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10 **SUPERIOR COURT OF ARIZONA**
11 **COUNTY OF PINAL**

12 STATE OF ARIZONA,
13
14 Plaintiff,

15 -VS-

16 CLARENCE WAYNE DIXON,
17 Defendant.

Pinal County Superior Court
No. S1100CR202200692

Maricopa County Superior Court
No. CR 2002-019595

Arizona Supreme Court
No. CR 08-0025-AP

18 **NOTICE OF FILING EXPERT**
19 **REPORT**

20
21 *Hon. Robert Carter Olson*

22 **[CAPITAL CASE]**

23
24 Pursuant to this Court's April 12, 2022 order appointing Dr. Carlos Vega to
25 evaluate Dixon's competency to be executed, the State provides the Court with
26 notice of Dr. Vega's report. Dr. Vega has also indicated that he provided the report
27 to the Court's Vulnerable Persons Unit.
28

1 RESPECTFULLY SUBMITTED this 26th day of April, 2022.

2 Mark Brnovich
3 Attorney General

4
5 /s/ Jeffrey L. Sparks
6 Acting Chief Counsel
7 Capital Litigation Section

8 Gregory Hazard
9 Senior Litigation Counsel

10 Attorneys for Plaintiff

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PSYCHOLOGICAL EVALUATION
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NAME: Clarence W Dixon
DATE OF BIRTH:
AGE: 66 years old
DATE OF EVALUATION: April 23, 2022
EVALUATOR: Carlos J. Vega, Psy.D.
CASE NUMBER: CR2002-019595

REFERAL STATEMENT

Clarence is a 66-year-old Native American male who was court ordered for a psychological evaluation involving a competency matter that exceeds the usual issues covered by a general Rule 11 Exam. With guidance from the Attorney General's Office this evaluation needs to address the following 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. Is Clarence Dixon, due to a mental disease or defect, presently unaware that he is to be punished for the crime of murder or unaware that the impending punishment for that crime is death?
- 3.

This report addresses Clarence's general psychological functioning, and the referral concerns are summarily addressed in the final section of this report.

ASSESSMENT PROCEDURES

Clinical Interview *Mental Status Examination *Competency Inquiry *Review of Reports Available

RESULTS OF ASSESSMENT PROCEDURES

Documents reviewed include the "Motion to Determine Mental Competency to be Executed" dated April 8, 2022. The motion indicates that "...Clarence Dixon is a 66-year-old legally blind man of Native American ancestry, who has long suffered from a psychotic disorder—paranoid schizophrenia. Previously, an Arizona court determined that he was mentally incompetent and legally insane. Mr. Dixon has a documented history of delusions, auditory and visual hallucinations, and paranoid ideation. On April 5, 2022, the Arizona Supreme Court issued a warrant of execution scheduling Mr. Dixon's execution date for May 11, 2022...Mr. Dixon's execution by the State of Arizona will violate A.R.S. § 13-4021, which prohibits the State from executing an individual who is mentally incompetent to be executed. Mr. Dixon's execution will also violate the Eighth Amendment to the United States Constitution...which "prohibit[s] a State from carrying out a sentence of death upon a prisoner who is insane." As set forth below, Mr. Dixon's mental illness renders him incompetent to be executed by depriving him of the ability to rationally

comprehend the meaning and purpose of the punishment the State of Arizona seeks to exact by his execution—that is, Mr. Dixon’s mental illness thwarts his ability to form a rational understanding of the State’s reasons for his execution... Mr. Dixon has a long and well-documented history of severe mental illness, including prior findings of incompetency, a legal finding of not guilty by reason of insanity (NGRI), and multiple diagnoses of paranoid schizophrenia... in September 1977, Mr. Dixon was found incompetent by two different court-appointed psychiatrists... He was released from ASH approximately two months later, after a third psychiatrist found he regained competency to stand trial. At trial for the 1977 assault, Mr. Dixon was found NGRI and released... recognizing Mr. Dixon’s serious mental illness... the trial judge also ordered the State to commence civil commitment proceedings. The murder, for which Mr. Dixon is sentenced to death in these current proceedings, occurred on January 7, 1978, less than 48 hours after the trial judge had ordered the State to institute civil commitment proceedings... Subsequently, in 1981, a psychological evaluation of Mr. Dixon administered by the Arizona Department of Corrections described symptoms consistent with his paranoid schizophrenic psychotic disorder... and that he experiences “grossly disturbed perceptual and thought patterns, clear paranoid ideation, feelings of frustration, and moderate agitation...producing inefficiency of intellectual functioning...”

Documents reviewed reveal that in May 2001 Tempe Police Department matched DNA evidence to Clarence W Dixon, of the 1978 murder of 21-year-old Arizona State University Student Deana Bowdoin. Dixon was serving life sentences in prison for a 1986 sexual assault. Dixon, at one point had been released on parole in March 1985, and on April 2, he grabbed a woman in the parking lot at Northern Arizona University, holding a knife to her throat. On June 10, he grabbed a female jogger on the road near NAU. While holding her at knife point, he walked her to the woods where he tied her hands and sexually assaulted the woman. Dixon was arrested, convicted, and sentenced to seven consecutive life terms. A prior psychiatric evaluation indicated that “Mr. Dixon reported no involvement with the Juvenile Justice System...”, however there are documents that indicate that as a child he was cruel to animals and may have molested his sister. “...He said he was first convicted of “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...” In 1977 he assaulted a young girl whom he thought was his ex-wife or (she looked like his ex-wife)...” In 2005, Clarence was charged with the 1978 sexual assault and murder of a university student. In 1985 Clarence had been convicted in Coconino County of seven counts arising from the sexual assault of a student on the campus at NAU. He was on parole at the time of these offenses and therefore he received seven consecutive life sentences in that case.

Aside, and at times related to Clarence history of antisociality is his admitted history of psychoactive substance abuse. Documents reviewed indicated that Clarence was around 16 years old when he began to use alcohol. He stated that eventually his drinking increased to daily use of etoh. He reported that this went on from 1977 until September 1978 and that it included usually drinking beer but at times he would drink an entire bottle of vodka. He acknowledged to having had frequent blackouts "about once every two or three weeks" from the vodka.

I met with Clarence on April 22 via Google Meet video set up. Clarence is being housed at the Browning Unit at the DOC in Florence. I introduced myself and went over the reason for my visit. Clarence was immediately amenable and cooperative. He stated that he had been in "the DOC for 36 years “and added that he was "on death row” and he was going to be executed “in 11 days.”

Even though his psychosocial history is well documented, to help establish a good rapport I obtained a summary of his background information. Clarence reported that he was from Fort Defiance in Arizona. He stated that this was approximately 100 miles from the four corners area. He reported that he has two sisters

and three brothers and acknowledged that he wasn't close to any of them and had lost contact. It's been documented in prior evaluations that Clarence never really felt connected to anyone. He went on to describe himself as a loner. He reiterated that which has been documented in terms of not having any friends. He did mention having had a friend in the sixth grade and that the relationship lasted several years, but admits that this relationship also ended decades ago. With regards to his education, he said that he was an average student in high school and that he was "one semester away from a bachelor's degree in fine arts".

With regards to employment, he stated that he worked approximately a total of "four or five years" and that he was an auto mechanic. He added that he worked two years in the reservation and "two years off [the reservation]". He stated that he enjoyed working.

He was married at one time and was with his wife for about two years and denied having children. Documents indicate that he had a very troublesome marriage and she divorced him when incarcerated.

Clarence reported not having had any dealings with behavioral health services growing up. However, documents indicate that he reportedly suffered considerable depression as a youngster. In addition, he describes himself as being avoidant, very shy and reticent in his interpersonal dealings. There's also reports of Clarence having been cruel to animals and having molested his sister. The latter is something he subsequently denied. At any rate, he recalls that he first dealt with behavioral health professionals in 1977 when he was referred to "two psychiatrists" for competency evaluation. The latter was in connection to having "attacked a girl with a pipe". Client stated that he did not know his diagnosis but knew that the mental health professionals stated that he had "deep psychological problems". He does not recall ever having been offered medication and he reports that he never took psychotropic medication. There is a psychological report dated 1981 suggesting that Clarence could benefit from medication, a strong tranquilizer like Haldol. Clarence stated that back then he was "passive, stupid and weak" and that he knew "something was wrong [with him]".

Medically, documents indicate that he's had a number of maladies in the past, including cardiac difficulties when he was much younger. However, Clarence basically identified the issue of his vision and a persistent cough as salient. He expressed a lot of frustration with the DOC because he has requested cough drops and they have not listened to his concern about his persistent cough that requires frequent use of cough drops as treatment. He expressed resentment at the DOC staff for thinking they know better than he does about the coughing. He also complained of the fact that he is now legally blind after undergoing "four useless operations". He angrily remarked "I can't get shit out of the health unit".

FINDINGS

Clarence was alert and oriented across all spheres. He was capable of providing all of his personal identifying information without hesitation. This includes his height at 5'8" tall and his weight of 145 pounds. He stated that lately he's been losing weight. He attributes this to the normal processing of aging. Clarence presents as an older looking and somewhat frail Native American male [Navajo]. He did not appear to be in any physical distress and offered no complaints of a medical nature other than the persistent cough that requires he be given cough drops. He never coughed during our 70-minute session. He is legally blind, and he ambulates with a cane. I observed how he came in the room and folded the cane as he sat in the chair maintaining very good posture. Hygiene and grooming appeared to be within normal limits. He then described the seriousness of his visual difficulties. He advised me that he wasn't able to really detail what I looked like. He stated that with short distances, say a couple of feet, he could make out his hands, fingers and colors but that is difficult for him to watch TV.

Clarence was very easy to engage. He was immediately cordial and personable. It's evident that his cognitive and memory functioning are intact. He's capable of expressing himself very well. He's likely to be above average intellect. His affect was mildly blunted but generally appropriate. He described his mood as "depressed". He then added "wouldn't you be depressed (if you were being put to death in a few days)”? He describes having a reactive depression, an adjustment disorder with depressed mood.

With regards to his sleep, he stated that he was "sleeping a lot". He describes hypersomnia. In addition, he stated that he doesn't have much of an appetite. He also has no interest sexually. Clarence denied suicidal ideation. With regards to homicidal ideation or wanting to hurt others, he stated that the only person he would want to hurt badly would be "Donald Trump". Clarence mentioned to this writer that he does follow politics. It's interesting to note that when I asked him about President Biden, he initially blurted out "incompetent". He then modified his response and stated that with regards to President Biden, he would describe him as "a lackluster leader". When I asked about auditory hallucinations, Clarence stated that there are times when he hears his name being called. He described how he heard his name emanating from the side of his head or behind him. He went on to report that he understood that this auditory hallucination was "in [his] head". With regards to visual hallucinations, he stated that sometimes he sees "white squares" and it's annoying because they get in the way of the little vision that he does have when he's watching television. He then revealed that the most frustrating visual hallucination he has pertains to seeing "a little white boy dancing with red and white striped shirt on." He added that this really "pisses [him] off". He explained that he doesn't understand why it has to be a "white boy" that he sees. He would prefer seeing "an Indian boy since I am a Navajo". The hallucinatory experiences he describes appear to be more neurologically than psychiatrically relevant. He responds to the hallucinations with annoyance rather than incorporate them into any kind of a delusional system. He denies ever having had command hallucinations or mood related hallucinations. Interestingly, Clarence himself commented that his hallucinatory experiences may be due to him having "a tumor".

With regards to psychoactive substances, Clarence acknowledges that there was a time back in the late 70's that he had frequent blackouts "about once every two or three weeks" from vodka. He describes having an alcohol dependence. After his incarceration, he learned how to make "hooch" and, years ago, one of the inmates told him that making hooch could be very dangerous and since then he hasn't had any issues regarding the use of psychoactive substances. Notwithstanding, when discussing the issue of the murder conviction Clarence essentially describes having been in an alcoholic blackout because he could not remember what had happened that night.

When it comes to social support system, Clarence reported that he did have a couple of female pen pals. However, he stated that he can't find his address book and he has not been able to keep in touch with these individuals. In addition, he stated that he does have a "spiritual leader" who has been visiting with him since 1986. He stated that his name was Len Foster. It's interesting to know that Clarence initially became rather accusatory of the DOC staff regarding his address book. He began to rant about the fact that the staff had taken his address book and was ascribing malevolent intentions. This went on for a couple of minutes and then Clarence switched gears and stated that perhaps he had misplaced his address book. He remarked needing to do a more thorough search for his address book. This disclosure about the address book is quite revealing when it comes to a Clarence. It shows his tendency to externalize blame to the point that it borders on paranoia but then he recovers. If Clarence's proclivity was to become delusional when suspecting he's been harmed, then one would have expected Clarence to develop and hold on to a position that staff were actively persecuting and tormenting him. He would have contended how this was further evidence of DOC staff targeting him and colluding against him. However, that was not the case at all. Had

he been prone to delusions (as a supposed paranoid schizophrenic) he would've never shifted gears and acknowledge the possibility that perhaps he misplaced the address book.

COMPETENCY INQUIRY

With regards to the incident in 1977 where Clarence "... attacked a girl with a pipe...", Clarence described how he was walking down that side walk and hit her. Asked if the girl reminded him of anyone and he said "no" but he did intimate that there were things going on with him when he assaulted her. I asked him, why did you hit her and essentially he responded that he hit her "because she was there" Asked what he did after he hit her and if he felt bad about hitting her and he said that after he hit her he ran and that he did feel bad about hitting her "... but mostly, I did not want to get caught".

Regarding the DNA and the murder conviction, legally Clarence reiterated that which has been well documented. He assured me it was an illegal conviction and that his DNA was collected by the NAU police and they did not have jurisdiction etc. I focused my inquiry on assessing what transpired and whether he was involved. Clarence initially stated he didn't know the victim but eventually acknowledged that he must have been with her on that fateful night. He stated that he did "not know anything about what went on...I have an idea where it happened...but [only know] what I read in the police report". Were you drunk? "Probably, I was a big drinker at the time..." At that point I tactfully confronted him and suggested that if he had had a blackout as he intimated, that he could have killed her and not remember. Clarence immediately remarked "No, no no [regarding murder], I know I had sex with her". Later he denied having said that he knew he had sex with her. He explained that he didn't remember having sex with her but stated knowing he had sex with her because "my DNA was there" and "...I'm not denying the evidence" In other words, he'll readily accept that he had sex with her even though he does not remember but he does not believe he killed her. Parenthetically, Clarence also made mention that police had DNA from another individual in that case that was ignored and proceeded to engage in the proverbial blaming of the victim as he detailed how the victim was someone who was known to have numerous sexual partners implying others may have had motive. He felt that focusing on him alone was not fair. Despite his lengthy description of the victim's sexual partners, Clarence insisted that he didn't "remember that girl". He went on to explain that had he killed her on purpose then maybe he deserved the death penalty, adding "... but if I was in another state, they wouldn't be killing me..." He then reported being unfortunate because he is here in Arizona and everyone "says we gotta kill him". He indicated knowing "whether [he] did it or not [it] isn't going to change a damn thing. [He] can't bring that girl back... If [he] could [he] would.". Lastly, when Clarence was asked, hypothetically, how he would feel if he were to suddenly have a memory of having killed her and he replied that if he were to recall having murdered that girl, he would have a sense of relief on his way to his execution.

CONCLUSION & RECOMMENDATIONS

After reviewing all the documentation and considering the results of this evaluation, it is evident to this writer that Clarence is primarily suffering from an antisocial personality disorder with salient paranoid and narcissistic personality characteristics. There are a number of references made to Clarence suffering from schizophrenia. However, throughout his imprisonment that spans over 3 decades, he was never treated for a psychotic disorder. At one time when he was younger, he is described as having suffered severe depression. In the past he may have at times experienced episodes of psychosis. However, there is no evidence that Clarence is experiencing active symptoms of schizophrenia at this time. He reports hallucinations that appear to be more neurologically, than psychiatrically relevant. The notion that he is delusional, because of his insistence on errantly applying inapplicable case law to have his murder conviction overturned, is unfounded. There is no doubt that he is deluding himself legally, but this is likely the function of the kind of cognitive distortions that are part and parcel of personality disordered

individual. Clarence wrote numerous motions attempting to suppress the DNA evidence that linked him to the 1978 murder on the basis that the NAU police were not a legal entity when he was arrested in 1985. Clarence, according to documents reviewed misconstrued "the holding in Goode...[that] does not depend on the 1985 amendments. Instead, Goode holds that the board has implicit authority under ARS 15-1626 [A] [2]." Clarence unsuccessfully re-litigated the issue all the way through the Arizona judicial system. The issue however was not deemed "viable" and the Supreme Court denied review. Clarence narcissistically continues to be convinced that his argument is valid and the Courts are mistaken. This is not delusional thinking. The definition of delusional implies an outrageous false belief. In this type of case, a delusional legal defense would sound something like this. "*John Doe maintaining that Intergalactic Law and Statutes supersede and takes precedence over State, National and International law with Jesus Christ as the ultimate judge*". As a result, there is no evidence that Clarence's mental state is so distorted, or his concept of reality so impaired, that he lacks a rational understanding of the State's rationale for his execution. As can be seen in the Competency Inquiry section above, Clarence is so well aware of the State's rationale for his execution that he wishes he resided in a different State, one that did not have the death penalty. He made it clear that he does not want to die and believes that there is nothing to be gained by his execution. He even goes as far as to say that if he could bring the victim back to life, he would. He made it clear that he was "going to fight [his execution] until the end". He has deluded himself into believing that he found case law, that supports his position. He admits that he has worked feverishly for years to write numerous motions and describes his motions as having been sufficiently tenable to have been litigated through Arizona's entire judicial system and turned away at the doorstep of the Supreme Court. Furthermore, Clarence insists that he has no memory of the murder, and this additionally motivates him to fight against being put to death. The notion that he has no memory of the incident surrounding the death of the victim appears to be true since Clarence revealed to this writer that if he were to suddenly remember having killed the victim, he would have a sense of relief at his execution.

Furthermore, Clarence is not suffering from any mental disease or defect, that results in making him unaware that he is to be punished for the crime of murder or unaware that the impending punishment for that crime is death. He is suffering from personality disorder, and this is responsible for his deluded notion that the government has refused to agree with his legal argument, not because his argument is not sound but rather the government is afraid of the consequences of admitting they are wrong. Clarence is well aware of his impending punishment and reported that this is responsible for his current level of depression. He has a moderate adjustment disorder with depressed mood, a reactive depression. He insists that aside from what he considers the illegality of his execution, he finds it is immoral. He wishes he were in another State [sans the death penalty]. He claims that if someone murders another individual in the State of Arizona, that individual can be put to death yet when the US government launches a drone bomb strike to kill a terrorist and ends up killing innocent women and children as well, somehow that's not considered immoral or punishable by law.

Thank you very much for allowing me to consult with you in this matter. If I can be of any further assistance to you in the future, please don't hesitate to contact me.

Respectfully submitted,

Carlos J. Vega, Psy.D.
Psychologist

Carlos J. Vega
CURRICULUM VITAE

FOREIGN LANGUAGES
Spanish (fluent)

EDUCATION

Sept. '78 -- Dec. '81 -- Nova Southeastern University, Ft. Lauderdale, FL.—
Degree Awarded July 1982, Doctor of Psychology from The School of Professional Psychology.

Sept. '77-July '78 -- Nova Southeastern University, Ft. Lauderdale, FL. Degree awarded: Master of Science in Psychology (Counseling and Guidance) from the Behavioral Science Program.

Sept. '75 -- May '77 -- University of Miami, Coral Gables, FL. Degree awarded: Bachelor of Arts, Major in Psychology and Minor in French.

LICENSES AND PROFESSIONAL AFFILIATIONS

State of Arizona licensed (Clinical) psychologist since May 1983 (license #1020).

Arizona Board of Psychologist Oral Examiner (1997)

Past Chair for East Valley Behavior Health Assoc Quality Assurance Committee.

WORK EXPERIENCE

Mar. '87 -- present --Full time private practice.

Aug. '82 -- April '87 --Clinical Director and Clinical Psychologist at the Behavioral Health Agency of Central Arizona. (Jan. '87) Part-time private practice in Phoenix, St. Luke's Medical Building #406.

Sept. '81 --July '82 --Staff Clinical Psychologist at the Miami Mental Health Center, located in Miami FL.

Sept. '80 -- Sept. '81 --Clinical Psychologist Internship at Miami Mental Health Center.

RESEARCH/PROJECTS/PRESENTATIONS

Presented recently on the effects of psychological trauma at CIBHS, a state wide behavioral health agency. several DSM III-R seminars and an interviewing technique seminar to local professionals, a DSM IV seminar to case managers, and two seminars on Psych. Testing to social service providers. Conducted study subsidized by DES of MMPI (personality testing) findings on maltreating mothers in Pinal and Gila Counties. Presented study of human figure drawings of sexually abused girls at NCCMHS. Have also made formal presentations in Spanish such as one on EMG biofeedback in San Juan, Puerto Rico to Puerto Rican graduate students.

MAJOR EDUCATIONAL SEMINARS ATTENDED

(A few of the recent ones)

Training MH Experts in Legal Competency and Restoration. Current Trends in Psychopharmacology. Conducting Effective Mental Status and Risk Assessment. Two of the Annual US Psychiatric and Mental Health Congresses. Recent MMPI-2 & MMPI-A symposia by Dr. Butcher. Dr. Amen's The Healing Brain. Innovations in Addiction Treatment & Behavioral Health Care.