. The testing conditions were adequate. The testing room itself was well lit, there were minimal distractions and the furniture was adequate. His hands were unshackled and unencumbered throughout the testing sessions.

Test Score Comparisons:

The test manuals were used to administer and score these tests. The test results, whenever possible, were compared with normative data established by Heaton and his colleagues that was published in 2004 (Revised Comprehensive Norms for an Expanded Halstead-Reitan

Battery). The Heaton et al. norms come from a comprehensive, demographically adjusted data set. These norms utilize scores from Caucasian and African-American adults from ages 20 to 85.

For tests that could not be evaluated with the Heaton et al. norms or for tests that were not published by Halstead and Reitan, the test publisher norms were used. The Halstead Impairment Index was calculated from the scores of the seven tests that encompass that index.

Tests of Effort/Symptom Validity:

Cognitive Effort:

Some of the tests administered have subscales which are similar to independently constructed tests of effort. For example, the California Verbal Learning Test-II (CVLT-II) and the Wechsler Logical Memory subtest (WMS) have forced-choice and/or, yes/no recognition subtests. These subtests are very similar to the separately constructed tests of effort/malingering. They are equally as good in terms of assessing effort and have a good foundation of normative data as well. In addition, the intelligence test itself is constructed in such a way that response variance can be used to asses effort. As a supplement to these tests which were already a part of the battery, the Test of Malingered Memory (TOMM) and the Rey Memory Test (RMT) were administered.

Mr. Dixon's score on the yes/no recognition task of the CVLT was 15/16 for hits, with one false positive. His score on the forced choice task of the CVLT was also 15/16 which was very good. These results indicate good effort. His score on the yes/no recognition task for the Logical Memory subtest was 100% and indicative of good effort.

His score on the first trial of the TOMM was 100% and no further trials were needed. His score on the RMT was also perfect.

Essentially, all of the tests of effort indicated that Mr. Dixon was attempting to do his best and there is no question as to the validity of his cognitive test results.

Intelligence:

The Wechsler Adult Intelligence Scale-Fourth Edition (WAIS-IV):

The Wechsler Adult Intelligence Scale–IV (WAIS-IV) is a widely used intelligence test and the most current Wechsler Intelligence Scale available. It provides a global measure of ability and four composite scores to clarify more specific cognitive abilities. The WAIS-IV was administered and scored according to the standardized procedures as outlined in the manual. The results from this test were interpreted with caution and after consideration of all of the data obtained and available during this evaluation.

Mr. Dixon's test results and his behaviors during this test suggest that he was putting forth good effort. He approached each task in a focused and diligent manner and did not give-up on items that were difficult. He persisted until either time was up or he could not find an answer to the questions. He reported no problems seeing the test stimuli and when needed, he used one of his two pairs of glasses.

His Full Scale Intelligence Quotient (FSIQ) was found to be in the *average* range. His General Ability Index (GAI) was, however, in the *superior* range and was significantly higher than his FSIQ. This difference could be suggesting that factors other than ability were affecting

his performance on the test. The GAI removes scores related to attention, concentration and speed of processing which can be impaired by factors such as: physical problems, psychiatric conditions, medications and brain damage. It is noteworthy that on tasks where processing speed was a factor, Mr. Dixon performed well below the other subtests. This could be related to his visual problems or one of the factors noted above and not necessarily ability. The factor index scores may help explain this.

Mr. Dixon's Verbal Comprehension (VCI) score was in the *high average* range with a Perceptual Reasoning (PRI) index score in the *superior* range. These two index scores were not significantly different from each other and they indicate well-developed verbal and spatial reasoning skills. These scores are likely more reflective of his abilities than either of the other two index scores. His Working Memory (WMI) index was in the *average* range and significantly lower than his PRI and VCI. The WMI measures attention and concentration which are the precursors to new learning. Sometimes this index can be affected by psychiatric symptoms but not by vision. His Processing Speed Index (PSI) was in the *extremely low* range of functioning and significantly lower than all of the other global measures. Although there is a visual component to the subtests that form this composite score, Mr. Dixon did not complain about an inability to see the test stimuli. It is noteworthy that the stimuli for this subtest are much larger than some of the other test stimuli where no impairment was noted. Although this difference (and impairment) could be related to visual problems it is more likely reflecting brain damage.

For the individual subtest scores, there was a significant weakness noted on the Symbol Search (SS) and Coding subtests which both contribute to the PSI. These weaknesses seem to be reflecting something other than visual problems and are likely reflecting some type of brain damage. Significant strengths were noted on the Matrix Reasoning (MR), Vocabulary (VC), Visual Puzzles (VP) and Information (IN) subtests. These subtest strengths suggest well-developed verbal and spatial skills, a good command of the English language and good long-term memory for information typically acquired in school. Some of the visual details in the MR subtest are much smaller than the stimuli in both the Coding and SS subtests and Mr. Dixon performed very well on this subtest.

Overall, Mr. Dixon's cognitive abilities lie in the *average* range of functioning but this score appears to be much lower than his actual abilities, especially given the GAI score which was in the *superior* range. As discussed, his overall FSIQ was affected by impaired processing speed and by subtests measuring attention and concentration (working memory). Although his scores on the working memory subtests were not impaired, they were significantly lower than the index scores that suggest where his true abilities lie. This weakness (working memory) and the impaired processing speed scores are likely suggesting brain damage. His premorbid abilities are likely in the *high average* or *superior* range of functioning with otherwise fairly well-developed abilities across the other cognitive domains.

Auditory Perception/Attention:

The Speech-Sounds Perception Test could not be administered because Mr. Dixon could not see the score sheet adequately, even with his glasses.

The Seashore Rhythm Test was administered to evaluate nonverbal, auditory perceptual ability. This test is audio-taped and consists of a series of like and unlike musical beats. It

measures the ability to discriminate between two tonal patterns and determine if they are the same or different. Mr. Dixon's score was *moderately impaired* on this test.

These results indicate impaired attention for nonverbal information.

Language:

Reading Comprehension:

The Passage Completion Subtest from the Woodcock III Tests of achievement was administered to obtain a reading comprehension level, primarily to determine Mr. Dixon's ability to read and understand the test items in the MMPI-2 test. His abilities were more than adequate for the independent administration of this test and appeared to be at college level.

The Benton Controlled Oral Word Association Test (COWAT), a test that measures verbal phonemic fluency and the Categorical Fluency Test (CFT), a test that provides semantic cueing for word categorization, were both administered. Mr. Dixon did not appear to have difficulty following the test instructions. His score on the COWAT and the CFT were both in the *high average* range and are consistent with what would be expected given the verbal scores obtained on the WAIS-IV.

The Boston Naming test, which requires the individual to recall the names of various pictures, was also used to assess verbal fluency. Mr. Dixon's score on this test was found to be *above average* which is again consistent with his WAIS-IV verbal scores.

Overall the verbal fluency tests suggest good expressive and receptive communication skills with no impairment noted.

Sensorimotor:

Mr. Dixon's scores on the handedness questionnaire indicate that he is strongly right-handed and footed. Aside from one left-handed sibling, all of his family members were right-handed. His questionnaire results suggest that he likely has language and motor functions specialized within the left hemisphere of his brain which would be consistent with 70% of right-handed males.

The Trail Making Test was used to measure overall psychomotor functioning and speed. Mr. Dixon's Trial A score, which is the better of the two Trials for processing speed, was in the *mild to moderately impaired* range.

Mr. Dixon's dominant hand score on the Finger Tapping Test, which is a test of fine motor coordination and speed, was in the *mild impairment* range. His nondominant hand score was in the *mild to moderate impairment* range. It is noteworthy that Mr. Dixon had some difficulty inhibiting and coordinating finger movements for the middle finger during this task. There is some literature to suggest that difficulties with motor inhibition could be related to lesions anywhere in the brain and not necessarily reflective of specifically lateralized damage.

Test results for the Grooved Peg Board Test, which is also a test of fine motor coordination and speed, indicated, *mild to moderately impaired* performance for his dominant hand and *moderate impairment* for his nondominant hand.

Mr. Dixon's grip strength was measured with the Hand Dynamometer Test. His dominant hand score was in the *mild to moderately impairment* range and his nondominant hand score was in the *below average* range.

The Tactual Performance Test (TPT), in addition to spatial memory, also offers a measure of psychomotor speed for dominant, nondominant, and for both hands. During this test Mr. Dixon was blindfolded and asked to place wooden blocks of various shapes into a same-shaped slot on a wooden board. He completed all three trials (dominant, nondominant and both hands) of the test without difficulties observed in grasping or manipulating the blocks. It is important to note that his approach to this task was random and without a good problem-solving approach. Even when he had the benefit of both hands, he still randomly approached the task. Not surprising, his dominant and nondominant hand scores were in the *mild impairment* range of functioning. When he was able to use both hands, his score improved but still fell in the *below average* range. This test clearly did not involve vision and these results suggest that vision may not have been the issue with the WAIS-IV impaired processing speed scores.

Essentially, overall, the motor test results indicate impaired performance across all of the tests administered. His dominant hand scores were consistently in the *mildly impaired* range with *mild to moderate impairment* noted for fine motor skills. His nondominant hand scores ranged from *below average* for grip strength to *mild or mild to moderately impaired.* When he was able to use both hands to complete a gross motor task, his score fell in the *below average* range. These scores are actually consistent with the PSI score from the WAIS-IV and many of the results are totally independent of vision. With the observations made, these test results suggest a diffuse pattern of brain damage.

Memory:

Verbal Memory:

The CVLT-II was administered according to standardized procedures and without interruptions. Mr. Dixon's free recall score for the first trial was *below average.* His score after five repetitions (fifth trial) was *average.* His cumulative learning score (sum of five trials), was also in the *average* range. His short delay score (after a distraction list) was *average* with a long delay recall score that was *above average.* These scores suggest the possibility of some difficulties with attention for which he was apparently able to compensate with repetition. His overall retention of the verbal material he was able to learn was good. As indicated earlier, his forced choice and recognition subtests scores, for this test, both indicated good effort.

Memory for the gist of two stories was tested using the Logical Memory Subtest of the Wechsler Memory Scale-III. Mr. Dixon's immediate recall of logically related material was within the *superior* range. His learning slope was in the *high average* range with a thematic content score in the *high average* range as well. The scores for this test are consistent with his

VCI scores on the WAIS-IV. They suggest, when evaluated in light of his CVLT-II scores, that Mr. Dixon is able to overcome some difficulties with attention by using contextual and/or thematic cues. As indicated earlier, his score on the forced choice subtest for this test indicated good effort.

These findings suggest that Mr. Dixon, in spite of some mild problems with attention, can learn and retain verbal information. His scores on these tests of verbal learning are consistent with what we would expect given his verbal scores from the WAIS-IV.

Spatial Memory:

Visual-spatial memory and visual-construction skills were tested with the Rey Complex Figure Test (RCFT). Mr. Dixon's score on the copy, immediate and delayed recall trials of this test were all *above average.* His scores on the immediate recall was also *average* with a delayed recall score that was *above average.* There are many details on the test stimulus and given his scores, visual problems did not appear to impact his performance on this test.

Mr. Dixon's scores on both of the TPT memory tasks (free recall and location) were in the *average* range when using the Heaton normative data. His score on the location portion of this test was, however, *impaired* when applied to the normative data used for the Halstead-Reitan impairment index. Although his scores reflect mostly adequate performance, there is some suggestion that he may have some impairment for spatial memory.

Overall, the spatial test results generally suggest adequate spatial organization and memory abilities for fine details and gross memory. His score on the spatial, localization task of the TPT was, however, *impaired* when using the Halstead-Reitan Impairment Index. These scores could be suggesting the possibility of damage to the right hemisphere.

Executive Functioning:

The Wisconsin Card Sorting Test (WCST) was used to measure conceptualization, problem-solving and cognitive flexibility. It is thought to measure the functioning of the dorsolateral prefrontal cortex. Mr. Dixon completed six separate categories which is overall *average* performance. His perseverative error score was, however, found to be *mildly impaired.*

The Stroop Color Word Association Test (both Original and Dodrill versions) was attempted but Mr. Dixon could not see the test stimuli.

The Booklet Category Test (BCT) is a test that has some relationship to cognitive flexibility and problem-solving abilities. The Booklet Category Test is also a sensitive but nonspecific frontal lobe measure as well. It is thought to measure conceptualization, problem-solving and cognitive flexibility. Mr. Dixon's score was *below average* on this test.

The second portion of the Trail Making Test (B) is also a measure of cognitive flexibility in addition to psychomotor speed. Mr. Dixon's score on this test was in the *mild to moderately impaired* range of functioning.

Essentially, two of the three tests of executive functioning were impaired and the third test score was *below average* and certainly below what would be expected given the spatial and verbal reasoning index scores from the WAIS-IV. These results suggest the possibility of damage to the frontal lobes reflected by difficulties in executive functioning.

Halstead Impairment Index:

The Halstead Impairment Index is a score derived from the individual's performance on seven of the Halstead-Reitan battery of tests. Included in the index are the scores from the Category Test, TPT (total score, memory, and localization scores), Seashore Rhythm and Speech Sounds Perception tests, and the Finger Tapping Test (dominant hand). Cutoff scores from six of these tests (Speech Sounds could not be administered due to visual impairment) were used to score this index.

Five of the six available scores (Category Test, TPT Total Time and Location, Seashore Rhythm, and Finger Tapping) were impaired. This was sufficient to suggest brain damage independent of the effects of potential psychiatric symptoms.

Neuropsychological Test Summary:

Mr. Dixon's test scores suggest overall *average* intellectual functioning but *superior* general abilities. His verbal and nonverbal composite scores were *high average* and *superior* respectively. Attention, concentration and especially processing speed scores were significantly lower and likely resulted in the lower FSIQ from what would be predicted by his general abilities. Visual problems and/or potential brain damage were suggested as the possible reasons.

Overall, impairment was noted for the tests that measure executive functioning (frontal lobes) and processing speed. At least two of the impaired processing speed tests did not require vision (Mr. Dixon was blindfolded during one test and grip strength does not require vision) and the other tests did not appear to be affected by visual problems. In fact, observations during the finger tapping test suggested some difficulties with motor inhibition and coordination which is a good predictor of brain damage. There were other indicators of possible difficulties with attention and one score for spatial memory (primarily organization). These results suggest that Mr. Dixon may suffer from some type of brain impairment which does not appear to be lateralized. Further evaluation is warranted.

Personality/Behavioral:

Minnesota Multiphasic Personality Inventory–2 (MMPI-2):

The MMPI-2 is an objective personality test, which is thought to provide information concerning both the structure and content of personality. The MMPI-2 has acceptable validity and reliability normative data as well as subscales which can assess the individual's test-taking approach. Testing conditions were good. The audio version of this test was administered due to Mr. Dixon's visual problems.

The results from Mr. Dixon's MMPI-2 were interpreted cautiously, conservatively and in light of all other data obtained. He took approximately double the time needed to complete this test as a result of his visual problems and the need for the audio version of the test. He

approached the test in a focused and task-oriented manner. He appeared to understand the importance of answering items honestly and carefully. He did not indicate or present with behaviors to suggest that he had difficulty understanding the test items or instructions.

Validity scales on the MMPI-2 indicate that Mr. Dixon may have responded with some inconsistency (VRIN-Variable Response Inconsistency scale was slightly elevated) but not to the point where the test was invalid. The other inconsistency scale (TRIN-True Response Inconsistency) was also within an acceptable range. All of the Infrequency scales (F - Infrequent Responses, F_P - Infrequent Psychopathology Responses, F_B – Front/Back and F_S – Infrequent Somatic Complaints) were within acceptable ranges. The Symptom Validity (FBS) scale and Dissimulation Index (F-K) were also within acceptable ranges. These scales indicate that Mr. Dixon did not exaggerate, over-report, or embellish psychiatric symptoms. The Uncommon Virtues (L-r) scale and the Adjustment Validity (K-r) and Superlative Self-Presentation (S) scales were all within acceptable ranges as well. Essentially, Mr. Dixon produced a valid test protocol for a cautious interpretation.

For the main clinical scales, clinically significant and high elevations were noted on the Pd (Psychopathic Deviate), Pa (Paranoia), and Sc (Schizophrenia) scales. These scales were interpreted using the Harris-Lingoes Subscales to identify the main experiences that contributed to the elevation of each scale.

There was one main scale contributing to the elevation of the Pd scale. The scale measuring Authority Problems (Pd_2) was significantly elevated. His score on the Paranoia scale indicates that Mr. Dixon is suspicious and mistrustful of others, that he is sensitive to criticism and that he may be hostile, argumentative and emotionally labile. Only one of the Harris-Lingoes subscales was elevated. The Naiveté (Pa_3) was the most significantly elevated and suggests that Mr. Dixon may have unrealistically, optimistic attitudes about other people. He may be, at least initially, more trusting and he may present with high moral standards.

There were no subscale elevations for the Schizophrenia scale. The high elevation on this scale indicates that Mr. Dixon experiences a number of unusual beliefs, that he may become withdrawn, may rely excessively upon fantasy and that he may be generally sad, blue, anxious and somatic. The possibility of bizarre thoughts and/or perceptual disturbances is also indicated by this clinical scale.

For the Restructured Clinical scales, there was one significant elevation on the Antisocial Behavior (RC4) scale. This scale indicates that Mr. Dixon has had trouble conforming his behavior to the law and it reflects his years of illicit drug and alcohol abuse. Consistent with observations and the main clinical scales, it also suggests that he is mistrusting and fearful of others with the belief that others may harm him.

The Content and Content Component scales indicate that Mr. Dixon is uncomfortable in social settings (Social Discomfort/Introversion SOD and SOD_1) and that he may actually be fearful of others. He tends to prefer to be alone which is consistent with his score on the Schizophrenia scale. His scores also reflect a general and perhaps over-concern with his health (HEA_3) which could be a way to cope with anxiety. It could also be reflecting his ongoing visual problems and some other concerns which may be related to aging and isolation.

For the PSY-5 and Supplementary Scales, there were only two clinically significant elevations on the INTR (Introversion) and the AAS (Addiction Admission) scales. The INTR scale is consistent with Mr. Dixon's other scores suggesting that he is not comfortable in social settings and that he prefers to isolate himself from others.. The AAS elevation indicates that Mr.

Dixon acknowledges that he drank alcohol and/or abused drugs too much and to the point where he perceived himself to be addicted.

The results of the MMPI-2 are consistent with the observations, his reported history and the outside sources of information. They indicate that Mr. Dixon seems to experience thought, mood and perhaps perceptual disturbances. He tends to be isolative and is generally mistrustful of others. A psychotic disorder (such as Schizophrenia) is suggested by these test results and is consistent with the observations made back in 1977 when two Rule 11 psychiatrists opined that he was experiencing a severe depression with underlying psychotic disturbances.

Thematic Apperception Test:

The Thematic Apperception Test (TAT) is a projective personality test. It is thought to provide information regarding the content of one's personality. Unlike objective personality tests, there are no true/false answers, and the subject is simply asked to create stories from pictures. There are no validity indicators for this test and interpretation is based upon deviations from "typical" responses to the stimulus cards. This test was also interpreted cautiously in light of other data available during this evaluation.

Mr. Dixon understood the directions and was generally able to meet the requirements of this assessment but he required ongoing prompting to do so. He seemed to be quite relaxed in spite of the ambiguity of this test. His responses were generally logical and coherent and rich in clinical significance.

It is noteworthy that Mr. Dixon misidentified the sex of two of the characters in this set of test stimuli. This is sometimes suggestive of sexual identity issues. It is also noteworthy that his protocol was filled with themes of death, dying and pervasive loss. These types of responses suggest underlying and deep-rooted depression. Contrasting this morbidity were unusual fantasy themes where the intensity of the fantasy was not suggested by the stimuli. This contrast can be suggestive of difficulties regulating happiness as well as sadness. Sometimes this response pattern can suggest a bipolar mood disorder but in his protocol, the depression was much more pronounced.

Mr. Dixon identified the parental figures that are typically perceived in the test stimuli. Consistent with his reported history, he commented on the "role of the mother" but projected an experience that was not genuine. He also projected a son who was distant from the mother or not really connected to her. His response to the stimulus that typically elicits information about the father/son relationship was described as a "moment." Again, their relationship was disconnected and they were projected as "wondering" about the "son's future." It is noteworthy that he was unable to provide a conclusion to the story he developed; rather he left the relationship and the scene he projected unresolved.

For the individual characters, with which Mr. Dixon clearly identified, he projected them as indecisive, sad, lonely, wounded, and embarrassed with contrasting states of "exceedingly happy," "weightless," and "unencumbered." Again, this contrast in projected emotional states could be suggesting difficulties regulating extreme periods of sadness and happiness.

Overall this protocol suggests the possibility of difficulties regulating emotion; possibly resulting in extreme states of both sadness and happiness. There is some indication that Mr. Dixon may also suffer from sexual identity issues which may indicate that he has had some sexual experiences that he was not able to disclose during the interview. This was evaluated

further, given these results, during the last session and he spoke about the "ten percent" of him that is homosexual [*see sexual history section*] but denied identity issues in the present.

Rorschach Inkblot Test:

The Rorschach Inkblot test is another projective personality test that was administered and scored, using Rapaport, Gill and Schafer procedures. This test is thought to provide information into the enduring structure of personality. Interpretation was made cautiously and after consideration of all the other data available during this evaluation.

Mr. Dixon became quite agitated during this test and after the test was over he was quite angry and accused me of trying to get "inside my head" and "find psychological problems." He seemed to be quite paranoid. This was likely because of the ambiguity of this test. Consistent with this, he produced, a constricted protocol with seventeen responses (fourteen is minimum and nineteen is average).

Overall form level was within the psychotic range. He had difficulty integrating form with other details of the test stimuli (such as color). Difficulties incorporating color with form is correlated with mood disturbances. There were some morbid responses which suggest difficulties with depression. He also made a number of very bizarre comments or made several responses that included symbolism which are almost exclusively given by schizophrenic patients. One of his responses (detail to whole), which included symbolism, is suggestive of serious psychotic disturbance. Approximately 53% of his responses included either a bizarre or unusual statement and/or some symbolic interpretation. About 47% of his responses were consistent with paranoid ideation. Only two of his seventeen responses were perceptions of humans which indicates social isolation and introversion which is often consistent with schizophrenics as well. Two of his responses included references to himself which clearly indicates boundary problems and difficulties perceiving reality accurately. Finally, about 30% of his responses incorporated space which is suggestive of oppositional traits.

The results from the Rorschach are remarkably consistent with the MMPI-2 and the TAT test results and the observations made during this evaluation. They suggest that Mr. Dixon experiences thought and perceptual disturbances and may have some difficulties regulating emotion (primarily depression). Social isolation and the possibility of oppositional traits were also noted in this protocol.

Diagnostic Formulation:

The test results and behavioral observations suggest that Mr. Dixon suffers from mood, thought and perceptual disturbances. There are also significant cognitive impairments noted from his neuropsychological test scores. It might be easier to address these disturbances separately.

***Mood*:**

Across all three of the personality tests there is indication of depression. A fairly severe disturbance in mood, primarily depression, was also observed by the two Rule 11 evaluators in 1977. Mr. Dixon also complained that he has struggled with depression throughout his childhood, adolescence and adult life. He reported periods when he was suicidal. He also

reported a history of child abuse (emotional and physical) that would certainly provide the foundation for depression.

Mr. Dixon did not, however, endorse symptoms or behaviors associated with manic or hypomanic states although there was some indication of this possibility in the TAT. In spite of this, the most prudent interpretation of the test results and his reported history would be that he has and continues to experience bouts of depression. These bouts include a depressed mood for most of the time and weeks at a time. During these periods, Mr. Dixon has struggled with periods uncontrollable crying (primarily childhood as he did not admit to these in adulthood), difficulties focusing and suicidal ideation.

***Thought*:**

Observations during testing, outside sources and the results from the current tests clearly indicate that Mr. Dixon suffers from paranoid thoughts. There is some indication from the interview that he may also experience some grandiose thoughts but these did not appear to be as obvious. The paranoid thinking seems to be independent of mood as it appeared abruptly during this evaluation and independent of any prominent mood symptoms. Essentially, the thought disorder appears to be independent of mood although the intensity of the mood disturbance could increase the paranoid thoughts.

***Perception*:**

Mr. Dixon did not endorse consistent or ongoing perceptual disturbances. The visual hallucinations that he spoke of could be related to sensory deprivation and/or transitional wake/sleep states (hypnagogic/hypnopomic). His MMPI-2 test results indicate, however, that he may experience some bizarre perceptual disturbances although he did not disclose these.

***Summary*:**

Essentially, there is a clear history of periodic but frequent depressive episodes that have occurred since childhood. The test data and observations (dating back to 1977) indicate paranoid ideation. Mr. Dixon would have been in his early adulthood at the time of those Rule 11 evaluations which is consistent with the onset of most psychotic disorders. Although we have no clear disclosure of perceptual disturbances, the test results suggest otherwise. At minimum, these symptoms meet DSM-IV-TR diagnostic criteria for Schizophrenia, Paranoid Type but given the repeated depressive episodes, Schizoaffective Disorder, Depressed Type should be considered. It is important to emphasize that the paranoid ideation (at minimum), persists in the absence of mood symptoms. This would preclude a diagnosis of Major Depressive Disorder, with Psychotic Features.

***Cognition*:**

The results from the neuropsychological test battery indicate a diffuse pattern of brain damage of unknown etiology. His test results indicate overall psychomotor slowing as well as coordination and motor inhibition problems. For the tests that measure executive functioning (frontal lobes), deficits suggestive of possible brain damage were also noted. Finally, there were

some test results that suggested mild difficulties with attention and the possibility of some spatial memory problems. There is no history of serious head trauma or serious medical conditions that could account for these deficits. His visual problems, although considered, could not account for all of the deficits noted by his test results. Effort was clearly not an issue.

Mr. Dixon reported that he consumed alcohol excessively during his late adolescence and early adult years but he has been incarcerated for most of his adult life and the pattern of test results do not suggest a relationship between his current deficits and his abuse of alcohol. With further evaluation, the etiology might become apparent. At this point in time, however, his test results and the related deficits meet DSM-IV-TR diagnostic criteria for Cognitive Disorder, Not Otherwise Specified (NOS).

***Other Axis I Considerations*:**

Substance Use/Abuse:

Mr. Dixon struggled with an addiction to alcohol throughout his early adulthood. He was convicted of alcohol-related crimes, reported withdrawal symptoms (blackouts primarily), tolerance and he experienced interpersonal problems related to his drinking. He has been incarcerated since 1985 and has not had access to alcohol (or he has but has not drunk). As such, it is important to note his history of Alcohol Dependence.

***Sexual History*:**

Mr. Dixon has been convicted of at least three sexual offenses (rape). Although these offenses involved some form of control of the victim and in some instances physical pain, independent of the forced sexual act, Mr. Dixon reported that he does not get aroused from inflicting pain on his victims; rather he is aroused by the dominance and the power over his victims. He did not report recurring intense fantasies or urges of control or dominance. He said that typically he would be drinking, his inhibition decreased and he would become aroused while walking the streets at night. His recall of the events leading to the arousal and rape would not, however, meet diagnostic criteria for a sexual paraphilia.

***Personality Disorders*:**

Mr. Dixon reported no behaviors to suggest that he would have met a childhood or adolescent conduct disorder. There were some behaviors reported in the records to suggest some serious, emotional disturbances but these were isolated and not confirmed by Mr. Dixon. In spite of these possibilities, his difficulties with the law began in early adulthood and were initially related to his drinking. The sex offense convictions also did not appear until early adulthood. These two separate types of behaviors do not, in and of themselves, meet diagnostic criteria for a personality disorder although they are clearly antisocial in nature.

Diagnostic Impression:

Axis I		Schizophrenia, Paranoid Type
	Rule Out	Schizoaffective Disorder, Depressed Type
		Cognitive Disorder, NOS
	History of	Alcohol Dependence
Axis II		No Diagnosis

Legal Considerations

Trial Competency:

Current State of Competence:

Mr. Dixon cooperated with me throughout the testing. He did not require an excessive amount of external support to remain focused and complete the tasks. During the last two sessions, however, there were two periods when he was quite paranoid and agitated.

Mr. Dixon suffers from a serious psychotic disorder. He is able to control his symptoms because he is in a very confined living space with little, other, direct human contact. During trial proceedings, he is likely to decompensate without psychiatric treatment. He should be monitored closely for competency issues currently as they were quite apparent in past proceedings (he fired several attorneys, his competence was questioned once in 1978 and he was adjudicated NGRI in 1978 as well) but not always addressed. He has made it clear that he does not want to present mitigation and this could result in difficulties assisting counsel in his current Post-conviction case.

Competence in 2002:

Two Rule 11 doctors evaluated Mr. Dixon in 1977 and found him to be incompetent to stand trial. He was subsequently found to be Not Guilty by Reason of Insanity. In 2002 his competence to stand trial was not questioned in spite of his inability to cooperate with several attorneys. His competence to represent himself was not questioned. Mitigation was not presented at sentencing. He was clearly not capable of representing himself and his competence to proceed should have been questioned, especially given the fact that he was not treated for his psychiatric disorder, the main symptom of which is paranoid ideation. This was likely the reason he was unable to work with his attorneys at that time and there should have been an evaluation of his ability to make rational decisions to waive his right to an attorney.

Mental Status at the time of the Offense:

Mr. Dixon could not recall the events in 1978 (murder of Deana Bowdoin) which resulted in his conviction and death sentence in 2002. He was unable to contribute information and the police reports or summary of the crime scene did not provide much information regarding the state of mind of the offender. His mental status should have been questioned, however, as he had

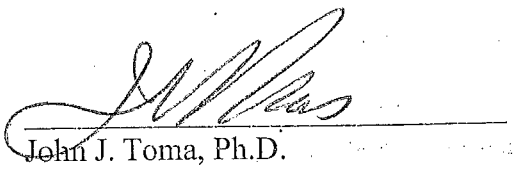
been adjudicated as "insane" just two days prior to the offense in question and he was ordered into the Arizona State Hospital. He was not receiving any psychiatric treatment at the time the offense in 1978 occurred. It is clear now, with the test data obtained during this evaluation, that the Rule 11 evaluators for his first conviction in 1978 were accurate in their opinions that he suffered from a psychotic disorder. He would have been, at the time of the murder of Deana Bowdoin, in the early stages of a schizophrenic disorder.

Recommendations:

Mr. Dixon should be evaluated by a psychiatrist for possible benefits of psychotropic medications. He should be monitored closely for irrational and suicidal thoughts and behaviors. He should also be monitored closely for any deterioration in his mental state as he could become paranoid, agitated and uncooperative.

Ms. Droban may wish to consider neuroimaging as the cognitive test results are suggesting a diffuse pattern of brain damage. An MRI might be appropriate for this client and may assist in understanding the etiology of the cognitive deficits noted in the neuropsychological test results.

I hope the information contained in this report is helpful to you as you plan for Mr. Dixon. If you have any questions, please feel free to contact me directly.



John J. Toma, Ph.D.
Licensed Psychologist -- Arizona

Appendix A

State of AZ, Presentence Investigation	dated 10/05/78
Superior Court of AZ, Sentence – Prison	dated 11/02/78
AZ Board of Pardons and Paroles	dated 06/01/83
Superior Court, Flagstaff, AZ, Transcript of Proceedings	dated 12/17/85
Superior Court, Appeal Filed	dated 03/19/87
Codis DNA Match Data Response	dated 05/02/01
Complaint vs. Judge Michael Flournoy	dated 03/12/02
Superior Court of AZ, Reporter's Transcript	dated 11/26/02
Superior Court, Petition for Review in Supreme Court	dated 03/06/03
Inmate Grievance Form – Missed a meal	dated 01/05/05
Psychological Evaluation, Steven R. Gray, Ed.D, P.C.	dated 06/16/05
Letter from Mr. Dixon to Mr. Carr and Mr. Countryman	dated 08/09/06
Letter to Garrett Simpson, Esq. from Clarence Dixon	dated 09/27/06
Request for Expenditure of Funds	dated 12/07/07
Request for Expenditure of Funds, Nathaniel Carr	dated 09/07/07
Request for Expenditures of Funds	dated 10/12/07
Conference Setting Trial, Minute Entry, Oral Argument Set	dated 11/06/07
Pro Pre Defendant or Constitutional Rights	dated 11/30/07
Clarence Dixon	dated 12/13/07
Subpoena to Carron Bigel Pietkoewicz	dated 12/13/07
Miscellaneous Subpoenas	dated 12/13/07
Superior Court, Subpoenas	dated 01/08/08
Letter to Mr. Carr from Mr. Dixon	dated 02/07/08
Superior Court, Motion to allow Petitioner to proceed Pro Se	dated 02/07/08
Superior Court, Nunc Pro Tunc Correction	dated 03/03/08
Slip Listing, Kenneth P. Countryman, PC	dated 03/04/08
Superior Court of AZ, Order allow contact visit with petitioner	dated 04/02/12
Apache Elementary (School Records)	for 1964
Arizona State Hospital	from 09/15/77 to 11/02/77
Superior Court of AZ	from 06/05/77 to 11/09/81
AZ Department of Corrections, Adult Parole Services	from 02/15/85 to 05/31/85
Cold Cases	from 10/23/19 to 01/22/02
Tempe Police Report	from 09/18/78 to 09/30/02
Criminal Court Case Information, Case History	from 11/26/02 to 12/20/02
Tempe Police Report	from 04/26/96 to 04/07/03
Department of Health Services	from 08/23/57 to 10/24/03
Completed Juror Questionnaires	from 11/13/07 to 11/14/07

Exhibit 14

UCI NEUROCOGNIVE IMAGING CENTER
Clinical correlation of
Positron Emission Tomography scan and Diffusion Tensor Imaging scan

NAME:	Clarence Dixon
DATE DTI PATIENT SCAN:	October 3, 2012
DATE PET PATIENT SCAN:	Ocober 17, 2012
DOB:	August 26, 1955
REFERRING DIAGNOSIS:	R/o brain abnormality
DATE OF REPORT:	March 18, 2013

RECORDS REVIEWED:

Dr. Patino report
Dr. Toma report
Motion to dismiss
Superior court Volume 1
Navajo Nation Dept of Justice records
Defendant request for case specific jury
Apache elementary records
DHS notes
Bowdoin investigation records
Psychological report of Dixon when he was 27
Presentence investigation records
Dr. Otto Bendheim report
Clarence Dixon statement
Dr. John Machildon report
Incident report narrative
Interview with Geraldine (ex-wife)
Dr. David L. White report
Arizona State hospital records
DOC records
DNA analysis records

Brief overview of medical history

Clarence Dixon is a fifty-seven year old Navajo male. He was evaluated psychiatrically by Dr. Patino on 9/7/2012. Dr. Patino summarized Clarence Dixon's history. Briefly, he noted that Clarence had reported symptoms of depression intermittently while incarcerated and on at least three distinct episodes in his life prior to incarceration. During at least one episode, he had auditory and visual hallucinations. He noted that Mr. Dixon had been diagnosed with a thought disorder in 1977 and was found NGRI. He reviewed earlier psychiatric evaluations in 1977 by 2 psychiatrists who noted that he had depressive symptoms and signs of psychosis. He also noted that there is a history of substance abuse starting at age 14 which included marijuana, his father's prescription meds, and alcohol. He noted that that there was a medical history positive for coarctation of aorta which was surgically corrected at age 13. He also noted that there was severe glaucoma with progressive blindness. He noted that there was extensive family history of alcohol and drug abuse and that he has two brothers convicted of drug dealing. He noted that Mr. Dixon was born one month premature and that he was held back from kindergarten for a year. He also noted that there was a severe depressive childhood episode around age 10 or 11. His father was noted to be a teacher with the Bureau of Indian Affairs. He moved after from home in his junior year after argument with father. He was married in 1976 and moved to Phoenix and enrolled at

Arizona State University. He was found NGRI in 1977 for assault. He was sentenced to prison for assault and burglary between 1978 to 1985. He was convicted in 2002 for crime that occurred in 1978 due to a DNA match and sentenced to death. Dr. Patino noted that Mr. Dixon was initially distrustful and irritable. He noted that there was paranoia and mild to moderate degree of ideas of reference. He summarized Dr. Toma's neuropsychological findings and noted that Dr. Toma concluded that the testing pattern was consistent with some type of brain impairment. His opinion was that Mr. Dixon suffers from chronic and severe psychiatrically determinable thought cognition and mood impairments of a schizophrenic nature complicated with depressive symptoms and historical alcohol dependence.

Dr. Toma wrote a neuropsychological report dated 6/30/12 which also reviewed Mr. Dixon's history. He noted that Mr. Dixon was a breech baby and that he spent time in premature incubator and did not speak till first grade. He also noted that Mr. Dixon's father had several extramarital affairs and was also a coach for a team which won state championship. He described how father had anger issues. He noted that Mr. Dixon said he was often hungry and poor. He denied that he cut off heads of cats with guillotine as a child. He reviewed history of his being convicted in September 1978 of burglary and assault. He noted that Mr. Dixon had difficulty controlling sexual energy. Mr. Dixon also stated that 10 per cent of him was homosexual coming out. He acknowledged that he assaulted his wife with lead pipe. Mr. Dixon told Dr. Toma that he heard voices in the late 1980's calling his name which lasted about a year and then went away. He also told Dr. Toma that has visions or dreams of the future. He reviewed 2 competency evaluations done in September 1977. One was done by Dr. Benheim who concluded that Clarence suffered from severe depression with underlying psychosis of schizophrenic nature. Dr. Tuchler concurred that Mr. Dixon had some type of schizophrenia. He also reviewed statement by exwife who said that Mr .Dixon had severe emotional problems and was prescribed Prozac. His testing showed that Mr. Dixon made good effort. He noted that full scale IQ was average; that GAI was in the superior range; that VCI was high average, that PRI (perceptual reasoning) was in superior range; but that processing speed was very low which reflects brain damage. Dr. Toma noted that Mr. Dixon did above average on language tests such as the COWAT (high average) and Boston naming (above average). He noted that sensorimotor tasks were in mild to moderate impaired range on a variety of such tests including Trails A, finger tapping, grooved pegboard, and grip strength which was indicative of a diffuse pattern of brain damage. He noted that logical memory was in the superior range. He also noted that the tactual performance test showed spatial localization was impaired and was consistent with damage to right hemisphere. He noted that executive function was mild impaired on WCST and on trail making B which was mild to moderate impairment consistent with frontal lobe damage. He noted that the Halstead impairment showed 5 out of 6 categories impaired which was sufficient to suggest brain damage. The personality test showed high clinical scales on psychopathy, paranoia and schizophrenia. The thematic appreciation test showed themes of death and dying suggesting deep rooted depression and some sexual identity issues. Dr. Toma concluded that Mr. Dixon had a psychotic and affective disorder such as schizoaffective or schizophrenia. He ruled out MDD with psychotic features since paranoia was present when mood symptoms had resolved. He also concluded that there was some type of diffuse pattern of brain damage of unknown etiology with no documented head trauma.

A psychological report when Clarence was 27 year old noted that Mr. Dixon was likely to be tactful and focused on precise details. He was noted to vacillate between independence and dependency. He had a high average IQ and was moderately introverted His ex-wife was noted to feel sorry for Mr. Dixon and would talk to him through closed doors. He was noted to be

rather grandiose and to describe his sexual offense as a romantic encounter. He talked about his deviant behavior as though he were one person talking about another.

Dr. Otto Bendheim's report noted that Mr. Dixon was severely depressed with frequent blocking and hesitation. He noted that Mr. Dixon was possibly with underlying psychosis with schizophrenic psychosis being most likely. There was no evidence of true delusions or hallucinations. Dr. Bendheim noted that Mr. Dixon did not consider it impossible that a totally unknown woman could have been a substitute for his wife and served as object of suppressed despair and anger.

Mr. Dixon gave statement in which he stated that when his wife's brother was around that she was a fine wife but when there was no family around that she treated him like a puppy or an infant. He said that she never cooked for him. He said that he got into fights with customer at work and then drove around and then parked, made innocent remark to victim and then hit her on the head. He then paused and said sometime I keep thinking that this girl was my wife. Maybe subconsciously I wanted to hit my wife. She doesn't do anything, she sleeps and sits around."

Dr. John Machildon on 10/26/1977 noted that the mental condition of Mr. Dixon had become substantially different from the time when he was evaluated by Dr. Bendheim. Dr. Machildon concluded that there was social maladjustment without psychiatric disorder.

Incident report summarizes chronology from notification of DNA match of Clarence Dion for murder of Bowdoin to investigation and review of legal chronology of Mr. Dixon beginning with Christy Guerra being hit in head with pipe on 6/5/1977 after he told her that it was nice evening wasn't it. It summarized assaults on Joan Ruderman on 3/18/1978 in her apartment, on Regina Gonzales on 7/22/78 when she was driving home, on Judy Jonassen on 9/16/78 when he gave her Indian necklace after he broke in and struggled with her, on Jenny Gonzales on 5/30/85, and on 6/10/85 on Andrea Salazar while she was jogging.

Dr. David White interviewed Clarence on 10/6/77 and noted a generally neurotic adjustment with moderate depression being present. He reported no suicidal gestures but he thinks of various ways in which he might be accidentally killed. He inflicted injury upon himself one time by holding a lighted cigarette to the palm of his hand. He was diagnosed with depressive neurosis with a poor marital situation being a factor.

Interview with Geraldine noted that she had agreed to marry Clarence so she could leave home. She noted that Clarence was a loner and somewhat withdrawn. She noted that he drank a lot. She noted that he attacked her short time prior to his arrest in 1977. She noted that he told her of attack on female behind Holiday Inn but did not want to discuss it further. She noted that she knew that he broke in to burglarize apartment and saw a female in the apartment. She noted that she had argument with him and attempted to get past him and that he threw her on the bed and started strangling her and then became aroused.

DOC records were reviewed. Mr. Dixon writes articulate memos on a variety of topics for example complaining of a CSO obfuscations which were particularly demeaning and provocative and smack of xenophobia. He was nominated secretary for the Native American brotherhood.

DIFFERENTIAL DIAGNOSIS:

The differential diagnosis for PET abnormalities include consideration of brain injury, or other neuropsychiatric disorders such as Alzheimers disease, Parkinson's disorder, epilepsy, stroke, tumor, radiation treatment, and psychiatric illnesses such as schizophrenia or bipolar depression. Review of the patient's clinical history and review of the metabolic PET patterns associated with the differential diagnosis rule out the other items on the differential diagnosis such as Alzheimer's disease, Parkinson's disease, epilepsy, stroke, and tumor or radiation treatment and bipolar disorder. Mr. Dixon's history , neuropsychological testing, and metabolic PET pattern is consistent with a diagnosis of psychiatric illness of psychotic and affective disorder such as schizophrenia or schizoaffective disorder and brain injury or encephalopathy of unknown etiology.

The pattern of abnormalities on his PET scan shows a pattern of metabolic decreases in ventral occipital cortex relative to frontal cortex. There are metabolic decreases in left hippocampus and right posterior cingulate. There are metabolic increases in right middle temporal cortex. The metabolic decreases in ventral occipital cortex are due to the blindness from the glaucoma. However, the left hippocampal decrease is consistent with schizophrenia. Mr. Dixon's pattern of decreased left hippocampal metabolism has been reported in schizophrenia (e.g. Nordahl et al. 1996, Tamminga et al. 1992).

The metabolic increase in right middle temporal cortex would be consistent with brain injury which results in a subsyndromal partial complex seizure with symptoms such as paranoia or seeing things out of the corners of the eye. Neuropsychological deficits such as decreased processing speed, grooved pegboard, and finger tapping are also consistent with brain injury. The right temporal hyperactivity would be consistent with subsyndromal partial complex seizures which can arise from brain damage. The temporal lobe is a key structure for regulation of aggressive and sexual impulses (e.g Davidson et al. 2000 Science 289:591-594). Abnormal functioning of temporal lobe due to brain damage can result in impaired regulation of such impulses.

Brain damage can increase the likelihood of becoming addicted to substances (e.g. Miller et al. 2013 Am J Psychiatry.)

Brain damage can reduces the ability of an individual to control impulsive violent urges (e.g. Grafman et al. 1996). A history of being abused in combination with brain damage produces a negative synergistic effect so that a person has a higher likelihood of acting on these aggressive impulses.

Brain injury can also exacerbate and increase the likelihood of schizophrenic like psychotic disorders especially in individuals with a genetic vulnerability (Sachdev et al 2001 Psychological Medicine 31:231).

There are over fifty medical articles that indicate that traumatic brain injury is characterized by functional brain imaging findings including temporal lobe metabolic abnormalities. See bibliography. The data supporting the usefulness of functional brain imaging in the assessment of brain injury is extensive and includes numerous medical articles published in peer-reviewed journals some of which are discussed below. There is a substantial body of well accepted, peer-reviewed published studies that indicate that functional brain imaging techniques are useful in assessing chronic neurological and behavioral deficits in patients with head injury. Furthermore, there is also a substantial body of evidence that indicates that functional brain

imaging such as SPECT or PET can be useful in the assessment of longterm outcome. In general, these reports indicate that functional imaging methods are superior to structural imaging techniques such as CAT scans or MRI scans at assessing the extent of injury. For example, Abdel-Dayem et al. (1987) found that SPECT was more sensitive than CAT scans at assessing head injury. Alavi (1989) found that PET scans showed an excellent correlation between the Glascow Coma Scale score versus cerebral metabolic rates which he reported "demonstrates that glucose metabolism, as measured by PET, is a good indicator of the functional activity in the brains of head-injury patients." Alavi (1989) also noted that 33% of the anatomic lesions were associated with larger and more widespread metabolic abnormalities. Alavi also noted that as many as 42% of PET abnormalities were not associated with anatomical lesions observed on anatomic imaging. Alavi noted that "PET and SPECT do not have the resolution of MRI, but their ability to measure cerebral function may be more important for evaluating brain injury. Furthermore, studies to date have shown that PET and SPECT correlate better with outcome and cognitive dysfunction than do either MRI or CT. This is an indication of the greater sensitivity of functional imaging than structural imaging." Bonne et al. (2003) noted that patients with mild TBI showed decreases in frontal and temporal cortices which were correlated with neuropsychological assessment. Fumeya et al. (1990) also reported that rCBF (regional cerebral blood flow) found lesions with head injury that CT could not detect. George et al. (1989) found that subdural and epidural hematomas associated with head trauma caused widespread hypometabolism on PET scans and could affect the contralateral hemisphere. Gray et al. (1992) found that "SPECT was more sensitive than CT in detecting abnormalities in patients with a history of TBI." The SPECT scans were more than twice as sensitive as CT. Humayun et al. (1989) found that patients with mild to moderate closed brain injury showed regional cerebral metabolic abnormalities on PET scans when evaluated three to 12 months postinjury. These patients had deficits on neuropsychological testing which were associated with the abnormal PET scans even though they had normal CT, MRI , and EEG indicating that PET scans abnormalities were more sensitive at detecting brain injury. Jacobs et al. (1994) noted that SPECT alterations correlated well with the severity of the trauma and also noted that patients with persistent symptoms had persistently abnormal functional brain images. Levine (2002) noted that patients with TBI showed changes in function during an activation task compared to normal controls. Lorberboynm (2002) noted that patients with mild head trauma who had amnesia showed abnormalities on functional brain imaging despite normal CT scans. Masdeu et al. (1994) also reported that head trauma could be separated from normal controls by independent readers who were blinded to clinical diagnosis. Masdeu et al. also concluded that SPECT was more sensitive than CAT in detecting brain injury after mild head trauma. Nagamachi et al. (1993) found that SPECT was more sensitive at detecting the larger extent of abnormality in closed head injury than CAT and found that 44.4% of the brain lesions could be detected by SPECT alone. Nedd et al. (1993) also found that functional brain imaging was more than twice as sensitive as structural brain imaging in finding lesions. In addition, Nedd et al. also found that the area of involvement was relatively larger on SPECT than CAT scan for lesions which were visualized by both techniques. In an article on neuroimaging in patients with traumatic brain injury, Newberg and Alavi (1996) notes that "PET can also be used to diagnose patients with diffuse axonal injury to determine the extent of damage and prognosis." Newton et al. (1992) found that there was a significant correlation between Glascow Outcome Scale grade and cerebral activity. Newton et al. also found that there were defects found on functional brain imaging that correlated with clinical signs which were not detected by CT or MRI scans. One patient for example had difficulty reading five months after his injury and showed decreased activity in left posterior parietal regions consistent with his lexical problem even though CT and MRI did not find anything. Oder et al. (1992) found that there were high correlations between frontal lobe being lowered and severity of disinhibition behavior which helps to validate the role of functional

imaging in assessing neuropsychological and behavioral symptoms. Prayer et al. (1993) also found that unfavorable outcome (Glascow Outcome Scale III or IV) was associated with decreased brain function in cortical and thalamic regions in patients with subacute or chronic severe closed head injury and normal CT examinations. Rao et al. (1984) reported that PET findings closely correspond with the site and extent of cerebral dysfunction inferences derived from the neurologic and behavioral examinations whereas CAT scan findings did not closely correspond. Roper et al. (1991) found that functional brain imaging could find lesions in patients with closed head injury that were not detectable by CT scans. Ruff et al. (1994) noted that PET scans corroborated positive neuropsychological findings in patients with minor brain trauma. Rao went on to say "Thus the agreement of neuropsychological and PET findings lends support to the validity of the neuropsychological test results, because they are substantiated by an objective neuroimaging technique." Septien et al. (1993) also found that SPECT found a link between neuropsychological symptoms of frontal lobe disorder following head injuries and decreased frontal blood flow. Umile et al. (2002) noted that patients with mild TBI showed abnomalities in temporal and frontal regions on functional brain imaging. Wu et al. (2000) noted that patients with TBI showed abnormalities on PET scan studies especially in regions such as frontal and temporal regions. Yamaki et al. (1996) found that patients with brain injury had abnormalities on PET scans. The editors of the Journal of Nuclear Medicine, in an editorial published three years ago (35:947 (1994)) indicate that "that rCBF/SPECT is a viable technique for detecting cortical lesions following TBI." Further, the editors noted that "Patients with persistent positive SPECT scans remained symptomatic." Clearly, there are numerous, peer-reviewed, and published papers that establish the usefulness of functional brain imaging in the assessment of head injury. The consistency of these findings help to establish the reliability of this method.

PET scans meet the criteria to be considered reliable and valid for the purpose of establishing a corroboration of the extent of head trauma at times that are chronic or subchronic from the injury. There are many articles that show functional brain imaging is useful months, even years later to corroborate brain damage (see Humayun et al. (1989) examined with range between 3 to 12 months, Jacobs et al. (1994) examined an average of 3 months, Ruff et al. 1994 (examined an average of 29.2 months, range 2-49 months), Newton et al. 1992 (range 3-36 months), Prayer et al. 1993 (examined an average of 15 months, range 2 to 36 months), Oder et al. 1992 (examined an average of 39.3 months after the injury, range 7-66 months)).

DTI abnormalities have not been analyzed because Simon Med apparently deleted the series before sending the data to Dr. Joseph Wu for analysis. I am awaiting the rescheduling of the MRI DTI scan so that I can analyze the DTI to determine if there are abnormalities. The DTI scan would be very helpful in providing an additional modality for assessing the brain of Mr. Dixon.

Diffusion tensor imaging MRI scans are testable and have been subjected to peer review. There have been at least 80 articles in Medline on the use of diffusion tensor imaging and brain injury. These peer reviewed articles describe the use of DTI scans to test hypotheses regarding brain function and activity in a wide spectrum of conditions including traumatic brain injury. (see attached bibliography).

DTI scans are not specifically diagnostic in and of themselves in isolation but are instead corroborative of brain injuries. The distinction can be highlighted by a metaphor. If a patient has a presentation consistent with pneumonia, a physician can check his temperature. If the patient is febrile, then this information can help corroborate pneumonia. However, fever by itself is not

diagnostic of pneumonia. The ability to measure the patient's temperature provides invaluable corroborative clinical information even if it is not specifically diagnostic.
There are many approaches towards validation. The gold standard for validation is peer-reviewed publication since each manuscript that is independently published has to been scientifically judged on the validity and reliability of the methods by neutral scientific referees.

Data collected from studies reveal DTI scans corroborated impaired brain function detected by neuropsychological testing such as memory tests even when CT and MRI Scans show no abnormalities. For example, Miles et al. 2008 noted a significant correlation between neuropsychological deficits and fractional anisotropy in mild traumatic brain injury.

In addition, studies also show that DTI scans can be detect abnormalities in brain function in mild traumatic brain injured patients years after the date of injury. For example, please see the attached publication Inglese et al. 2005 which is marked and incorporated herein. The authors found DTI abnormalities in patients with minor traumatic brain injury a mean of 5.7 years after the injury with significantly decreased fractional anisotropy in the patient's corpus callosum, internal capsule and centrum semiovale.

DTI scans have also been shown to be abnormal in schizophrenic disorder (e.g. Kim et al. Arch Gen Psych 1999).

(Joseph Wu, M.D.)

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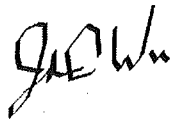

Joseph C. Wu, M.D.

Exhibit 15

Metropolitan Consulting Corporation, PC.

Lauro Amezcua Patino, MD, FAPA

4055 W. Chandler Blvd. Suite 5
Chandler, AZ 85226
480-464-431
480-464-2338 (Fax)

Patient Name:	Dixon, Clarence
Age:	57
DOB:	08/26/1955
Sex:	Male
Ethnicity:	American Indian
Date of Evaluation:	September 7, 2012
Court Case Number:	CR2002-019595
Referral Source:	Kerrie Droban, ESQ.
Psychiatrist:	Lauro Amezcua-Patino, MD.

Psychiatric Evaluation

Patient referred for psychiatric evaluation by his Attorney Ms. Droban, for a diagnostic psychiatric evaluation. Mr. Dixon was informed of her attorney's request for evaluation and limits of confidentiality, and he provided a verbal informed consent for the evaluation.

Method:
Mr. Dixon was evaluated by this writer at the Arizona Department of Corrections facility in Florence Arizona, In the Browning Unit for approximately 2 hours for a Clinical Interview and verification of history. Review of extensive records including psychiatric evaluations dating back to 1977. Review of Neuropsychological evaluation by Dr. Toma.

History of Present Illness:
Mr. Clarence Dixon is a 57 y/o, American Indian, currently residing at the Browning Unit of the Arizona Department of Corrections in Florence, Arizona. Mr. Dixon reported chronic symptoms of depression on and off since his incarceration, and at least 3 distinct episodes of severe depression in his lifetime before incarceration, manifested by decreased energy, sadness, decreased motivation, decreased interest, feelings of helplessness, hopelessness and worthlessness.
He reported at least one period of time while incarcerated when he experienced auditory and visual hallucinations.

Mr. Dixon has a documented history of being guarded and easily frustrated; was diagnosed as suffering from a thought disorder in 1977 that rendered him NGRI in 1977. However when confronted with his paranoid ideation he becomes quite defensive and irritable.
Currently he reports no difficulty sleeping, and an average appetite, admits to continued feelings of hopelessness and hopelessness, and expressed strong distrust toward detention, authorities and Government officials due to his perception of being discriminated because of his ethnic background. Denied symptoms that would meet criteria for Mania, Generalized Anxiety Disorder, OCD, Dissociative disorders, Dementia, Panic Disorder.

Past Psychiatric History and Substance Abuse"
Mr. Dixon was evaluated psychiatrically in 1977 by 2 independent psychiatrists and diagnosed as suffering from depressive and psychotic symptoms most likely resulting from a schizophrenic process. Mr. Dixon is currently not receiving any active pharmacological psychiatric intervention.
Mr. Dixon admits to using drugs since age 14, starting with Marijuana, and abused some of his father's anxiety and pain medications. Admitted to a history of blackouts whenever he drank vodka.

Medical History:
He was diagnosed with a Coarctation of the Aorta corrected surgically around age 13 at Phoenix Children's Hospital. He suffers from severe Glaucoma with progressive blindness. No history of seizures, stroke, head injuries, epilepsy or other neurological disorders reported.

Family History:
Mr. Dixon reported an extensive family history of alcoholism and drug abuse, and 2 brothers were convicted of drug dealings on the Navajo reservation.

Psychosocial History
He is originally from Fort Defiance Arizona, reportedly was born 1 month premature. Father was a teacher with the Bureau of Indian Affairs and mother stayed home. Reportedly he was held one year back in kindergarten, and admitted to having experienced severe depression around age 10 or 11.
He described his father as being easily angered, physically abusive and easily frustrated. Mr. Dixon was reportedly sent to a boarding school and in the 6th grade. He moved out after his junior year in High School after having had a serious argument with his father, and spent the summer in Los Angeles, CA with his sister. He denied any history of sexual abuse or sexual abuse perpetration. His father passed away in 1975.
Mr. Dixon married in 1976 and moved to the Phoenix Metro Area, and enrolled at Arizona State University. In 1977 he was adjudicated Not Guilty for Reason of Insanity for assault, and wife divorced him while he was in prison between September 1978 and March 1985, sentenced for assault and burglary.

Allegedly, 3 months after his release of prison he was arrested and convicted for aggravated sexual assault and kidnapping in Flagstaff where he was residing with his brother Duane after release from prison.
In 2002 he was convicted via DNA match for a crime that allegedly occurred in 1978 before his NGRI visit to the Arizona State Hospital and sentenced to Death.

Mental Status Examination:

Mr. Dixon appeared his stated age, he is medium tall and thin built, and initially during the interview he was noted to be quite irritated, distrustful and frustrated, without being physically violent and was not sure if he wanted to discuss his history with this writer. Eventually after 4-5 minutes of conversation he became more cooperative and less guarded, he apologized and stated that he was upset that the detention officers brought him into a small detention cell about 1 hour earlier and that they were doing it on purpose, to bother him. During the interview he was noted to be guarded and somewhat talkative, with some degree of confabulation, and over inclusive with his answers. His affect was intense with a somewhat anxious and restless mood. At times he was noted to be distrustful and paranoid, in particular when discussing prior psychiatric history. His associations were logical with over inclusive stream of thought, at times circumstantial. His thought content was somewhat hopeless and angry toward detention officers because of his perception of being constantly watched; and a mild to moderate degree of ideas of reference. He was well oriented to time, place, person and circumstances, and aware of recent social and political events. His memory appears to be intact, he appears to be of average to above average intelligence, his insight is poor, and his ability to exercise objective judgment is intact.

Summary of Dr. Toma's Neuropsychological Test:

1. Overall average intellectual functioning and superior general abilities.
2. Low concentration, attention and processing speed.
3. Overall improvement for the tests that measure executive function.
4. MMPI is concurrent and consistent with his history of mood, thought and perceptual disturbances, and suggestive of a Schizophrenic Process.
5. TAT suggests the possibility of difficulty regulating emotions.
6. Rorschach was remarkably consistent with the MMPI and TAT with evidence of mood and thought disturbance with difficulty regulating emotions.

These results suggest that Mr. Dixon may suffer from some type of brain impairment which does not appear to be lateralized.

Diagnoses:

I: Schizophrenia Paranoid Type, Chronic.
Major Depression recurrent
Alcohol Dependence in Full remission

II: None

III: Glaucoma with Secondary Blindness

IV: Extreme, mostly enduring circumstances (death penalty)

V: 59 current, 59 last year.

Discussion:

Based on the review of all available records, prior psychiatric evaluations, progression of symptoms, current psychiatric symptoms and neuropsychological findings, it is my best professional opinion, with a high degree of medical and psychiatric certainty that Mr. Dixon suffers from chronic and severe psychiatrically determinable thought, cognition and mood impairments that are expected to continue for an indefinite period of time of a Schizophrenic nature, complicated with depressive symptoms and historical alcohol dependence.

Schizophrenia is a chronic, severe, and disabling brain disorder that affects about 1 percent of the world population. People with the disorder may hear voices other people don't hear. They may believe other people are reading their minds, controlling their thoughts, or plotting to harm them. Schizophrenia affects men and women equally. It occurs at similar rates in all ethnic groups in the world, Symptoms of hallucinations and delusions usually start between ages 16 and 30, and Men tend to experience symptoms a little earlier than men.
The symptoms of schizophrenia fall into three broad categories: positive symptoms, negative symptoms, and cognitive symptoms. Positive symptoms are psychotic behaviors not seen in healthy people. People with positive symptoms often "lose touch" with reality. These symptoms can come and go. Sometimes they are severe and at other times hardly noticeable, depending on whether the individual is receiving treatment. Negative symptoms are associated with disruptions to normal emotions and behaviors. These symptoms are harder to recognize as part of the disorder and can be mistaken for depression or other conditions. Cognitive symptoms are subtle. Like negative symptoms, cognitive symptoms may be difficult to recognize as part of the disorder. Often, they are detected only when other tests are performed. Cognitive symptoms include the following: Poor "executive functioning" (the ability to understand information and use it to make decisions), Trouble focusing or paying attention, Problems with "working memory" (the ability to use information immediately after learning it). Cognitive symptoms often make it hard to lead a normal life and earn a living. They can cause great emotional distress.

Mr. Dixon exhibits evidence of positive, negative and cognitive deficits associated with schizophrenia, with a predominance of paranoid ideation and cognitive difficulties as defined by Dr. Toma's report

Mr. Dixon is likely to benefit from a period of treatment that should include antipsychotic medications and antidepressants, with the goal of facilitating decrease of symptoms and development of more adaptive and less destructive coping.

As suggested by Dr. Toma, a more comprehensive neuropsychiatric assessment that may include an MRI, PET scan and Quantitative Electroencephalography with LORETA localization may be helpful of further rule out any other potential neurological conditions.

Thank you for the opportunity to evaluate this challenging and unfortunate individual, if I can be of further assistance, please do not hesitate to contact my office.

Respectfully

Lauro Amezcua-Patino, MD, FAPA.