

IN THE UNITED STATES COURT  
OF APPEALS DIVISION II  
AT TACOMA  
WASHINGTON

37747-1

IN RE THE ARBITRARY  
DETENTION OF

LENIER AYERS

WASHINGTON STATE  
CLARK COUNTY

CSN. 01-2-00713-4  
COA. NO. 33604-9-11

SPECIAL MOTION  
TO RESTORE MOVANTS  
DUE PROCESS, AND EQUAL  
PROTECTION RIGHTS TO A  
NEW TRIAL

FILED  
COURT OF APPEALS  
DIVISION II  
08 MAY - 8  
STATE OF WASHINGTON  
BY  
DEPUTY

1. THIS MOTION IS A PRO-SE MOVANTS APPLY FOR RELIEF FROM CONSTITUTIONAL INJUSTICE THROUGH HAVING BEEN PERSISTENTLY DENIED HIS RIGHT TO A NEW TRIAL THROUGH THE STRATEGIC REFUSAL OF SUPERIOR, APPELLATE FEDERAL AND WASHINGTON STATE SUPREME COURTS IN HAVING DENIED HIS RIGHT TO FILE MOTION, AND BE HEARD IN HIS PRESENTATION OF NEW, EXCULPATORY, "PRIMA FACIE EVIDENCE" AND PURSUANT THE RULE OF LAW, UNDER THE FOLLOWING PRIOR COURT DECISIONS, RCW STATUTES, AS WELL AS CONSTITUTIONAL, AND HUMAN RIGHTS STIPULATIONS, TO INCLUDE FEDERAL RULES OF CIVIL PROCEDURE.
2. SEE THE PAGES TITLED "JURISDICTION" THAT ARE ATTACHED AS PART IN PORTION OF THIS MOTION.
3. I LENIER R. AYERS, THE PRO-SE MOVANT IN THIS MATTER DECLARES UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE OF THE STATE OF WASHINGTON, THAT THE FOLLOWING STATEMENTS, AND INFORMATION IS TRUE, AND CORRECT TO THE BEST OF MY KNOWLEDGE, AND THAT I HAVE FILED THIS MOTION IN AS A GOOD FAITH EFFORT TO REGAIN ACCESS TO MY RIGHTS AS AN AMERICAN CITIZEN, AND CIVIL DETAINEE WHO IS NOT LEGALLY CONSIDERED AS BEING A PRISONER ACCORDING TO CIVIL LAW...

PETITIONER MAY FILE THE  
PETITION WITHOUT PAYMENT OF  
A FILING FEE

*Daniel*

COURT CLERK

5/2/08

## ARGUMENTS:

4. THE PREMISE OF THIS MOVANT'S MOTION REST'S ON THE UNDERSTANDING THAT PURSUANT THE RULE OF LAW, AND ACCORDING TO THE RCW 71.09 STATUTE HE MUST BE UNCONDITIONALLY RELEASED, OR IMMEDIATELY PROVIDED A NEW TRIAL BY JURY, DUE TO THE FACT THAT THE ABOVE STATUTE REQUIRED FOR HIM TO HAVE FIRST SUFFERED FROM A LEGALLY JUSTIFIABLE PERSONALITY DISORDER OR MENTAL ABNORMALITY, PRIOR TO HAVING BEEN CIVILLY COMMITTED, AND INDEFINITELY DETAINED FOR A PERIOD OF 8-YEARS.
  
5. ACCORDING TO THE 71-09.020 STATUTE, "UPON A JUSTIFIED PRESENTATION OF PRIMA FACIE EVIDENCE THAT REBUFFS, AND OR DISPROVES THE STATE PROSECUTOR'S (SVP.) DIAGNOSIS," THE INDIVIDUAL IS AUTOMATICALLY ENTITLED TO A NEW TRIAL".
  
6. ON OR ABOUT 10/10/07, THE MOVANT SUBMITTED A LIMINE MOTION FOR DECLARATORY JUDGEMENT. APPROPRIATE JUDGEMENTAL REVIEW OF THIS MOTION WOULD HAVE AUTOMATICALLY ENTITLED THE MOVANT TO EITHER AN UNCONDITIONAL RELEASE OR A NEW TRIAL. HOWEVER, THE SUPERIOR COURT DECIDED INSTEAD TO SUBVERT THIS STIPULATION, AND STATE OFF THE RECORD, THAT, "SINCE THE DETAINEE HAD NOT PARTICIPATED IN OFFENDER TREATMENT WHILE IN DETENTION HE WILL NOT BE RELEASED OR GIVEN A NEW TRIAL".
  
7. THE MOVANT ARGUES THAT HE POSSESSES DOCUMENTS, PROVING THAT NOT ONLY HAD HE PARTICIPATED IN COMMUNITY BASED TREATMENT, HE ALSO POSSESSES (SCE) TREATMENT DOCUMENTS PROVING THAT HE SUCCESSFULLY COMPLETED SEVERAL SEX OFFENDER TREATMENT COURSES WHILE IN DETENTION AT THE WASHINGTON STATE COMMITMENT DETENTION CENTER.
  
8. THE MOVANT ALSO ARGUES THAT THERE IS NO LEGAL OR PSYCHOLOGICAL REASON FOR HIM TO PARTICIPATE IN THE INVOLUNTARY TREATMENT PROCESS BECAUSE THE STATES (SVP.) DIAGNOSIS OF NOS. NEBEPHILIA IS NOT A LEGALLY RECOGNIZED MENTAL OR PERSONALITY DISORDER. THEREFORE, HE DOES NOT SEE THE LOGIC IN RECEIVING SUCH TREATMENT FOR A DISORDER THAT IS NONEXISTANT, AND CARRIES NO CONCEPTUAL VALIDITY, NOR A CONSENSUS ACCORDING TO (ER. 703 - 1d).

9. THE MOVANT HAS PREVIOUSLY FILED MOTIONS UNDER PRO-SE STATUS, THAT THE SUPERIOR COURT HAS COMPLETELY IGNORED SUCH AS MOTIONS FOR THE APPOINTMENT OF COUNSEL, AND MORE RECENT RELIEF FROM JUDGMENT MOTION UNDER FED. RULE 60(b.) FILED ON 3/26/08.
10. THE JUDGES REFUSAL TO RESPOND TO THIS MOVANTS PRO-SE, 60(b.) MOTION IN LIGHT OF THE FACT THAT THE COURT ALSO CONSECUTIVELY REFUSED TO GRANT SUBSTANCE TO HIS PREVIOUS 10/10/07 EVIDENCE, DECLARATORY JUDGMENT MOTION, PLACES THE MOVANT IN A DEADLOCK POSITION AT LAW, THAT HAS SERVED TO ABRIDGE THE MOVANTS 1ST. AND 14TH. AMENDMENT RIGHTS.
11. THE COURTS CURRENT REFUSAL TO APPRECIATE THE JUSTIFIED, LEGAL APPLICABILITY OF THE SAID 3/26/07 MOTION, AS DISPLAYED IN IT'S FAILURE RESPOND TO THIS MOTION, HAS SUBSEQUENTLY RESULTED IN THE MOVANT BEING DENIED ACCESS TO THE COURTS AS HIS DUE PROCESS METHOD OF EXHAUSTING ALL REMEDIES.
12. THE MOVANT HAS MADE SEPERATE ATTEMPTS AT FILING THIS SAME 60(b.) MOTION FOR A NEW TRIAL IN THE WASHINGTON STATE COURT OF APPEALS, THE FEDERAL COURT, AND THE WASHINGTON STATE SUPREME COURT. HOWEVER., ALL OF THE ABOVE COURTS HAVE RESPONDED, INDICATING THAT THEY DO NOT HAVE JURISDICTION OVER THIS MATTER THAT MUST FIRST BE BROUGHT BEFORE THE ORIGINAL TRIAL COURT.
13. AS THE RESULT OF THE COURTS STRATEGICLY OPPRESSIVE REFUSAL TO GRANT DUE CAUSE ACCESS TO THE COURT, IN UNCONSTITUTIONALLY DENYING THE MOVANTS JUSTIFIABLE MOTIONS, EITHER FOR UNCONDITIONAL RELEASE OR NEW TRIAL, THE SUPERIOR COURT HAS FORCED THE MOVANT, COMPELLING HIM WITH NO OTHER FORM OF RELIEF OR ALTERNATIVE OTHER THAN TO MOTION THE SUPREME COURT AND IN GOOD FAITH, HUMBLBY REQUESTING THE HIGH COURT TO EITHER GRANT AN ORDER REQUESTING THAT THE MOVANT BE GIVEN A NEW TRIAL OR UNCONDITIONAL RELEASE.

14. DURING THE MOVANT'S "JUDGE TRIAL", ASIDE FROM HAVING BEEN APPOINTED IN AFFECTIVE ASSISTANCE OF COUNSEL, HE HAD BEEN EXPLOITATIVELY MANEUVERED OUT HIS CONSTITUTIONAL RIGHT TO BE CONFRONTED BY THE STATES WITNESS AGAINST HIM THROUGH THE USE OF A VIDEOTAPED DEPOSITION OF AN ALLEGED NON-SEXUAL, 4TH. DEGREE MISDEMEANOR ASSAULT VICTIM WITHOUT GIVING THE MOVANT/ DEFENDANT AN OPPORTUNITY TO CROSS-EXAMINE.
15. SEE IDAHO SUPREME COURT DECISION, AUG. 11TH, 2006 IN CONCLUSION OF STATE V. HOOPER (NO. 31025). VIOLATION OF DEFENDANT'S CONFRONTATION RIGHTS THROUGH THE USE OF VIDEO INTERVIEW.
16. THE MOVANT HAD PREVIOUSLY FILED A BIAS COMPLAINT AGAINST THE JUDGE IN HIS CASE WITH MULTIPLE CONSTITUTIONAL RIGHTS ALLEGATIONS, AND THE MOVANT BELIEVES THAT THE JUDGE'S MOTIVATIONS FOR HAVING CONSISTENTLY DENIED HIS JUSTIFIABLE MOTIONS IS RELATED TO EXTRAJUDICIAL BIAS. SEE COPY OF COMPLAINT RESPONSE DOCUMENT ATTACHED TO THIS MOTION.
17. THE MOVANT HAS ALSO BEEN DENIED BADLY NEEDED TREATMENTS FOR NEPPATITUS BY (SCC.) HEALTHCARE ADMINISTRATORS FOR OVER 4 1/2 YEARS AS A DANGEROUS THREAT TO HIS LIFE. THE MOVANT'S PHYSICAL CONDITION HAS DEBILITATED AS THE RESULT OF THIS HEALTH THREAT, CONDITION OF CONFINEMENT. THE SUPERIOR COURT HAD BEEN PREVIOUSLY NOTIFIED OF THIS INCREASING THREAT TO THE MOVANT'S LIFE. YET, IT HAS NOT ACTED IN RESPONSE TO THE MOVANT'S REQUEST FOR ASSISTANCE IN OBTAINING MEDICAL INTERVENTION IN IN ON-GOING AND APPARENT DISPLAYS OF CALLOUSNESS AND IN VIOLATION OF THE MOVANT'S BTM, AMENDMENT RIGHT.

## JURISDICTION:

18. 71.09.080(2) A PRIMA FACIE SHOWING OF EXCULPATORY EVIDENCE ENTITLES THE CIVIL DETAINEE TO A NEW TRIAL.
19. FEDERAL EVIDENCE RULE ER. 703 - MILLER V. LIKENS, 34 P. 3d 835, 109 WASH. APP. 140. "CONCLUSORY, OR SPECULATIVE EXPERT OPINIONS, LACKING AN ADEQUATE FOUNDATION WILL NOT BE ADMITTED".
20. 1ST. AND 14TH. AMENDMENT RIGHTS TO PETITION GOVERNMENT FOR A PETITION GOVERNMENT FOR A REDRESS OF GRIEVANCES.
21. AUG. 11, 2006 STATE V. HOOPER (NO. 31025) VIOLATION OF THE DEFENDANTS CONFRONTATION RIGHTS THROUGH THE STRATEGIC USE OF A VIDEO INTERVIEW, IDAHO SUPREME COURT CONCLUSION.
22. 8TH. AMENDMENT VIOLATION IN THE MOVANT BEING REFUSED BADLY NEED, LIFE SAVING TREATMENTS FOR A DEBILITATING, LIFE THREATENING DISEASE.
23. (CRIPA) U.S. JUSTICE DEPT'S "CIVIL RIGHTS OF INSTITUTIONALIZED PERSON'S ACT," 42 U.S.C. § 1997, "NOS. DIAGNOSES ARE UNJUSTIFIABLE IN A COURT OF LAW BECAUSE THEY FAIL TO PROVIDE ANY BASIS FOR A VALID DIAGNOSIS"
24. 6TH. AMENDMENT RIGHT TO ASSISTANCE OF COUNSEL?

MERIT OF THE MOTION  
AND CASE, REQUIRING DIRECT,  
SUPREME COURT INTERVENTION  
AS OPPOSED TO ANY OTHER COURT

25. THE MOVANT'S ALLEGATIONS, IF PROVED, WOULD CLEARLY ESTABLISH TWO CONSTITUTIONAL VIOLATIONS. THE EXTENSIVE TIME LAPSE IN, AND COMPLETE FAILURE OF A TRIAL COURT TO PROVIDE ANYTYPE OF OFFICIAL RESPONSE TO A PRO-SE DEFENDANT'S APPROPRIATE, AND LEGALLY JUSTIFIED RELIEF FROM JUDGMENT MOTION, FILED ON THE BASIS OF A STATE EXPERTS MISREPRESENTATION, CLEARLY STATES BOTH FIRST, AND FOURTEENTH AMENDMENT VIOLATIONS.
26. THIS REFUSAL OF A SUPERIOR COURT JUDGE, IN THE FAILURE TO PROVIDE DOCUMENTED RESPONSE TO A PRO-SE DEFENDANT'S SELF LEGAL REPRESENTATION IN THE FORM OF SUBMITTING A MOTION EITHER IN REQUEST FOR THE APPOINTMENT OF COUNSEL OR FOR RELIEF FROM JUDGMENT, ALSO CLEARLY WOULD ESTABLISH ANOTHER CONSTITUTIONAL VIOLATION.
27. THE MOVANT HAS BEEN FORCED BY THE SUPERIOR COURT TO SELF REPRESENT, DUE TO THE FACT THAT THE JUDGE IN HIS PARTICULAR CASE HAS FRUSTRATED ALL PREVIOUSLY APPOINTED ATTORNEYS THROUGH HIS APPARENT, AND RELENTLESS, SEEMINGLY BIASED REFUSAL TO HONOR OR SHOW APPLICABLE APPRECIATION FOR ANY MOTION OR STATEMENT MADE BY THESE ATTORNEYS THAT MIGHT SERVE TOWARDS THE MOVANT'S RELEASE FROM CONFINEMENT.
28. THIS CONSTANT DEMONSTRATION OF THE COURTS OBSTINACY HAS FORCED SEVERAL OF THE MOVANT'S ATTORNEYS TO BOTH LOOSE INTEREST IN PROPERLY REPRESENTING THE MOVANT'S CASE, AND PATIENTS WITH HIS ADAMANT, AND CONTINUED REQUESTS FOR FOLLOW-UP LITIGATION TO BE PROCEEDED WITH ON HIS CASE. THIS JUDICIAL TENACIOUSNESS HAS SERVED TO INTERFERE WITH MOVANT'S 6TH. AMENDMENT RIGHT TO GAIN THE ASSISTANCE OF COUNSEL BECAUSE THESE STATE APPOINTED ATTORNEYS ARE VERY HESITANT TO PUT FORTH A DILIGENT DEFENCE EFFORT IN KNOWING THAT THE COURT IS FIRMLY ADHERING TO A NON-RESPONSIVELY SUBJECTIVE COURSE OF ACTION.
29. FOR THE ABOVE REASONS, THE SUPERIOR COURT IS IN VIOLATION OF THE MOVANT'S 6TH. AMENDMENT RIGHT TO THE ASSISTANCE OF COUNSEL THROUGH IT'S FAILURE TO RESPOND

MERIT CONT.

30. TO THE MOVANT'S DILIGENT, PRO-SE EFFORTS AT ASSISTING HIMSELF IN LITIGATING TOWARDS HIS RELEASE, THROUGH PERSISTENTLY REFUSING TO PROVIDE ANY TYPE OF DOCUMENTED RESPONSE TO HIS 3/26/07, 60(b.) MOTION. THIS MOTION HAS BEEN SUBVERTED FOLLOWING THE MOVANTS FILING IN ALL STATE, FEDERAL, AND CIRCUIT COURTS...
31. THE COURT'S REFUSAL TO PROVIDE A DOCUMENTED RESPONSE TO THE ABOVE SAID MOTION SUBSEQUENTLY BLOCKS THE MOVANTS ACCESS FROM ADDRESSING ANY OF THE ARGUMENTS OR FACTS THAT HAVE BEEN PRESENTED IN THIS MOTION, IN ANY COURT.
32. THEREFORE, THE MOVANT IS URGENTLY REQUIRED TO DIRECT THIS "SPECIAL MOTION" TO THE U.S. SUPREME COURT IN AS THE ONLY POSSIBLE MEANS OF RESTORING THE FOREGOING STATED LEGAL, CONSTITUTIONAL, HUMAN, AND FEDERAL RIGHTS.

JURISDICTION  
ARGUMENT:

THE FOLLOWING ARE  
CIVIL, LEGAL, AND HUMAN  
RIGHTS VIOLATIONS ACKNOW-  
LEDGED AS PART IN PORTION  
OF THIS ADDENDUM DOCUMENT

COMPLAINT # 1

33.

ARTICLE - 9 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS HAS BEEN VIOLATED EXPRESSING THE FACT THAT I AM BEING WRONGFULLY SUBJECTED TO "ARBITRARY DETENTION".

34.

ARTICLE - 11 OF THE DECLARATION OF HUMAN RIGHTS HAS BEEN VIOLATED EXPRESSING THE FACT THAT INDEFINITE DETENTION FOR A 4TH DEGREE, NON-SEXUAL MISDEMEANOR, PROBATION-VIOLATION IS A MUCH HEAVIER PENALTY IMPOSED THAN THE ONE THAT WAS APPLICABLE AT THE TIME THAT THE PENAL OFFENCE HAD BEEN COMMITTED.

35

AMENDMENT - 5 OF THE U.S. CONSTITUTION HAS BEEN VIOLATED IN THE STATE OF WASHINGTON'S HAVING STRATEGICLY SUBJECTED ME TO THE SAME OFFENCE TO BE TWICE PUT IN JEOPARDY OF LIFE, AND LIMB, DESCRIBED AS "DOUBLE-JEOPARDY". CRIMINAL RULES OF EVIDENCE ALSO APPLY IN CIVIL LAW AND APPLICATION THEREOF.

36.

AMENDMENT - 14 OF THE U.S. CONSTITUTION HAS BEEN VIOLATED IN THE STATE OF WASHINGTON'S HAVING FIRST MADE, AND ENFORCED A LAW AS HAS BEEN EXHIBITED BY THE 71.09 STATUTE, THAT SERVES TO ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES, AND SECONDLY THIS LAW HAS SUBSEQUENTLY CAUSED ME TO HAVE BEEN DEPRIVED OF LIFE, LIBERTY, AND PROPERTY WITHOUT DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS MENTIONED IN THIS LAWSUIT.

JURISDICTION  
ARGUMENT:

37.

AMENDMENT - 6 OF THE U.S. CONSTITUTION HAS BEEN VIOLATED IN THE STATES OVERLITIGATION STRATEGY CONSISTING OF ORCHESTRATING A CUNNING DELAY THAT ABRIDGED MY RIGHTS TO A SPEEDY TRIAL AND AFFECTIVE ASSISTANCE OF TRIAL THROUGH THIS IMPEDENCE. IN CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE RIGHT TO A SPEEDY, AND PUBLIC TRIAL, AND TO BE CONFRONTED WITH THE WITNESSES AGAINST HIM.

38.

AMENDMENT - 6 OF THE U.S. CONSTITUTION HAS BEEN VIOLATED IN THE STATE APPOINTED ATTORNEY'S FAILURE TO CALL FORTH MY REQUESTED WITNESSES, IN MY FAVOR.

39.

ARTICLE - II OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS HAD BEEN VIOLATED IN MY HAVING BEEN KNOWINGLY APPOINTED AN ATTORNEY WHO HAD BEEN A KNOWN CRIMINAL, WHO HAD BEEN DISBARRED FOR FRIVOLOUSNESS, AND SUBSEQUENT CONTRIBUTORY NEGLIGENCE, AS WELL AS CONTEMPT OF COURT WHILE REPRESENTING HIS CLIENTS. PRIOR TO BEING APPOINTED TO MY CASE. THIS SAME NEGLIGENCE HAD BEEN DEMONSTRATED IN MY PARTICULAR CASE. IN HAVING BEEN INTENTIONALLY APPOINTED THIS FRUITLESSLY - NON PRODUCTIVE ATTORNEY, THE STATE SUBSEQUENTLY NEGLECTED IT'S RESPONSIBILITY IN APPOINTING AN AFFECTIVE ASSISTANT OF COUNSEL. DUE TO THE POSSIBILITY OF A LIFE SENTENCE, BEING IMPOSED AS A RESULT OF THIS ATTORNEYS PROVEN HISTORY OF NEGLIGENCE THROUGH "FRIVOLOUS - LITIGATION", I SHOULD HAVE BEEN APPOINTED AN ATTY. CAPABLE OF PROVIDING A MORE DILIGENT, COMPETENT, AND FULLY SUBSTANTIAL LINE OF DEFENCE. THEREFORE, DUE TO THIS ERROR IN THE STATES HAVING SUBJECTED ME TO THE ABOVE CIRCUMSTANCES, I HAD NOT BEEN PROVIDED ALL OF THE GUARANTEES NECESSARY FOR MY DEFENCE AS MENTIONED IN ARTICLE - II, OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS...

40

THE STATES EVALUATION VIOLATES CIVIL RULE 60 DUE TO THE FACT THAT IT'S BASED ON MISREPRESENTED AND UNFACTUAL INFORMATION THAT CARRIES NO CONSENSUS NOR CONCEPTUAL VALIDITY. NEWLY DISCOVERED EVIDENCE PRESENTED AS CONTENT OF THIS APPENDUM SERVE CLARIFY THESE ALIGATIONS.

JURISDICTION  
ARGUMENT:

41.

ARTICLE  
9.

I HAVE BEEN ARBITRARILY DETAINED UNDER A HEBEPHILIA DIAGNOSIS THAT VIOLATES FEDERAL AND STATE EVIDENCE RULE 702 DUE TO ITS SUBJECTIVITY AND COMPLETE LACK OF EXPERT CONSENSUS, FOR AN EXTREMELY EXTENSIVE PERIOD OF 6 1/2 YEARS. NO ONE SHALL BE SUBJECTED TO ARBITRARY ARREST DETENTION, OR EXILE.

42.

ARTICLE  
11.

I HAD BEEN ARRESTED AND CHARGED BACK IN 2002 FOR A 4TH. DEGREE, NON-SEXUAL, GROSS-MISDEMEANOR, MINOR PROBATION VIOLATION, WHICH ACCORDING TO PENAL CODE STIPULATIONS WARRANTS AN INCARCERATION EITHER IN A COUNTY JAIL FACILITY FOR 6-MONTHS TO 1-YEAR OR STATE PRISON FOR THE DURATION OF A PREVIOUSLY IMPOSED PRISON SENTANCE NO LONGER THAN THE ORIGINAL PROBATIONARY PERIOD IMPOSED BY A JUDGE, WHICH IN MY PARTICULAR CASE HAD BEEN 1 TO 2 YEARS AT MOST, NOT INDEFINITE DETENTION WHICH IS LIFE IMPRISONMENT.

43.

FOR THE STATE TO HAVE ARBITRARILY DETAINED ME UNDER AN ILLEGAL, AND UNRECOGNIZED DIAGNOSIS, FOR AN INDEFINITE PERIOD PERSISTING NOW BEYOND 6 1/2 YEARS, IT HAS NOT ONLY VIOLATED MY RIGHTS UNDER ARTICLE -9 STATED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS CONCERNING AN ARBITRARY DETENTION, IT HAS ALSO VIOLATED ARTICLE-11 WHERE IT STATES NO ONE SHALL BE HELD GUILTY OF ANY PENAL OFFENCE ON ACCOUNT OF ANY ACT OR OMISSION WHICH DID NOT CONSTITUTE A PENAL OFFENCE UNDER NATIONAL OR INTERNATIONAL LAW, AT THE TIME WHEN IT WAS COMMITTED. NOR SHALL A HEAVIER PENALTY BE IMPOSED THAN THE ONE THAT WAS APPLICABLE AT THE TIME THE PENAL OFFENCE WAS COMMITTED.

44.

SURELY A 4TH. DEGREE, NON-SEXUAL, GROSS-MISDEMEANOR, PROBATION VIOLATION, DOES NOT CONSTITUTE A LIFE SENTANCE UNDER THE GUISE OF INDEFINITE CIVIL DETENTION, ESPECIALLY WHEN THE MISDEMEANOR DEFENDANT IS BEING DETAINED UNDER A PROGNOSIS WITHOUT PSYCHOSIS, MAKING THE STATES DIAGNOSIS DOGMATICLY-UNCERTAIN DUE TO THE PAUCITY OF SUPPORT THE HEBEPHILIA DIAGNOSIS HAS IN THE DSM,

45. AND OTHER PROFESSIONAL LITERATURE, AS WELL AS IT'S CONTEXTUAL-UNCERTAINTY WHICH INDICATES IT'S LACK OF CONCEPTUAL LEGITIMACY. DETENTION UNDER SUCH UNRELIABLE CIRCUMSTANCES SUBSEQUENTLY IMPLIES THE ARBITRARY NATURE IN WHICH I HAVE BEEN DETAINED UNLAWFULLY, FOR THE PAST 6 1/2 YEARS, SUCH INVALID AND UNRELIABLE CONDITIONS LEADING TO MY CONFINEMENT IMPLIES AN UNREASONABLE, AND ARBITRARY-DETENTION AS INDICATED IN ARTICLE-9 OF HUMAN RIGHTS DECLARATION'S.
46. DUE TO THE FACT THAT THE STATE OF WASHINGTON PLACED ME UNDER CONDITIONS THAT AMOUNT TO DOUBLE JEOPARDY IN IT'S HAVING USED WITNESS TESTIMONY DURING MY CIVIL COMMITMENT TRIAL, THAT SUBSEQUENTLY SUBJECTED ME TO THE SAME OFFENCE FROM WHICH I HAD PREVIOUSLY SERVED A LENGTHLY PRISON SENTENCE, AND BEEN RELEASED FROM, IT HAS THEREFORE VIOLATED MY RIGHTS UNDER THE 5TH. AMENDMENT IN HAVING ILLEGALLY SUBJECTED ME TO THE SAME OFFENCE TO BE TWICE PUT IN JEOPARDY OF LIFE IMPRISONMENT, AND LIMB.
47. THE RCW. 7109 STATUTE HAD BEEN DEVISED, AND CREATED BY THE STATE OF WASHINGTON FOR THE PURPOSE OF ENABLING ALL OF THE ABOVE CONSTITUTIONAL, AND HUMAN RIGHTS VIOLATIONS TO TAKE PLACE MALICIOUSLY, UNDER A TWISTED COLOR OF LAW. SUBSEQUENTLY, AS THE DIRECT RESULT OF MY HAVING BEEN SUBJECTIVELY FORCED TO SUBMIT TO THESE CONDITIONS, THE STATE HAS RESULTINGLY CURTAILED MY RIGHTS UNDER THE 14TH. AMENDMENT WHERE IT HAS IMPOSED THAT "NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL ABRIDGE THE PRIVILAGES OR IMMUNITIES OF CITIZENS OF THE UNITED STATES, NOR SHALL ANY STATE DEPRIVE ANY PERSON OF LIFE LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW; NOR DENY TO ANY PERSON WITHIN IT'S JURISDICTION THE EQUAL PROTECTION OF THE LAWS"
48. DURING TRIAL I HAD BEEN SKILLFULLY MANIPULATED NOT ONLY OUT OF MY 6TH. AMENDMENT RIGHTS TO CONFRONT THE WITNESS AGAINST ME DURING TRIAL, I HAD ALSO BEEN DENIED THE CONFRONTATION RIGHT TO BE PRESENT DURING THE STATES TAKING OF IT'S ADAMANTLY PROTESTED VIDEO DEPOSITION. THE STATE HAS DISMISSED ANY CULPABILITY FOR HAVING VIOLATED THIS RIGHT BY CONTRIBUTING THIS ACTION TO AN INSIGNIFICANT "CUMULATIVE-ERROR".

# JURISDICTION ARGUMENT:

VIOL. OF  
5TH. AND 6TH.  
AMEND:

49. PRIOR TO THE PROBABLE CAUSE PHASE OF MY DETENTION HEARINGS, THE STATE OF WASHINGTON STRATEGICALLY ORCHESTRATED A FRUSTRATING DELAY THAT SUBSEQUENTLY ABRIDGED MY 6TH. AMENDMENT RIGHT TO A SPEEDY TRIAL. THIS VIOLATION HAD BEEN CUNNINGLY ARRANGED IN AS AN OVERLITIGATION STRATEGY TO FACILITATE MY CIVIL DETENTION PRIOR TO TRIAL, IN ORDER TO ILLEGALLY CASEBUILD BY COMPELLING ME TO SUBMIT TO A CR-35, PRETRIAL EVALUATION PROCESS THAT GATHERED INFORMATION, SUBSEQUENTLY FORCEING ME TO BE A WITNESS AGAINST MYSELF, THIS HAD BEEN A DIRECT VIOLATION OF MY 5TH. AMENDMENT RIGHT NOT TO BE COMPELED IN THIS CAPACITY. NO ONE SHALL BE COMPELED IN A CRIMINAL CASE TO BE A WITNESS AGAINST HIMSELF.
50. FOR 2-YEARS PRIOR TO TRIAL, I HAD PERSISTENTLY REQUESTED THAT MY STATE APPOINTED ATTORNEY DEPOSE, AND SUBPOENA ALL 3-OF-THE-STATES WITNESSES AGAINST ME IN ORDER THAT I BE ALLOWED TO PREVAIL IN PROVEING MY INNOCENCE, BY PRESENTING A LIST OF 30-OR-50 EXCULPATORY QUESTIONS TO BE USED DURING CROSSEXAMINATION, AS A PURJURY TRAP. THE REPRESENTING ATTY. NEGLECTFULLY FAILED TO CALL UPON THESE WITNESSES. THIS DELIBERATE ACT HAD BEEN IN DIRECT VIOLATION OF MY 6TH-AMENDMENT RIGHT TO THE COMPULSORY PROCESS FOR OBTAINING WITNESSES IN MY FAVOR, AND TO BE CONFRONTED BY THESE ABOVE SAID WITNESSES.

VIOL. OF ARTICLE-

1. OF HUMAN  
RIGHTS:

51.

AFTER A SINGLE, AND SUBSEQUENTLY SUBJECTIVE JUDGE TRIAL, AND PRIOR TO THE JUDGES DECISION TO ARBITRARILY-DETAIN ME INDEFINITELY, I SENT THE COURT A MOTION FOR INEFFECTIVE ASSISTANCE OF COUNSEL STATING THAT ATTY. DON LUNDAHL HAS AN EXTENSIVE CRIMINAL RECORD, AND THAT HE HAD BEEN DISBARRED UPON AT LEAST 2- OCCASIONS FOR SUBSTANTIAL REASONS RANGING FROM CONTEMPT OF COURT, AND CONTRIBUTORY NEGLIGENCE WHILE REPRESENTING CLIENTS. THE JUDGE GRANTED THIS MOTION ACKNOWLEDGING THAT HE APPRECIATED MY ALLEGATIONS. IN MY HAVING BEEN KNOWINGLY OR OTHERWISE APPOINTED SUCH AN INADEQUATE, FRUITLESS, AND NEGLIGENT ATTORNEY, THE STATE OF WASHINGTON HAD SUBSEQUENTLY ABRIDGED ALL OF THE GUARANTEES NECESSARY FOR MY DEFENCE AS MENTIONED IN ARTICLE-11 OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.

52. PRIOR TO AND DURING TRIAL THIS ATTY. FAILED TO DILIGENTLY PURSUE MY ON-GOING, AND PERSISTENT OBJECTIONS. FIRST, TO THE STRATEGIC PRODUCTION OF A VIDEO DEPOSITION THAT WOULD CURTAIL MY 6TH. AMENDMENT CONFRONTATION RIGHTS, AND SECONDLY, DURING TRIAL, WHERE HE NEGLECTFULLY FAILED TO STEADFASTLY CARRY-ON WITH MY ADAMATELY PERSEVERATED OBJECTION TO THE USE OF THIS VIDEO, AS OPPOSED TO ACTIVELY FACILITATING MY RIGHT TO BE CONFRONTED BY THE STATES WITNESS BY PURSUING THESE OBJECTIONS.

# JURISDICTION

## LAW

### PROTECTIONS

THE RIGHTS OF PERSONS  
DETAINED UNDER THIS  
CHAPTER 71.09.080  
PARAGRAPH # 1:

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- 53 (1-) ACCORDING TO THE ABOVE RCW STATUTE, ANY PERSON SUBJECTED TO RESTRICTED LIBERTY AS A SVP. PURSUANT THIS CHAPTER SHALL NOT FORFEIT ANY LEGAL RIGHT OR SUFFER ANY LEGAL DISABILITY AS A CONSEQUENCE OF ANY ACTIONS TAKEN OR ORDERS MADE, OTHER THAN AS SPECIFICLY PROVIDED IN THIS CHAPTER.
- 54 (2-) ANY PERSON DETAINED OR COMMITTED PURSUANT TO THIS CHAPTER HAS THE RIGHT TO ADEQUATE CARE, AND INDIVIDUALIZED TREATMENT.

### PROTECTIONS IMPOSED BY THE UNIVERSAL DECLARATION OF HUMAN RIGHTS;

#### NOTE

55. THE FOLLOWING RIGHTS HAVE BEEN VIOLATED IN MY PARTICULAR CASE. THE INTRODUCTORY PAGE OF THE UNIVERSAL DECLARATION STATES:
56. WHEREAS IT IS ESSENTIAL, IF MAN IS NOT TO BE COMPELLED TO HAVE RECOURSE, AS A LAST RESORT, TO REBELLION AGAINST TYRANNY AND OPPRESSION, THAT HUMAN RIGHTS SHOULD BE PROTECTED BY THE RULE OF LAW.
57. ARTICLE 9. NO ONE SHALL BE SUBJECTED TO ARBITRARY OR UNCERTAIN ARREST, DETENTION, OR EXILE.

IN CLERIFICATION OF EXACTLY HOW ARTICLE 9. OF THE DECLARATION OF HUMAN RIGHTS DIRECTLY APPLIES TO MY PARTICULAR CASE, AND IN DISCRPTION OF THE STATES SVP. EVALUATORS NOS HEBEPHILIA, AND ANTISOCIAL PERSONALITY DIAGNOSIS AS LACKING IN ADEQUATE FOUNDATION, THE FOLLOWING INFORMATION HAS BEEN TAKEN FROM SWORN STATEMENTS PROVIDED BY FORENSIC WITNESS EXPERTS INVOLVED WITH THE ASSESSMENT AND TREATMENT OF SEX-OFFENDERS, ENTERIES FROM THE DSM-IV-TR, OPINIONS SET FORTH BY THE WASHINGTON STATE APPELLATE COURT, DIVISION ONE DURING THE YEAR OF 2001, AND EVIDENCE RULE - 703

58. AS IT PERTAINS TO THE WASH. STATE DIVISION-1, 2001 COURT OF APPEALS CASE REGARDING MILLER V. LIKENS, CONCERNING AN EXPERT WITNESSES EVALUATIVE TESTIMONY BASED ON UNCERTAIN, SPECULATIVE, AND UNRELIABLE INFORMATION THAT SUBSEQUENTLY LACKS AN ADEQUATE FOUNDATION, WITH PRUDENT CONSIDERATION GIVEN TO EVIDENCE RULE-703 CONCERNING THE PERCEIVABLE DANGER IN THE INFLUENCE OF A SPECULATING WITNESS POSSESSING THE AURA OF AN EXPERT, SUCH INFORMATION, GIVEN THE ABOVE CIRCUMSTANCES, WILL NOT BE ADMITTED. WASHINGTON STATE COURTS DETERMINE THE ADMISSIBILITY OF SCIENTIFIC EVIDENCE USING A TWO PART TEST: FIRST, THE PROPOSED TESTIMONY MUST MEET THE STANDARD FOR ADMISSIBILITY UNDER FRYE V. UNITED STATES, 293 F. 1013 ... THE TESTIMONY MUST BE ADMISSIBLE UNDER EVIDENCE RULE 703(2) SEE STATE V. GREENE, 139 Wn. 2d 64, 70, 984 P.2d 1024 (1999) CITING STATE V. JAMES, 121. ULTIMATELY AS INDICATED, IF SCIENTIFIC EVIDENCE IS NOT ACCEPTED BY CONSENSUS IN THE SCIENTIFIC COMMUNITY IT IS THEREFORE DEEMED UNEXCEPTABLE IN THAT IT LACKS AN ADEQUATE FOUNDATION. SUBSEQUENTLY, SUCH UNCERTAIN INFORMATION, ACCORDING TO (E.R. 703), IS FORMED ON THE BASIS OF CONJECTURE AND IS RESULTINGLY INADMISSABLE UNDER FRYE.

( 14 OF 16 )

59. WITH REGARD TO A PARAPHILIA NOS, HEBEPHILIA DIAGNOSIS, THERE ARE NUMEROUS PROBLEMS OF CONCEPTUAL VALIDITY THAT ARISE FROM THE USE OF THIS DIAGNOSIS IN THIS CONTEXT., THE NOS HEBEPHILIA DIAGNOSIS., IE. ADULT ATTRACTION TO ADOLESCENTS IS NOT LISTED IN THE DSM ~~IV~~ TR, HOWEVER., RARER DISORDERS ARE LISTED AS EXAMPLES OF THE APPROPRIATE USE OF THE PARAPHILIA NOS DIAGNOSIS, BUT NOT HEBEPHILIA. TEXTBOOKS USED FOR INSTRUCTION ABOUT PARAPHILIAS, INCLUDING THE DSM-~~IV~~ CONTAIN NO DISCUSSION OF ADULT-ADOLESCENT SEXUAL ATTRACTION AS A DSM-DIAGNOSABLE PARAPHILIA. ACCORDING TO TWO LEADING EXPERTS BY THE NAMES OF DR'S. RICHARD LAWS, AND MR. WILLIAM O' DONOHUE (1997) AS WELL AS 36 OF THE LEADING EXPERTS ON PARAPHILIAS., THESE EXPERTS HAVE WRITTEN, AND AUTHORED THE CLASSIC TEXTBOOK., SEXUAL DEVIANCE: THEORY, ASSESSMENT, AND TREATMENT. THIS TEXT BOOK HAS 500 PAGES OF DETAILED DISCUSSION OF EVERY PARAPHILIA IDENTIFIED IN DSM-~~IV~~-TR, BUT THERE IS NO MENTION OF EITHER HEBEPHILIA OR "SEXUALLY ATTRACTED TO ADOLESCENTS" BEING THE BASIS FOR A PARAPHILIA-NOS, OR ANY OTHER DIAGNOSIS. THE PAUCITY AND OR LACK OF SUPPORT FOR THE HEBEPHILIA DIAGNOSIS IN THE DSM AND IN THE PROFESSIONAL LITERATURE, AS WELL AS IT'S CONTEXTUAL UNCERTAINTY ie., UNRELIABILITY SUGGESTS THAT IT LACKS CONCEPTUAL VALIDITY.

60. THE CONTEXTUAL VARIABILITY OF THE HEBEPHILIA DIAGNOSIS DEMONSTRATES IT'S INADMISSIBILITY UNDER THE FRYE STANDARD BECAUSE IT'S EXISTANCE HAS NOT BEEN ACCEPTED BY A MAJORITY OF THE SCIENTIFIC COMMUNITY. UNDER THE FRYE STANDARD, NOVEL SCIENTIFIC EVIDENCE IS ADMISSIBLE IF THE SCIENTIFIC THEORY OR PRINCIPLE UPON WHICH THE EVIDENCE IS BASED HAS GAINED GENERAL EXCEPTANCE IN THE RELEVANT SCIENTIFIC COMMUNITY OF WHICH IT IS A PART; AND THERE ARE GENERALLY ACCEPTED METHODS OF APPLYING THE THEORY OR PRINCIPLE IN A MANNER CAPABLE OF PRODUCING RELIABLE RESULTS. "IF THERE IS A SIGNIFICANT DISPUTE BETWEEN QUALIFIED EXPERTS AS TO THE VALIDITY OF SCIENTIFIC EVIDENCE, IT MAY NOT BE ADMITTED." GREENE, 139 WH.2d AT 70. THE COURT EMPHASIZED THAT "THE RELEVANT INQUIRY UNDER FRYE IS GENERAL ACCEPTANCE WITHIN THE SCIENTIFIC COMMUNITY WITHOUT REGARD TO IT'S FORENSIC APPLICATION IN ANY PARTICULAR CASE. AS THE ULTIMATE RESULT OF THE STATES UNCERTAIN, UNRELIABLE, AND SUBSEQUENTLY UNPREDICTABLE, NOS HEBEPHILIA DIAGNOSIS BASED ON OR DERIVED FROM UNINFORMED OPINION, LACKING IN CONCEPTUAL VALIDITY, WITH NO SUBSTANTIATING CONSENSUS, I HAVE SPENT THE LAST 6 1/2 YEARS IN PUNISHING, ARBITRARY-DETENTION, UNDER FRAUDULENT TERMS, DUE TO AN INAPPLICABLE, AND SUBSEQUENTLY FALSE DIAGNOSIS DE DOLD MOLD. ARTICLE 9 OF THE DECLARATION OF HUMAN RIGHTS READS: NO ONE SHALL BE SUBJECTED TO ARBITRARY DETENTION, ARREST, OR EXILE. THIS ARBITRARY DETENTION THROUGH CONDITIONS LEADING TO MY CIVIL COMMITMENT HAS BEEN DONE IN MY PARTICULAR CASE...

LIST OF ATTACHMENT  
CONTENTS :

1. ATTACHMENT 1 IS A PHOTOCOPY OF 4/11/08 JURY TRIAL DECISION THAT THE MOVANT PERSONALLY DISCUSSED WITH MR. TONEY BATES ATTORNEY. DURING THIS DISCUSSION WITH ATTY. WYNAROWSKY, HE INFORMED THIS MOVANT THAT HE REQUESTED A JURY INSTRUCTION TO INFORM THE COURT THAT THE NOS. DIAGNOSES ARE LEGALLY UNJUSTIFIABLE AND NOT RECOGNIZED AMONG THE MAJORITY CONSENSUS IN THE FIELD OF PSYCHOLOGY. HE ALSO STATED THAT ALL 12-JURORS DECIDED UNANIMOUSLY THAT MR. BATES DID NOT MEET THE (SVP.) CRITERIA.
2. MR. BATES HAS COMMITTED MULTIPLE, AND NUMEROUS ASSORTED, RECIDIVISTIC REOFFENCES, DISPLAYING A LONG HISTORY OF "RECONVICTIONS". HOWEVER, THE MOVANT HAS NONE. (SIC)
3. THE MOVANT IS ALSO FALACIOUSLY DIAGNOSED WITH AN EVEN LESSER SIGNIFICANT NOS. DIAGNOSIS AS THAT WHICH MR. BATES HAD SUBJECTIVELY RECEIVED FROM AN OPINIONATED (SVP.) EVALUATOR APPOINTED BY WASHINGTON STATE PROSECUTOR'S.
4. ATTACHMENT 2 IS RESPONSE DOCUMENT TO EXTRA-JUDICIAL BIAS COMPLAINT FILED AGAINST CLARY COUNTY COURT JUDGE FOR NUMEROUS CONSTITUTIONAL VIOLATIONS AGAINST THE MOVANT. (COMPLAINT NO. 5442)
5. ATTACHMENT 3 IS VERIFICATION THAT THE MOVANT'S IS AND HAS SUFFERED FROM A SERIOUSLY DEBILITATING, AND LIFE THREATENING DISEASE FOR THE PAST 4 1/2 YEARS THROUGH DELIBERATE INDIFFERENCE, AND IN VIOLATION OF HIS 8TH AMEND. PROTECTIONS.
6. ATTACHMENT 4 COPY OF JUSTICE DEPT. LAW INHIBITING THE USE OF NOS. DIAGNOSES; UNDER THE CRIPA-ACT, 42 U.S.C. § 1997

7. ATTACHMENT 5. COPY OF PAGE 49-FROM (SVP.) EVALUATOR, PROFESSOR RICHARD WOLBERT FOLLOWING MOVANT'S 2002, (SVP.) EVALUATION. ACCORDING TO THE RULE OF LAW, THE INDIVIDUAL MUST REGISTER IN THE AREA OF ATLEAST A 50% SEX OFFENCE RECIDIVISM PROBABILITY RATE BEFORE HE CAN ACCURATELY MEET THE CRITERIA FOR AN (SVP.) DETERMINATION. THIS DOCUMENT PROVES THAT THE MOVANT DOES NOT MEET THE ABOVE STANDARD REGISTERING FROM WITHIN THE LOWER BOUNDARY AT 15%.

8. ATTACHMENT 6. THIS IS A COPY OF THE STATED 3/26/08 MOTION THAT THE COURT HAS STRATEGICALLY REFUSED TO RESPOND TO IN VIOLATION OF THE MOVANT'S CONSTITUTIONAL RIGHTS.



ATTACHMENT 2.

APPEAL  
PROCESS  
UNANSWERED



STATE OF WASHINGTON  
COMMISSION ON JUDICIAL CONDUCT

P. O. Box 1817, Olympia, WA 98507  
(360) 753-4585 FAX (360) 586-2918

October 30, 2007

CONFIDENTIAL

Lenier R. Ayers  
PO Box 88600  
Steilacoom, WA 98388

RE: Complaint No. 5442

Dear Mr. Ayers:

The Commission on Judicial Conduct has reviewed the above-referenced matter you provided to determine whether sufficient basis exists for action by this Commission.

The Commission determined that no violation of the Code of Judicial Conduct was substantiated in this matter. The jurisdiction of the Commission is strictly limited and defined by the Washington Constitution. With no basis for action within the Commission's jurisdiction, this matter has been closed.

We appreciate your assistance.

Sincerely,

Kurt C. Twitty  
Senior Investigative Counsel

KCT:jmc



ATTACHMENT 3



I NEED (HCV) TREATMENTS CARRIED-ON UNTIL COMPLETION, AND I ALSO NOW REQUEST (1039) TREATMENT FOR MY HIGH BLOOD PROBLEMS NO. PRODUCED WHILE AT THE SCC. NOTE: I DIDN'T HAVE HIGH BLOOD PRESSURE UNTIL I BECAME AN SCC-RES

1039

SPECIAL COMMITMENT CENTER (SCC)  
RESIDENT GRIEVANCE

TRACKING NUMBER <b>604-0840</b>
Appeal? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Initial grievance? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Addressed informally with:

DATE SUBMITTED <b>4/19/04</b>
<b>RECEIVED</b>
<b>APR 19 2004</b>
Special Commitment Center Grievance Investigator

RESIDENT NAME (PLEASE PRINT)  
**LEONIE R. AYERS**

Please write or type your grievance in the space provided below. Please specify who, what, when, and where. Deliver the white copy to a RRC staff member, drop the yellow copy in the Grievance box. Keep the pink copy for yourself.

GRIEVANCE: SCC. MED. STAFF DID-NOT FOLLOW-UP ON COMPLETING MY INTERFERON TREATMENTS SPECIFICALLY REFERRED TO AS "PEGASYS". PEGASYS AND COPEGUS (ANOTHER FORM OF HCV TREATMENT) COMBINATION THERAPY IS A THERAPY FOR PEOPLE THAT HAVE BEEN INFECTED WITH HCV WHICH CAN AND DOES DECREASE HCV SO LOW THAT IT CANNOT BE MEASURED BY BLOOD TESTS. DEPENDING ON THE GENOTYPE OF HCV, THE VIRUS IS DECREASED AND CANNOT BE MEASURED IN 5 TO 8 OUT OF EVERY 10- PEOPLE WHO TAKE PEGASYS AND COPEGUS COMBINATION THERAPY. IT IS RECOMMENDED THAT THE TREATMENT THERAPY BE FOR 6-MONTHS TO A YEAR, WHICH AFTER 3-TO-6 MONTHS OF THERAPY, A BLOOD-TEST CAN ASSIST THE HEPATOLOGIST TO DETERMINE THE LIKELIHOOD OF LONG-TERM RESPONSE. ALPHA INTERFERON, OR PEGASYS IS A SUPPLEMENTAL INTERFERON THAT HAS UNDERGONE "PEGYLATION" WHICH IS THE (PROCESS THAT LENGTHENS THE HALF-LIFE OF THE INTERFERON AND KEEPS IT ACTIVE IN THE BODY FOR A LONGER PERIOD OF TIME;) SCC. MED. STAFF ONLY GAVE ME 2-INJECTIOUS LAST MARCH, AND SINCE THEN, TO THIS PRESENT DATE, THE INTERFERON ADMINISTERED IN MARCH IS NO-LONGER ACTIVE I BELIEVE THAT THE REASON SCC. MED. STAFF HAVE NOT FOLLOWED UP ON MY TREATMENTS IS DUE TO THE FACT SCC. ADMINISTRATORS AND CERTAIN MED. STAFF WOULD JUST ASSUME SEE ME DIE OF THIS VIRUS.

HEP-C ABUSE

Witnesses? <input type="checkbox"/> Yes <input type="checkbox"/> No	Yes, names: <b>(MY HIGH BLOOD PRESSURE DEVELOPED WHILE IN RESIDENCE HERE IS THE NEXT ISSUE TO BE ADDRESSED.) I NEED MEDS!</b>	Statements attached? <input type="checkbox"/> Yes <input type="checkbox"/> No
REQUESTED REMEDY	<b>I NEED TO RE-START TREATMENTS FOR (HCV) AND CONTINUE COMBINATION TREATMENTS UNTIL THIS VIRUS CAN NO-LONGER BE MEASURED BY BLOOD TESTS. SCC. MED. STAFF HAVE NEGLECTED A RESPONSIBILITY - HERE.</b>	
RESIDENT SIGNATURE <b>Leonie R. Ayers</b>	DATE <b>4/19/04</b>	

Signature of resident on this grievance does not indicate agreement with the grievance or its content.

RECEIVED BY	DATE
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This grievance was not accepted because:

Not grievable per policy: (Federal law/regulation, WAC, RCW, court action/decision, not under the jurisdiction of SCC, SCC administration decision, issues of a treatment nature, hearsay, multiple incidents, required information missing)

Acknowledged \_\_\_\_\_  Resolved \_\_\_\_\_  Refused to sign \_\_\_\_\_

RESIDENT'S NAME AND DATE

RRC3'S SIGNATURE	RRC3'S SIGNATURE	RRC3'S SIGNATURE
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SCC. ON-GOING ABUSE COMPLAINT:

4/6/00

HEP-C IS A SEXUALLY TRANSMITABLE DISEASE. IT CAN BE EXPLOITED BY THE SCC. AND ATTY. GEN. TO MAKE ME APPEAR SEXUALLY DANGEROUS.

I RECEIVED HEP-C IN L.A. COUNTY JAIL FROM A MEXICAN TATTOO NEEDLE. I DIDN'T KNOW ANY BETTER. I DON'T CARE HOW MUCH IT COSTS. IF YOU WERE IN MY SHOES YOU'D JUST GO TO A DR. AND GET IT TREATED. I'M BEING DENIED MY RIGHTS, AND MY LIFE IS THREATENED AS A RESULT. THE SCC HAS NEGLECTED MY CARE AND MY CONDITION HAS WORSENERED, NOT BETTERED.

IF I WERE OUT ON THE STREET NO DOCTOR WOULD DENY ME TREATMENT FROM THIS DISEASE. THEREFORE THE SCC IS OBLIGATED TO DO SO, AND IT HAS WORSENERED MY CONDITION IN THIS 2-YEAR DENIAL OF TREATMENT.

THE SCC. HAS GIVEN THIS DISEASE INFO. TO THE ATTY. GEN'S OFFICE AND DURING MY TRIAL THE ASSISTANT ATTY. GEN DID USE THIS TO MANIPULATE THE OUTCOME OF MY TRIAL.

I'M SLOWLY DYING FROM A LONG UNTREATED CASE OF HEP-C. I HAVE BEEN REQUESTING MEDICAL CARE FOR 3 1/2 YEARS. THIS IS CRUEL AND SADISTIC PUNISHMENT. SCC. CLINICAL ARE MAKING EVASIVE EXCUSES STATING "THAT YOUR LIVER IS JUST FINE, AND IN FACT THE VITAMINS WE ARE GIVING YOU ARE MAKING YOUR HEP-C BETTER". IN DEMONSTRATING SUCH DEVIANT MEDICAL NEGLIGENCE THE SCC. HAS BURDENED ME WITH A FORBODEING ANXIETY OF IMMINENT DEATH. THE OFFICE OF ATTY GENERAL HAS EXPLOITED MY ON-GOING NEED FOR HEP-C TREATMENT AGAINST ME IN COURT.

TO CUT COSTS THE SCC IS SLOWLY KILLING ME. THE SCC HAS NO RESPECT FOR THE LAW OR THE LEGAL PROCESS.

2-YEARS AGO A NURSE PRACTITIONER BY THE NAME OF JACK ADMINISTERED ME ONE INJECTION OF INTERPERSON FOR MY HEP-C, AND NO FURTHER TREATMENTS.

THE PERSON IN CHARGE HERE BY THE NAME AND TITLE OF DR. BROADMAN SEEMS TO BELIEVE THAT "YOUR HEP-C IS ACTUALLY GETTING BETTER, YOUR LIVER IS JUST FINE BECAUSE BLOOD TEST'S SHOW THIS". [IN OTHER WORDS:

I AM SOMEBODY!

HEP-C INJECTIONS, AND TABLET TREATMENT COSTS US \$200.00 PER TREATMENT. AND N- - - YOU'RE NOTHING WORTH THIS. I HAVE SPOKEN TO 4 WHITES WHOVE RECEIVED THESE TREATMENTS, AND NO-LONGER SUFFER THE UNUSUAL DAILY LITHARGIA. (THEY TOLD ME THAT THEY REQUESTED CARE AND IMMEDIATELY RECEIVED IT FOR THEIR HEP-C.

THEIR ACTIONS IN DENYING ME THIS TREATMENT FOR SO LONG SPEAKS VOLUMES OF RACIAL CONTEMPTUOUSNESS. HE'S PLAYING THE RACE CARD IS THE FIRST THING THAT A BIGOT WILL DO TO TRY AND DEVILANTLY COVER UNDER TO PROTECT THEMSELVES FROM CULPABILITY. THE HATRED IS CLEAR THROUGH THE SNEERING GRINS AND PATRONISTIC SLURS. HA! HA! THEY SAY IT TO BE JUSTICE. IT'S WHAT THE NEGRO DESERVES.

(PLEASE-HELP!!!)

I SEE THERE BEING AN UNUSUAL REDNESS IN MY EYE BLOOD VESSELS, AND I'M BECOMING MORE AND MORE TIRED BY THE MOUTH. WE REFUSE TO ALLOW THEM TO SLOWLY MURDER ME WITHOUT A FIGHT, ARMING OURSELVES WITH JESUS, AND HIS CLEAR LOGIC IN MIND. HEP-C DOES NOT GET BETTER, IT DEBILITATES WITH-OUT TREATMENT.

## Federal Consent Judgment Imposed on California's Department of Mental Health

On May 2, 2006, a federal district court in California issued a consent judgment that imposed numerous conditions on the California Dept. of Mental Health and its staff concerning the operations of several of California's state mental health facilities, including Atascadero State Hospital. The conditions in the California facilities and the statute wording utilized by California are similar and run parallel to the statutory wording and overall conditions and method of operation practiced by Washington State.

The consent judgment in California was the culmination of a comprehensive investigation by the U.S. Justice Department's Civil Rights Division, per its authority under the "Civil Rights of Institutionalized Person's Act" (CRIPA), 42 U.S.C. §1997, of those facilities.

Applicable to Washington and the Washington Department of Social and Health Services, administrators of the Special Commitment Center, are findings in California wherein the Justice Department determined that "not otherwise specified" diagnoses—such as the diagnosis of "paraphilia NOS" made by evaluators, as in Washington, are "ambiguous" and result from "cursory assessments [that] fail to provide the basis for a valid and reliable diagnosis..." This is the exact same situation as found in Washington.

In California, U.S. Assistant Attorney General Wan Kim cited the use of the "NOS" diagnoses by California's Department of Mental Health, DMH, staff in their initial assessments of confined individuals as a primary example of how the psychiatric services at the facilities "substantially depart from generally accepted professional standards of care."

California was ordered by the court to re-assess all those who were confined, based in any way on an N.O.S. diagnosis, within 60 days of the consent order. Individuals were to be re-assessed "through clinically appropriate assessments" and that such diagnoses were to be "resolved in a clinically justifiable manner."  
Washington could not adhere to professional and clinically justifiable diagnoses if made to conform to relevant scientific community standards.

Thornton, 2000), the VRAG, and the SORAG (Quinsey et al., 1998). I do not use the MnSOST-R, however, because cross-validated research has shown that none of the score groups for the test have a recidivism rate that exceeds 50% (Wollert, 2002; Langton, 2003); it is therefore inadequate for deciding whether subjects are more likely than not to recidivate. I also do not use the VRAG or SORAG because its test developers have advised that it not be used to predict sexual recidivism (see section XIII.B.3.e). Mr. Ayers was therefore scored on the RRASOR and the Static-99.

- ★ (
1. On the RRASOR he received an observed score of 1.
  2. On the Static-99 he received an observed score of 4.
- )

E. Analysis of scores on multivariate instruments.

The appendix consists of a worksheet I have developed for the purpose of synthesizing a single risk estimate from the RRASOR and Static-99 by applying the guidelines referenced in sections XIII.C.3.a. through XIII.C.3.i. As the bottom line of the worksheet indicates, **the lower boundary of the likelihood that Mr. Ayers will sexually recidivate is estimated to fall at about 15%.** In addition to procedures that are customarily used in the determination of confidence intervals, the following procedures were adopted in light of the limitations of the ATSRs that are currently in use.

1. Because Mr. Ayers' score group for the RRASOR was extremely low, and therefore subject to regression effects, a confidence interval adjustment was not made.
2. Standard errors of measurement for the tests were calculated from information reported in test materials and published research by Barbaree, Seto, Langton, and Peacock (2001).

XIII. Conclusions

Mr. Lenier Ayers was referred for an evaluation to assess various issues related to determining whether he should be released from the Special Commitment Center and what conditions, if any, might be applied to his release. Data bearing on the referral questions were collected as part of the evaluation from several sources and using several methods. This information points to the following conclusions concerning the referral questions under consideration.

- A. **Has Mr. Ayers been convicted of or charged with a crime of sexual violence? Yes.**

IN THE UNITED STATES  
COURT OF APPEALS DIV. II  
AT TACOMA  
WASHINGTON

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LENIER AYERS

LESLIE SZIEBERT  
ET AL.

COA. 33604-9-11  
NO. 01-2-00713-0

MOTION AND ORDER TO PROCEED  
IN FORMA PAUPERIS

(No Mandatory Form Developed)

08 MAY - 8 AM 11:39  
STATE OF WASHINGTON  
DEPUTY CLERK

FILED  
COURT OF APPEALS  
DIVISION II

I. MOTION

Petitioner, LENIER A. AYERS, moves this Court for an order as follows:

1. Allowing commencement and prosecution of this action in forma pauperis; and
2. Directing the Clerk of the Court to file and issue papers and pleadings as required by the petitioner without the payment of any fees, costs, or charges, subject to recovery from the opposing party.

This motion is based upon the attached declaration.

DATED: 4/30/08

Lenier A. Ayers  
Petitioner

LENIER R. AYERS  
Print or Type Name

II. ORDER

1 THIS MATTER having come before the undersigned this day on petitioner's motion, and the Court,  
2 having reviewed the files and records herein, and finding that petitioner has presented a sufficient declaration  
3 to proceed in forma pauperis,

4 IT IS HEREBY ORDERED THAT the Petitioner is hereby allowed to prosecute this action in  
5 forma pauperis, and the Clerk of this Court is directed to file and issue papers and pleadings as requested by  
6 petitioner without prepayment of any fees, costs, or charges whatsoever, subject to recovery of costs from  
7 the opposing party.

8 DONE IN OPEN COURT this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

9 \_\_\_\_\_  
JUDGE/COURT COMMISSIONER

10 Presented by:

11  
12 Lenier R. Ayers  
13 Petitioner

14 LENIER AYERS  
15 Print or Type Name

3. I do  do not \_\_\_\_\_ ask the court to appoint a lawyer for me because I am so poor and cannot afford to pay a lawyer.

4. I am \_\_\_\_\_ am not  employed. My salary or wages amount to \$ \_\_\_\_\_ a month. My employer is \_\_\_\_\_  
Name and address of employer

5. During the past 12 months I did \_\_\_\_\_ did not  get any money from a business, profession or other form of self-employment. (If I did, it was \_\_\_\_\_  
Type of self-employment  
And the total income I received was \$ \_\_\_\_\_.

6. During the past 12 months I: LENIEA AYERS

Did \_\_\_\_\_ Did Not  Receive any rent payments. If so, the total I received was \$ \_\_\_\_\_

Did \_\_\_\_\_ Did Not  Receive any interest. If so, the total I received was \$ \_\_\_\_\_

Did \_\_\_\_\_ Did Not  Receive any dividends. If so, the total I received was \$ \_\_\_\_\_

Did  Did Not \_\_\_\_\_ Receive any other money. If so the total I received was \$ 4,000

Do \_\_\_\_\_ Do Not  Have any cash except as said in question 2 of Statement of Finances. If so the total amount of cash I have is \$ LESS THAN \$2.00

Do \_\_\_\_\_ Do Not  Have any savings or checking accounts. If so, the total amount in all accounts is \$ \_\_\_\_\_

Do \_\_\_\_\_ Do Not  Own stocks, bonds or notes. If so, their total value is: \$ \_\_\_\_\_

7. List all real estate and other property or things of value which belong to you or in which you have an interest. Tell what item or property is worth and how much you owe on it. Do not list household furniture and furnishings and clothing which you or your family need.

Items	Value
<u>NONE</u>	
_____	
_____	

8. I am \_\_\_\_\_ am not  married. If I am married, my wife or husband's name and address is:  
\_\_\_\_\_  
\_\_\_\_\_

9. All of the persons who need me to support them are listed below:

Name & Address	Relationship	Age
<u>NONE</u>		

10. All the bills I owe are listed here:

Name & Address of Creditor	Amount
<u>I CURRENTLY OWE THE WASHINGTON STATE COMMITMENT CENTER</u>	
<u>\$311.00 FOR LEGAL COPIES MADE AT MY REQUEST.</u>	

D. REQUEST FOR RELIEF:

I want this court to:

Vacate my conviction and give me a new trial

Vacate my conviction and dismiss the criminal charges against me without a new trial

Other: GRANT MOTION AUTHORIZING THE MOVANT'S  
NEW TRIAL.

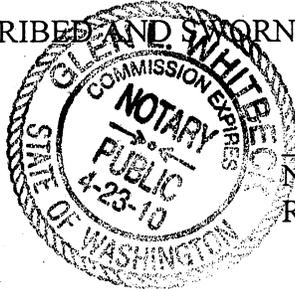
E. OATH OF PETITIONER.

STATE OF WASHINGTON )  
 ) SS. 568-08-1348  
COUNTY OF PEIRCE )

After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.

Louise Ayers  
(Signature Here)

2008 SUBSCRIBED AND SWORN to before me this 24<sup>TH</sup> day of APRIL



Shirley Whitford  
Notary Public in and for the State of Washington  
Residing at Peerce Co.

If a notary is not available, explain why none is available and indicate who can be contacted to help you find a Notary: \_\_\_\_\_

I declare that I have examined this petition and to the best of my knowledge and belief it is true and correct.

DATED This 30<sup>TH</sup> day of APRIL, 2008.

Louise Ayers  
(Signature Here)

Ayers

4/15/1984 Through 3/25/2008

3/25/2008

Page 6

Date	Account	Num	Description	Memo	Category	Clr	Amount
				RMB copies 6/2... C/Ayers		R	-6.60
				RMB copies 6/2... C/Ayers		R	-15.60
				RMB copies 7/3... C/Ayers		R	-2.40
				RMB copies 6/2... C/Ayers		R	-5.20
				RMB copies 7/3... C/Ayers		R	-12.60
				RMB copies 6/2... C/Ayers		R	-2.00
7/5/2006	SCC	40078	S SCC Special Commit...	RMB copies 6/2... C/Ayers		R	-0.30
				RMB copies 6/2... C/Ayers		R	-0.30
				RMB copies 6/2... C/Ayers		R	-4.90
				RMB copies 6/2... C/Ayers		R	-4.80
7/14/2006	SCC	40272	S SCC Special Commit...	RMB copies 7/1... C/Ayers		R	-0.50
7/24/2006	SCC	40593	S SCC Special Commit...	RMB copies 7/2... C/Ayers		R	-1.20
8/16/2006	SCC	40856	S SCC Special Commit...	RMB copies 7/9... C/Ayers		R	-1.70
				RMB copies 7/1... C/Ayers		R	-20.20
				RMB copies 7/1... C/Ayers		R	-6.80
8/21/2006	SCC	41044	S SCC Special Commit...	RMB copies 8/1... C/Ayers		R	-12.90
8/28/2006	SCC	41047	S SCC Special Commit...	RMB copies 8/2... C/Ayers		R	-10.20
				RMB copies 8/2... C/Ayers		R	-2.80
				RMB copies 8/2... C/Ayers		R	-2.70
				RMB copies 8/2... C/Ayers		R	-1.00
9/7/2006	SCC	41429	S SCC Special Commit...	RMB copies 8/2... C/Ayers		R	-4.60
				RMB copies 8/2... C/Ayers		R	-5.60
				RMB copies 8/3... C/Ayers		R	-0.70
9/12/2006	SCC	R10325	Comerica Bank	cmrabk5670358... C/Ayers		R	50.00
9/28/2006	SCC	42064	S SCC Special Commit...	RMB copies 9/2... C/Ayers		R	-1.50
10/12/2006	SCC	42069	S SCC Special Commit...	RMB copies 9/2... C/Ayers		R	-3.60
10/23/2006	SCC	42125	S SCC Special Commit...	RMB copies 10/... C/Ayers		R	-2.40
				RMB copies 10/... C/Ayers		R	-1.20
				RMB copies 10/... C/Ayers		R	-15.80
				RMB copies 10/... C/Ayers		R	-7.00
11/1/2006	SCC	42223	S Special Commitment ...	RMB copies 10/... C/Ayers		R	-7.20
				RMB copies 10/... C/Ayers		R	-2.50
11/8/2006	SCC	42367	S Special Commitment ...	RMB copies 11/... C/Ayers		R	-5.60
11/20/2006	SCC	42408	S Special Commitment ...	RMB copies 11/... C/Ayers		R	-4.50
				RMB copies 11/... C/Ayers		R	-11.70
11/22/2006	SCC	42622	S Special Commitment ...	RMB copies 11/... C/Ayers		R	-13.50
				RMB copies 11/... C/Ayers		R	-10.00
				RMB copies 11/... C/Ayers		R	-13.10
				RMB copies 11/... C/Ayers		R	-7.30
				RMB copies 11/... C/Ayers		R	-5.40
12/11/2006	SCC	42931	S Special Commitment ...	RMB postage 1... C/Ayers		R	-19.25
				RMB copies 12/... C/Ayers		R	-0.60
				RMB copies 12/... C/Ayers		R	-2.00
				RMB copies 12/... C/Ayers		R	-9.20
12/20/2006	SCC	43011	S Special Commitment ...	RMB copies 12/... C/Ayers		R	-15.80
12/26/2006	SCC	43112	S Special Commitment ...	RMB copies 12/... C/Ayers		R	-37.80
				RMB public disc... C/Ayers		R	-2.95
12/29/2006	SCC	43220	S Special Commitment ...	RMB copies 12/... C/Ayers		R	-2.00
				RMB copies 12/... C/Ayers		R	-0.20
				RMB copies 12/... C/Ayers		R	-9.50
1/9/2007	SCC	43451	S Special Commitment ...	RMB copies 1/5/7 C/Ayers		R	-12.80
				RMB copies 1/1... C/Ayers		R	-22.10

Ayers

4/15/1984 Through 3/25/2008

3/25/2008

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Date	Account	Num	Description	Memo	Category	Clr	Amount
				RMB postage 1/... C/Ayers		R	-4.25
2/16/2007	SCC	43953	S Special Commitment ...	RMB postage 0... C/Ayers		R	-20.10
2/16/2007	SCC	43954	S Special Commitment ...	RMB Copies 01/... C/Ayers		R	-2.00
				RMB Postage 0... C/Ayers		R	-8.50
2/16/2007	SCC	43955	S Special Commitment ...	RMB Copies 02/... C/Ayers		R	-2.30
				RMB Copies 02/... C/Ayers		R	-18.60
				RMB Copies 02/... C/Ayers		R	-3.80
				RMB Copies 02/... C/Ayers		R	-4.25
2/28/2007	SCC	44135	S Special Commitment ...	RMB Copies 02/... C/Ayers		R	-0.30
				RMB Copies 02/... C/Ayers		R	-1.80
				RMB Copies 02/... C/Ayers		R	-0.50
				RMB Copies 02/... C/Ayers		R	-0.30
				RMB Copies 02/... C/Ayers		R	-5.80
				RMB Postage 0... C/Ayers		R	-8.50
				RMB Postage 0... C/Ayers		R	-4.88
3/6/2007	SCC	44215	S Special Commitment ...	RMB Postage 0... C/Ayers		R	-1.35
				RMB Copies 02/... C/Ayers		R	-3.80
				RMB Copies 02/... C/Ayers		R	-0.60
3/19/2007	SCC	44457	S Special Commitment ...	RMB postage ... C/Ayers		R	-6.80
				RMB copies 0...C/Ayers		R	-49.40
				RMB copies 0...C/Ayers		R	-0.30
				RMB copies 0...C/Ayers		R	-2.10
				RMB copies 0...C/Ayers		R	-13.80
				RMB copies 0...C/Ayers		R	-1.20
				RMB copies ... C/Ayers		R	-2.20
				RMB copies 0...C/Ayers		R	-4.10
				RMB copies ... C/Ayers		R	-10.20
				RMB copies ... C/Ayers		R	-1.20
3/27/2007	SCC	44552	S Special Commitment ...	RMB copies ... C/Ayers		R	-3.00
				RMB copies ... C/Ayers		R	-13.00
4/11/2007	SCC	44805	S Special Commitment ...	RMB copies 0...C/Ayers		R	-8.00
				RMB copies ... C/Ayers		R	-7.20
				RMB postage ... C/Ayers		R	-5.84
4/18/2007	SCC	44976	S Special Commitment ...	RMB postage ... C/Ayers		R	-11.81
				RMB postage ... C/Ayers		R	-18.80
				RMB postage ... C/Ayers		R	-9.40
5/1/2007	SCC	45186	S Special Commitment ...	RMB postage ... C/Ayers		R	-4.64
5/15/2007	SCC	45416	S Special Commitment ...	RMB postage ... C/Ayers		R	-8.30
5/31/2007	SCC	45628	S Special Commitment ...	RMB postage... C/Ayers		R	-11.00
6/12/2007	SCC	45866	S Special Commitment ...	RMB postage... C/Ayers		R	-4.80
6/21/2007	SCC	46037	S Special Commitment ...	RMB postage... C/Ayers		R	-5.38
6/26/2007	SCC	46114	S Special Commitment ...	RMB postag... C/Ayers		R	-11.35
10/12/2007	SCC	48077	S Special Commitment ...	RMB postage 1... C/Ayers		R	-7.47
11/9/2007	SCC	DEP	S Bank deposit	R9550 US Distri... C/Ayers		R	340.35
1/3/2008	SCC	DEP	S bank deposit	R11599 Investig... C/Ayers		R	0.26
<b>TOTAL 4/15/1984 - 3/25/2008</b>							<b>-311.08</b>

**TOTAL INFLOWS 4,174.01**

**TOTAL OUTFLOWS -4,485.09**

**NET TOTAL -311.08**



ATTACHMENT 6.

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   CSN.01-2-00713-4

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WASHINGTON STATE COURT OF APPEALS  
DIVISION 2

AT TACOMA

IN RE THE DETENTION OF;  
LENIER AYERS,

PETITIONER.

COA. NO 33604-9-11  
CSN. 01-2-00713-4  
PETITIONERS PRO-SE  
MOTION FOR RELIEF FROM  
JUDGMENT, AND NEW  
JURY TRIAL, UNDER RULE 60(B)  
SEE JUDGES 10/10/07 ERRANT  
DENIAL OF LIMINE MOTION,  
REJECTING NEW "PRIMA FACIE"  
EVIDENCE IN VIOLATION OF  
DUE PROCESS, AND EQUAL  
PROTECTION OF THE LAW, AS  
WELL AS 71.09.090.(4)(b)(ii)

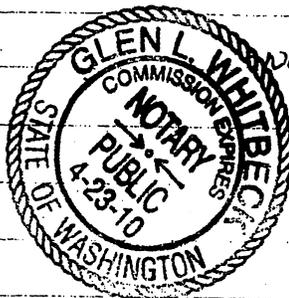
IN THIS MOTION PETITIONER LENIER AYERS ARGUES THAT BECAUSE I HAVE NOW MADE A PRIMA FACIE SHOWING THAT I DON'T MEET THE INITIAL COMMITMENT CRITERIA FOR AN SVP, THE COURT MUST ORDER A JURY TRIAL ON THE ISSUE OF UNCONDITIONAL RELEASE. DUE TO THE FACT THAT THE TRIAL COURT ERRED IN DENYING LIMINE/PRIMA-FACIE MOTION.

IN 2004, DIVISION ONE OF THE WASHINGTON COURT OF APPEALS DETERMINED THAT WHERE THE COMMITTED PERSON MADE A PRIMA FACIE SHOWING THAT HE DOES NOT MEET THE DEFINITION OF NO LONGER MET THE DEFINITION OF AN SVP. DUE NOT ONLY TO A PROVEN UNJUSTIFIABLE DIAGNOSIS THAT VIOLATES MAJORITY SCIENTIFIC COMMUNITY STANDARDS BUT ALSO DUE TO MY ADVANCED AGE AS WELL AS THE FACT THAT I DID NOT RECEIVE A FAIR TRIAL DUE TO INEFFECTIVE ASSISTANCE OF COUNSEL, AND VIOLATION OF ARTICLE III SECTION 2 CLAUSE 3, OF THE U.S. CONSTITUTION INDICATING THAT THE TRIAL OF ALL CRIMES, EXCEPT OF IMPEACHMENT, SHALL BE BY JURY. UNDER THE U.S. CONSTITUTION, HAS THE POWER TO DECIDE THE GUILT OR INNOCENCE OF THE ACCUSED. THE JUDGE TRIAL THAT I RECEIVED HAD BEEN HELD IN VIOLATION OF MY CONSTITUTIONAL RIGHT TO DUE PROCESS AND EQUAL PROTECTIONS OF THE CONSTITUTION.

SIGNATURE:

Lenier Ayers  
1/15/08

NOTARY SEAL:



Notary in Washington State  
Glen L. Whitbeck  
my Commish Ex 4-23-10  
Glen L. Whitbeck

IN THE CASE OF THE MOST RECENT, AND BIASLY DENIED PRIMA FACIE MOTION, ON 10/10/07 THE JUDGE DENIED SUBSTANTIAL STATUTE COMPLIANT EVIDENCE NOT ONLY FROM MAJORITY CONSENSUS ACCORDING TO RELEVANT SCIENTIFIC COMMUNITY STANDARDS, HE ALSO IGNORED A SECOND QUALIFIED EXPERTS SVP. ANALYSIS CONFIRMING MY LACK OF A QUALIFIABLE DIAGNOSIS PURSUANT 71.09 STATUTE REQUIREMENTS. IN THIS DENIED "PRIMA FACIE" LIMINE MOTION, MULTIPLE QUALIFIED EXPERTS RESEARCHED DOCUMENTATION HAD BEEN PRESENTED, AS WELL AS FEDERAL RULES OF EVIDENCE STIPULATIONS SHOWING THAT THE STATES NOS. DIAGNOSIS OF HEBEPHILIA IS INADMISSABLE IN A COURT OF LAW. THE TRIAL COURT ERRED IN DENYING MY LIMINE/PRIMA-FACIE MOTION.

THEREFORE, EXPERTS FOUND THAT I DO NOT MEET THE DEFINITION OF A SVP. PURSUANT THE STATUTE.

THE TRIAL COURT REFUSED TO ALLOW THE EVIDENCE IN THIS MOTION TO BE ADDRESSED. THIS REFUSAL SUBSEQUENTLY DENIED, ME THE DUE PROCESS RIGHT TO HAVE A HEARING ON THE CLINICALLY JUSTIFIED EVIDENCE SUBMITTED IN THE SAID DENIED 10/10/07, PRIMA FACIE/LIMINE MOTION.

BY ACW 71.09.090. Id. AT 385. THE COURT OF APPEALS NOTED CONSTITUTIONAL CONCERNS WITH REFUSING THE PETITIONER'S REQUEST FOR A JURY TRIAL. THE COURT STATED THAT "[IF] A DETAINEE PROVIDES NEW EVIDENCE ESTABLISHING PROBABLE CAUSE THAT HE IS NOT CURRENTLY A SVP., DUE PROCESS REQUIRES A TRIAL ON THE MERITS, REGARDLESS OF WHETHER HIS EVIDENCE COULD HAVE ALSO CHALLENGED THE BASIS OF HIS ORIGINAL COMMITMENT." Id. AT 386.

#### PLEASE NOTES:

IMMEDIATELY FOLLOWING THE JUDGES ERRANT DENIAL OF THE SAID MOTION, I ADAMANTLY, AND REPEATEDLY PLEADED WITH MY PUBLIC DEFENCE COUNSELLOR TO FILE AN APPEAL TO THE JUDGES MOTION DENIAL. ATTY. GUTBEZALL REFUSED STATING THAT THE JUDGE REFUSED THIS MOTION "BECAUSE I HAD NOT PARTICIPATED IN S.O. TREATMENT WHILE AT THE DSHS. FACILITY" (e.g., (S.C.C.)) FOLLOWING THIS ATTY'S STATEMENT, REFUSING TO CHALLENGE JUDGE NICHOLS MOTION DENIAL, OUR ATTY. CLIENT RELATIONSHIP BECAME TURMULTOUS. THIS ATTY. HAD THEN WITHDRAWN.

AS THE RESULT OF THIS ATTY'S MALPRACTICE, AND INEFFECTIVE ASSISTANCE OF COUNSEL, I HAD BEEN DENIED DUE PROCESS, AND EQUAL PROTECTION OF THE LAW IN HAVING BEEN REFUSED THE RIGHT TO BE HEARD IN COURT THROUGH THE FILING OF A "TIMELY APPEAL" IN REVIEW OF THE COURTS ERROR THROUGH HAVING DENIED THIS MOTION.

DUE TO THE ABOVE STATED REASONS, THE COURT SHOULD GRANT THIS MOTION FOR A NEW JURY TRIAL AS OPPOSED TO THE UNFAIR, AND PARTISANLY UNCONSTITUTIONAL "JUDGE TRIAL" RECEIVED.

ARTICLE III

SECTION 2 CLAUSE 3, OF  
THE U.S. CONSTITUTION STATES;  
"THE TRIAL OF ALL CRIMES, EXCEPT  
OF IMPEACHMENT, SHALL BE BY  
JURY," UNDER THE U.S. CONSTITUTION,  
HAS THE POWER TO DECIDE THE GUILT  
OR INNOCENCE OF THE ACCUSED.

A TRIAL BY JURY CANNOT BE "WAIVED," SINCE THIS IS A  
CONSTITUTIONAL REQUIREMENT. IN ALL SUP. CASES, THE TRIAL  
HEARING ON THIS ISSUE MUST COMPLY WITH ALL THE  
PROCEDURES SPECIFIED IN RCW STATUTES 71.09.060, AND  
RCW 16.77.090(4) AS WELL AS RCW 71A.12.230. IN  
ADDITION, THE RULES OF EVIDENCE APPLICABLE IN CRIMINAL  
CASES SHALL APPLY, AND ALL CONSTITUTIONAL RIGHTS  
AVAILABLE TO DEFENDANTS AT CRIMINAL TRIALS.

AMENDMENT XIV (1868)

NO STATE SHALL MAKE OR ENFORCE ANY LAW WHICH SHALL  
ABRIDGE THE PRIVILEGES OR IMMUNITIES OF CITIZENS OF THE  
UNITED STATES; NOR SHALL ANY STATE DEPRIVE ANY PERSON OF  
LIFE, LIBERTY, OR PROPERTY, WITHOUT DUE PROCESS OF LAW;  
NOR DENY ANY PERSON WITHIN IT'S JURISDICTION THE EQUAL  
PROTECTION OF THE LAWS.

I  
EVIDENTIARY FACT

THE INFAMOUSLY UNORTHODOX STATE FORENSIC EVALUATOR,  
DENNIS DOREN, WHO'S NATIONALLY KNOWN FOR CONCOCTING HIS OWN  
EDIOSYNCRATICALLY ECCENTRIC LINE OF PARAPHILIA NOS  
DIAGNOSES FOR PURELY SELF-CENTERED PURPOSES, HAS SUBJECTIVELY  
ADMINISTERED THE PREEMPTORY, AND INCONSISTANT  
OPINION THAT I HAVE SOMEHOW ACQUIRED A NOS HEBEPHILIA  
DIAGNOSIS THAT DOES NOT CONFORM TO CLINICALLY RELEVANT,  
NOR JUSTIFIABLE SCIENTIFIC COMMUNITY STANDARDS FOR  
A DETERMINATION OF BEING EITHER A PERSONALITY  
DISORDER OR MENTAL ABNORMALITY PURSUANT 71.09  
REQUIREMENTS. SIGNIFICANTLY UNLIKE THE DREADED DIAG-  
NOSIS OF "PARAPHILIA," THE ALLEGED HEBEPHILIA DETER-  
MINATION IS SO WIDESPREAD AMONG THE ENTIRE MALE  
POPULACE, THAT IT CARRIES NO EXPERT SCIENTIFIC  
CONSENSUS, NOR CONCEPTUAL VALIDITY AS EVEN BEING  
A DIAGNOSIS AT ALL.

IN AS A SUBSEQUENTIAL RESULT OF THE SAID NATURE OF THIS "DIAGNOSIS" BEING OF A QUESTIONABLY DESPOTIC, AND IRRATIONAL ORIGIN THROUGH IT'S COMPLETE LACK OF GENERAL ACCEPTANCE IN THE "APPROPRIATE SCIENTIFIC COMMUNITY," AND WITH REGARD TO IT'S FORENSIC APPLICATION, THIS "PARAPHILIA NOS. HEBEPHILIA" IS COMPREHENSIVELY INADMISSABLE, NOT ONLY ACCORDING TO FEDERAL EVIDENCE RULE 702, AND THE AMERICAN PSYCHIATRIC ASSOCIATION, IT IS ALSO DISALLOWABLY UNACCEPTABLE UNDER THE FRYE STANDARD BECAUSE IT'S EXISTANCE HAS NOT BEEN ACKNOWLEDGED BY THE PREPONDERANT MAJORITY OF THE SCIENTIFIC COMMUNITY.

THE HEBEPHILIA DIAGNOSIS MADE BY A VERY MINISCULE NUMBER OF SVP. EVALUATORS, MANY OF WHICH HAD BEEN MISEDICTED BY DR. DOREN, IS EXTREMELY CONFUSING, AND INDETERMINATELY UNRELIABLE DUE TO HAVING BEEN EXPLOITATIVELY DERIVED FROM UNINFORMED, AND UNSTANDARDIZED OPINION.

DOREN HIMSELF HAS CONCEDED TO HAVING PERSONALLY CREATED VERY SIMILAR DIAGNOSES BECAUSE "HE" HAD CONCLUDED THERE TO BE A GAP IN THE AMERICAN PSYCHIATRIC ASSOCIATION'S DIAGNOSTIC, AND STATISTICAL MANUAL. (i.e.) THE SCOLARLY FORENSIC PROFESSOR'S "BIBLE OF PSYCHOLOGY".

## II EVIDENTIARY FACT:

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS STATES: "NO ONE SHALL BE SUBJECTED TO ARBITRARY ARREST, DETENTION OR EXILE". SURELY, MY HAVING BEEN SUBJECTIVELY DETAINED FOR THE PAST 8 YEARS UNDER SUCH A RANDOMLY CAPRICIOUS, AND INCONSISTENT, FALSE DIAGNOSIS WOULD REPRESENT ARTICLE 9. OF THE DECLARATION'S INTERPRETATION OF "ARBITRARY DETENTION".

### III EVIDENTIARY FACT:

ARTICLE 11. (2) OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS STATES: NO ONE SHALL BE SUBJECTED TO A HEAVIER PENALTY IMPOSED THAN THE ONE THAT WAS APPLICABLE AT THE TIME THE PENAL OFFENCE WAS COMMITTED.

AFTER HAVING BEEN RELEASED FROM PRISON FOR THE PREDICATE STATUTORY 2ND. DEGREE RAPE, AND 1-CHARGE OF 3RD. DEGREE TOUCHING - i.e., "MOLESTATION" OF A 14 YEAR OLD, AND A 16 YEAR OLD FEMALE., I'D BEEN IN THE COMMUNITY FOR 18 MONTHS, AND IN OFFENDER TREATMENT PRIOR TO BEING REARRESTED, AND COMMITTED FOR A CHARGE THAT SUMED-UP TO BE NO MORE THAN A NON-SEXUAL, 4TH. DEGREE, "GROSS MISDEAMEANOR" OFFENCE. SURELY THE PENALTY FOR SUCH A MINUTE, AND HARMLESS PROBATION VIOLATION AT MOST, HAD NOT WARRANTED SUCH HEAVY PENALTIES AS 8 YEARS FOLLOWED BY LIFE IMPRISONMENT. I.E., "INDEFINITE RETENTION". BSP. WHEN ONE UNDERSTANDS THAT THERE HAD BEEN NO DRAMATIC OVERT VIOLENCE PERPETRATED DURING THESE CRIMES, NEITHER OF THE MUTUAL FRIEND VICTIMS HAD BEEN STRANGERS, AND I'D NEVER COMMITTED ANYTYPE OF SEX OFFENCE EITHER PRIOR TO THESE PARTICULAR ISOLATED CRIMES NOR HAD I BEEN REARRESTED FOR A SEX CRIME AFTER MY RELEASE FROM PRISON, FOR THE "FIRST TIME" ALSO, THAT I HAVE SERVED 8 YEARS OF ARBITRARY DETENTION, FOR A TRUMPT-UP 4TH. DEGREE MISDEAMEANOR...

### IV EVIDENTIARY FACT:

DUE PROCESS, AND EQUAL PROTECTION OF THE LAW IN MY PARTICULAR CASE HAD BEEN ABRIDGED DUE TO THE FACT THAT EITHER TOGETHER OR APART, NOS. HEBEPHILIA OR ANTISOCIAL PERSONALITY DISORDER DONT QUALIFY PURSUANT THE STATUTE, AS MENTAL ABNORMALITIES OR PERSONALITY DISORDER'S THAT WOULD CERTIFY ME ELIGIBLE FOR AN SVP. LABEL, AND SUBSEQUENT LIFE IMPRISONMENT AS A SVP. THE CRIME HERE DOES'NT FIT THE EXTREME, AND OUTRAGEOUSLY EXCESSIVE PUNISHMENT.

DOREN'S NOS. HEBEPHILIA DIAGNOSIS ALSO VIOLATES THE "CIVIL RIGHTS OF INSTITUTIONALIZED PERSON'S ACT" (CRIPA), 42 U.S.C. § 1997, OF THOSE FACILITIES.

## V EVIDENTIARY EVIDENCE:

INAFFECTIVE ASSISTANCE OF COUNSEL FAILED TO UNDERGO ANYTYPE OF INVESTIGATIVE INQUIRY OR EXAMINATION INTO ANY OF THE QUESTIONABLE ALLEGATIONS MADE BY EITHER THE SELF CONCEEDINGLY PERJURIOUS PRIMARY WITNESS OR THE PROFESSIONALLY ASPIRED PROSECUTING, ASSISTANT ATTORNEY GENERAL PRIOR TO OR DURING TRIAL. THIS ACT OF LEGAL MALPRACTICE RESULTED IN MY HAVING BEEN HARMFULLY SUBJECTED TO A SUBJECTIVELY ONESIDED "JUDGE TRIAL". (SEE STATE WITNESSES VIDEO TRIAL DEPOSITION) THIS PROTESTED DEPOSITION ALSO VIOLATED MY RIGHT TO BE CONFRONTED BY THE WITNESS AGAINST ME DURING TRIAL.

THIS NEGLIGENT ACT, AS WELL AS SEVERAL OTHER COLORABLE AND CALLOUS TRANSGRESSIONS RESULTED IN MY HAVING BEEN UNCONSTITUTIONALLY SUBJECTED TO A COURT APPOINTED REPRESENTATION IN WHICH I HAD BEEN DEPRIVED OF A FAIR TRIAL SUBSEQUENT TO ATTORNEY DON LINDAHL'S UNREASONABLE, AND CONTEMPTUOUSLY DEFICIENT PERFORMANCE, BY NOT SKILLFULLY DEVOTING FULL EFFORT TO THE HANDLING OF MY CASE.

## VI EVIDENTIARY EVIDENCE:

IN FURTHER ABRIDGEMENT OF THE 71.09 STATUTE, AS WELL AS DUE PROCESS, AND EQUAL PROTECTION STIPULATIONS OF CONSTITUTIONAL REQUIREMENTS, JUDGE JOHN NICHOLS REFUSED TO CONSIDER MY 10/10/07, "PRIMA FACIE" LIMINE MOTION, PROVING THE INVALIDITY OF THE STATES ARBITRARY, AND UNJUSTIFIABLE NOS. DIAGNOSIS. THIS MOTION DENIAL OCCURED FOREGOING MY SECOND AND SUCCESSIVE EXCULPATORY SVP EVALUATION WHERE A SECOND EXPERT PSYCHOLOGIST HAS STATED NOT ONLY DOES THE STATES HEBEPHILIA DIAGNOSIS LACK CLINICAL JUSTIFIABILITY, THERE IS ALSO NO INDICATION THAT I SUFFER FROM EITHER A PERSONALITY DISORDER OR MENTAL ABNORMALITY. FOLLOWING THE JUDGES PARTISAN DENIAL OF THE SAID MOTION ANOTHER INAFFECTIVE STATE APPOINTED LAWYER, BY THE NAME OF JOHN GUTBEZANLY SUBVERSIVELY, AND INTENTIONALLY REFUSED TO FILE MY ADAMANTLY REQUESTED INTERLOCUTORY APPEAL IN RESPONSE TO THE JUDGES MOTION DENIAL. (SEE JUDGES ORDER DENYING LIMINE MOTION CONTAINING "PRIMA FACIA" EVIDENCE).

THE NAMES OF EXPERT SVP. EVALUATORS WHO HAVE PROVIDED EXCULPATORY FORENSIC EVALUATIONS TO INDICATE THAT I DO NOT SUFFER FROM ANY PERSONALITY DISORDER OR MENTAL ABNORMALITY THAT CAUSES THE INDIVIDUAL TO BE MORE LIKELY THAN NOT INCLINED TO COMMIT SEX OFFENCES ARE AS FOLLOWS:  
PROFESSOR RICHARD WOLLEAT, AND PH.D. PSYCHOLOGIST, DR. THEODORE DONALDSON. (SEE EVALUATION DOCUMENTS FROM 2004, TO 2007).

## VII

### EVIDENTIARY FACT:

DURING TRIAL, BOTH THE PROSECUTORIAL ASSISTANT ATTORNEY GENERAL, AND HER WITNESS, DR. KIRK JOHNSON, DIRECTOR OF THE VANCOUVER WASHINGTON COMMUNITY GUIDANCE CLINIC, WITHHELD VITAL EXCULPATORY TREATMENT ANALYSIS DOCUMENTATION THAT WOULD REPUDIATE ALL ALLEGATIONS TO INDICATE THAT I IDEATE THOUGHTS THAT PERTAIN TO DEVIANT SEXUAL INTEREST. (SEE COPY OF "ABLE ASSESSMENT" ANALYSIS RESULT DOCUMENT ATTACHED) THIS TREATMENT REPORT HAD BEEN MALICIOUSLY WITHHELD FROM TRIAL EVIDENCE.

THE SEC, AND SCTF ARE NOT TREATMENT NOR TREATMENT RELATED FACILITIES. I THE PETITIONER AM IN A PRISON, WITH A HANDCUFF PART ON MY CELLDOR BEING PUNISHED. PETITIONERS (STATE OF WASHINGTON, AND IT'S SUBORDINATES) ARE PERPETRATING A BUSE, WHILE USING, IN RE DETENTION OF YOUNG, 122 WH 2d. 1 (1993), TO "INDICT" RESPONDANTS AND PETITIONERS. (NOT IN INTERVENOR'S NAME.)

FOR THE REASONS AFORESTATED, ON FILE, AND OTHER STATEMENTS INCLUDED IN THIS PETITIONER'S MOTION, I PRAY THAT THE COURT GRANT A NEW TRIAL.

X

DISPOSITIVE FACT:

THE JUDGES DECISION TO DENY MY 10/10/07, PRIMA FACIE/ LIMINE MOTION HAD BEEN A DECISION THAT WAS CONTRARY TO, AND INVOLVED AN UNREASONABLE OMISSION OF CLEARLY ESTABLISHED FEDERAL LAW UNDER RCW, 7A.09.020(4), AND ELMER V. THE STATE OF WASHINGTON. THIS DECISION HAD BEEN BASED ON THE JUDGES UNREASONABLE DETERMINATION OF THE FACTS IN LIGHT OF THE CONSENSUS BASED, PRIMA FACIE EVIDENCE AS WELL AS NEW SUP. EVALUATION DOCUMENT FROM A SECOND SUP. EVALUATOR STATING THAT THE STATES NOS. MESEPHILIA DIAGNOSIS IS IN FACT ERRONEOUS, LACKING AN EXPERT CONSENSUS OR CONCEPTUAL VALIDITY. THIS DIAGNOSIS SUBSEQUENTLY VIOLATES FEDERAL EVIDENCE RULE 702, RCW, 7A.09.020.(4) AS WELL AS BROWN V. WISCONSIN AND THE (CRIPA) ACT, 42 U.S.C. 51997. THEREFORE, IN LIGHT OF THE ABOVE EVIDENTIARY, AND DISPOSITIVE FACTS, I PRAY THAT THE COURT GRANT AN ORDER AUTHORIZING ME TO RECEIVE (1) A NEW TRIAL BY JURY, AND (2) GRANT AN ORDER ALLOWING ME TO FILE A NEW HABEAS CORPUS PETITION WITH THE WASH. STATE DIST. COURT AS REQUIRED BY 28 U.S.C. 2254.

NOTE ON HABEAS PETITIONS:

MOTION REQUESTING THE 9TH. DISTRICT COURT OF APPEALS TO GRANT ORDER REQUESTING THE WASH. STATE DISTRICT COURT TO ALLOW MY FILING OF HABEAS CORPUS FOLLOWING THE DIST. COURTS REFUSAL TO FILE MY FIRST TIMELY FILING WILL BE MAILED TO THE 9TH. DIST. COURT ON 2-2-08.

# ATTACHMENTS

## Federal Consent Judgment Imposed on California's Department of Mental Health

On May 2, 2006, a federal district court in California issued a consent judgment that imposed conditions on the California Dept. of Mental Health and its staff concerning the operations of several of California's state mental health facilities, including Atascadero State Hospital. The conditions in the California facilities and the statute wording utilized by California are similar and run parallel to the statutory wording and overall conditions and method of operation practiced in Washington State.

The consent Judgment in California was the culmination of a comprehensive investigation by the U.S. Justice Department's Civil Rights Division per its authority under the "Civil Rights of Institutionalized Person's Act" (CRIPA), 42 U.S.C. §1997, of those facilities.

Applicable to Washington and the Washington Department of Social and Health Services, administrators of the Special Commitment Center, are findings in California wherein the Justice Department determined that "not otherwise specified" diagnosis such as the diagnosis of "paraphilia NOS" made by evaluators, as in Washington are "ambiguous" and result from " cursory assessments [that] fail to provide the basis for a valid and reliable diagnosis..." This is the exact same situation as found in Washington.

In California, U.S. Assistant Attorney General Wan Kim cited the use of the "NOS" diagnosis by California's Department of Mental Health, DMH, staff in their initial assessments of confined individuals as a primary example of how psychiatric services at the facilities "substantially departs from generally accepted professional standards of care."

California was ordered by the court to re-assess all those who were confined based in any way on an N.O.S. diagnosis, within 60 days of the consent order. Individuals were to be re-assessed "through clinically appropriate assessments" and that such diagnoses were to be resolved in a "clinically justifiable manner." Washington could not adhere to professional and clinically justifiable diagnosis if made to conform to relevant scientific standards.

### NOS

This is one hot issue nationally. Rulings in both state courts and Federal courts are happening monthly. One former sex offender was not committed because all the state had was Paraphilia (rape) NOS. In a habeas Corpus in Federal Court, Brown v Wisconsin two detainees demanded their release because all the state had was Paraphilia NOS and Personality NOS. Kahrs has sent those rulings on discs. Just ask for copies.

In North Carolina a Federal District court judge ruled that the Feds attempt to create a SVP Act was not allowed by the constitution. Such commitment laws are up to the states only: Constock.

HEBEPHILIA?

G.

**Ψ LBR Psychological Consultants** *A Clinical and Forensic Practice*  
114 E. Monroe St. #109 office/fax 319/385-8868  
Mt. Pleasant, IA 52641 cellular 319/537-1015

**Luis Rosell, Psy.D.**  
**Licensed Psychologist**  
**Iowa #00897**

4/23/07

**Declaration by Luis Rosell, Psy.D.**

I, Luis Rosell, Psy.D., of LBR Psychological Consultants during the past five years have been a consultant and evaluator in a variety of forensic matters before state and federal courts in eight states. I am a licensed psychologist in the states of Iowa and Missouri. I have consulted in over 135 sexually violent predator cases in six states. I have testified over 40 in those jurisdictions. Before establishing my current practice I was involved with the assessment and treatment of sex offenders since 1989. I spent three and a half years as the sex offender treatment director for the Iowa Department of Corrections at the Mt. Pleasant Correctional Facility in Mt. Pleasant, Iowa. I am a member of the American Psychological Association, American Psychology-Law Society (Division 41 of the APA) and a clinical member of the Association for the Treatment of Sexual Abusers.

I was contacted by Michael Kahrs to submit an affidavit on behalf of Richard Scott to address the diagnoses of Paraphilia NOS, hebephilia and Personality Disorder NOS with antisocial features. The documents I reviewed before completing this affidavit were limited to affidavits by Dr. Judd, Dr. Packard and Dr. Donaldson.

★ Before discussing diagnoses, a few things need mentioning. The clinical diagnosis of a mental disorders in the DSM-IV-TR does not exist for legal purposes. The legal definition involves impairments and emotional or volitional capacity. These areas are not covered in the DSM nomenclature. The DSM-IV-TR's use in forensic settings (page xxxiii) reads: It is precisely because impairments, abilities and disabilities vary widely within each diagnostic category that assignment of a particular diagnosis does not imply a specific level of impairment or disability." The DSM also states: "the fact that an individual's presentation meets the criteria for a DSM diagnosis does not carry any

necessary implication regarding the individual's degree of control over the behaviors that may be associated with the disorder. Even when diminished control over one's behavior is a feature of the disorder, having the diagnosis in itself does not demonstrate that a particular individual is (or was) unable to control his or her behavior at a particular time.

Zander<sup>1</sup> has written that SVP commitments are based on two diagnostic categories- the paraphilias and the personality disorders -that are among the most controversial, and that have the most questionable validity, of all the mental disorders in the DSM. The problem of diagnostic validity in SVP cases is often exacerbated by the fact that many forensic examiners start with diagnoses with poor validity and poor reliability, and they then decrease the diagnostic validity and reliability even further by using NOS categories and by dispensing with DSM-required criteria on the grounds that such criteria are mere guidelines.

Antisocial personality disorder or personality disorder NOS are not typically viewed by forensic evaluators as a disorder in which there is significant impairment in volitional control. Determinations of this nature (regarding volitional control) are not made on the basis of existing scientific knowledge. A large portion (50-80%) of the prison population are given a diagnosis of antisocial personality disorder or personality disorder NOS with antisocial features. These individuals are held responsible criminally for their choices and behavior. Personality disorder NOS with antisocial features is not offered as a disorder in diminished capacity proceedings in which an impairment of volitional capacity (such as "lack substantial capacity to conform conduct to the requirements of the law") is needed. This diagnosis does not indicate that there is a serious difficulty in controlling behavior its inclusion as a disorder affecting volitional capacity in these proceedings is a novel interpretation and inconsistent with forensic and clinical applications. If an individual meets criteria for this diagnosis it does not distinguish him from the dangerous but typical recidivist convicted in an ordinary criminal case. Moreover, the diagnosis does not lead to the conclusion that this disorder is of the type that would result in a serious difficulty in controlling behavior. Personality disorder NOS with antisocial features is more predictive of general recidivism than sexual recidivism.

By definition, any individual who commits a crime, will automatically have at least three of the criteria for antisocial personality disorder or will have three of the criteria for personality disorder, NOS with antisocial features. Zander reported that this was noted by Supreme Court Justice Ginsberg, who expressed concerns about the large number of people who would appear to qualify for the DSMIV-TR definition of anti-social personality disorder, observing, "... they say take three out of the list of seven, you could pick out habitually doesn't work, doesn't pay debts, is reckless, irritable, ... there are a lot of ordinary people who would fit that description" (Kansas v. Crane, oral argument, 2001, pp.8-9). Justice O'Connor pointed out that 75% of male prison population in the United States are diagnosable with antisocial personality disorder. As Dr. Donaldson has indicated personality disorder described in the statute does not describe characteristics that meet the legal requirements. Therefore, the diagnoses does not address the legal issue.

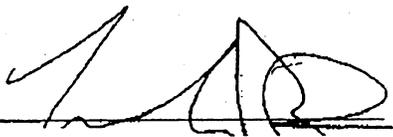
<sup>1</sup> Zander, T. (2005). Civil Commitment Without Psychosis: The Law's Reliance on the Weakest Links in Psychodiagnosis, *Journal of Sexual Offender Civil Commitment: Science and the Law*, (1), 17-82

With regard to Paraphilia NOS, hebephilia, the diagnosis of paraphilia-NOS-hebephilia has been used based on the individual's impairment or consequences of their sexual attraction to adolescents, not the sexual attraction itself. SVP commitment evaluators often use the diagnosis of paraphilia-NOS-hebephilia when the adolescent with whom the adult had sexual contact was under the legal age of consent. There are numerous problems of conceptual validity that arise from the use of this diagnosis in this context.

⑤ The diagnosis is not listed in DSM-IV-TR. However, rarer disorders, such as klismaphilia and urophilia are listed as examples of the appropriate use of the paraphilia-NOS diagnosis, but not hebephilia. There is no professional consensus that the behavior and whether it is a paraphilia at all. In his review, Zander found that textbooks used for instruction about paraphilias contain no discussion of adult-adolescent sexual attraction as a DSM-diagnosable paraphilia. For example, the classic textbook, *Sexual Deviance: Theory, Assessment, and Treatment*, edited by D. Richard Laws and William O'Donohue (1997), and authored by 36 of the leading experts on paraphilias, has 500 pages of detailed discussion of every paraphilia identified in *DSM-IV-TR*, but there is no mention of either hebephilia or "sexually attracted to adolescents" being the basis for a diagnosis of paraphilia-NOS or any other diagnosis.

Zander cited Marshall who asserted that, since "our findings from phallometric studies of sexual preference wherein all subjects (offenders and nonoffenders) respond to persons displaying full secondary sexual features (i.e., teenagers over age 14 years) in the same way as they do adults," "we have always used age 14 years as the upper limit for defining a victim as a child," "He maintained that adults who sexually assault adolescents should be considered diagnostically in the same way as adults who sexually assault other adults. Marshall's research-based distinction suggests that, in clinical or forensic practice, adult-pubescent sexual behavior would not be diagnosable if it is mutual, even if it is not "consensual" in the technical, legal sense that defines an arbitrary age of legal consent.

Zander noted the fact that the legal age of consent for sexual activity varies from jurisdiction to jurisdiction also has implications for the conceptual validity of this diagnosis. The DSM-IV-TR indicates "Neither deviant behavior (e.g., political, religious, or sexual) nor conflicts that are primarily between the individual and society are mental disorders unless the deviance or conflict is a symptom of a dysfunction in the individual..." (APA, 2000b, p. xxxi). The paucity of support the hebephilia diagnosis in the DSM and in the professional literature, as well its contextual variability, suggests that it lacks conceptual validity.



Luis Rosell, Psy.D.  
Licensed Psychologist

From: DrTomZander@aol.com  
To: SOCD@yahoogroups.com  
Sent: Wednesday, September 19, 2007 8:25 PM  
Subject: [BULK][SOCD] Two hopeful federal court decisions re challenges to diagnosis in SVP cases

Two federal district court judges in Wisconsin have ruled, in two different cases, that two men committed under Wisconsin's SVP commitment law may have meritorious claims in contesting the constitutionality of their civil commitments, since those commitments were based on diagnoses of Paraphilia NOS-Nonconsent and Personality Disorder NOS With Antisocial Features. Both decisions are attached.

In *Brown v. Watters*, U.S. District Court Judge Lynn Adelman held that Brown could pursue his federal habeas corpus claim in federal court, after exhausting state remedies, stating:

Furthermore, I cannot say that petitioner will be unable to establish that the diagnosis of Paraphilia-NOS-Nonconsent is indistinguishable from the "dangerous but typical recidivist convicted in an ordinary criminal case." *Crane*, 534 U.S. at 413; see also Thomas K. Zander, *Civil Commitment Without Psychosis: The Law's Reliance on the Weakest Links in Psychodiagnosis*, 1 *J. of Sexual Offender Civil Commitment: Science & The Law* 17 (2005). The main diagnostic characteristic of Paraphilia-NOS-Nonconsent is having "recurrent, intense sexual fantasies, sexual urges, and/or behaviors involving" nonconsenting persons. (Answer Ex. B at 8.) This criterion raises questions about the disorder's ability to satisfy substantive due process, because it may be that every criminal convicted of a sexual crime could be diagnosed with the disorder. See *Hendricks*, 521 U.S. at 373 (Kennedy, J., concurring) ("If it were shown that mental abnormality is too imprecise a category to offer a solid basis for concluding that civil detention is justified, our precedents would not suffice to validate it.").

Petitioner's argument concerning Doren's second diagnosis, APD, may also have merit. In order to commit an individual consistent with due process, the State must show that the person has a mental disorder and that the mental disorder makes it difficult for the person to control their behavior. See *Crane*, 534 U.S. at 412. Petitioner argues that his diagnosis of APD is over-inclusive and does not address his capacity to control his behavior. The Supreme Court has suggested caution in connection with APD. In *Crane*, the Court stated that *Hendricks* established an important distinction between "a dangerous sexual offender subject to civil commitment" and "other dangerous persons who are perhaps more properly dealt with exclusively through criminal proceedings." *Crane*, 534 U.S. at 412 (internal citations omitted). Subsequently, the Court noted that forty to sixty percent of the male prison population is

DENNIS DOREN  
CREATES HIS OWN  
DIAGNOSIS:

diagnosable with APD. Id.; see also *Foucha*, 504 U.S. at 85.

Judge Adelman, in explaining how the civil commitment of Brown was based on the diagnoses assigned to him by Dennis Doren, noted that Doren made up the diagnosis:

( Doren testified that petitioner was a sexually violent person because he had Paraphilia-NOS-Nonconsent and APD. Doren acknowledged that the psychiatric community did not recognize the former disorder and that he had created it himself because he perceived a gap in the American Psychiatric Association's Diagnostic and Statistical Manual.

In *McGee v. Bartow*, U.S. District Court Judge William Griesbach ruled that a man civilly committed under Wisconsin's SVP commitment law could maintain a habeas corpus action based on a claim that the diagnosis upon which he was committed, Personality Disorder NOS With Antisocial Features, violated his right to substantive due process.

It is important to understand that these are preliminary rulings on jurisdictional issues related to whether or not the civilly committed men were entitled to seek federal habeas corpus relief. Neither judge ruled on the merits of the petitioner's claim. Still, it is encouraging that two federal judges did recognize that claims of unconstitutional confinement based upon diagnoses of highly questionable validity are at least sufficiently meritorious to allow men committed under a state SVP commitment law to have their day in federal court.

Tom  
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\* Wn.2d 220, 232, 850 P.2d 495, 22 A.L.R.5<sup>th</sup> 921 (1993)). The questions addressed below are whether evidence of paraphilia NOS (nonconsent) is admissible under either standard and whether admission of such evidence violates substantive due process.

A. IS EVIDENCE OF PARAPHILIA NOS (NONCONSENT) INADMISSIBLE UNDER THE FRYE STANDARD BECAUSE ITS EXISTENCE HAS NOT BEEN ACCEPTED BY A MAJORITY OF THE SCIENTIFIC COMMUNITY?

The Washington Supreme Court applies the *Frye* standard in the following manner:

Under the *Frye* standard, novel scientific evidence is admissible if (1) the scientific theory or principle upon which the evidence is based has gained general acceptance in the relevant scientific community of which it is a part; and (2) there are generally accepted methods of applying the theory or principle in a manner capable of producing reliable results. *State v. Riker*, 123 Wn.2d 351, 359, 869 P.2d 43 (1994) (citing [*State v.*] *Cauthron*, 120 Wn.2d [879,] 888-89[, 846 P.2d 502 (1993)]). The *Frye* standard recognizes that because judges do not have the expertise to assess the reliability of scientific evidence, the courts must turn to experts in the particular field to help them determine the admissibility of the proffered testimony. [*State v.*] *Copeland*, 130 Wn.2d [244,] 255[, 922 P.2d 1304 (1996)] (citing *Cauthron*, 120 Wn.2d at 887). In applying the test, however, "our purpose is not to second-guess the scientific community." *Janes*, 121 Wn.2d at 232. Rather, the "inquiry turns on the level of recognition accorded to the scientific principle involved—we look for general acceptance in the appropriate scientific community." *Janes*, 121 Wn.2d at 232-33 (quoting *Cauthron*, 120 Wn.2d at 887). "If there is a significant dispute between qualified experts as to the validity of scientific evidence, it may not be admitted." *Copeland*, 130 Wn.2d at 255 (quoting *Cauthron*, 120 Wn.2d at 887).

NOTE: →

*Greene*, 139 Wn.2d at 70. The court emphasized that "the relevant inquiry under *Frye* is general acceptance within the scientific community without regard to its forensic application in any particular case." *Id.* at 71 (emphasis added).

In *Greene*, the court was asked to determine whether evidence that the defendant suffered from dissociative identity disorder ("DID") was admissible under the *Frye* standard. The court determined that it was for several reasons. First, the court pointed to

the fact that DID is listed in the DSM-IV as a specific mental disorder with clear diagnostic criteria. *Greene*, 139 Wn.2d at 71. According to the court, “[t]he DSM-IV’s diagnostic criteria and classification of mental disorders “reflect a *consensus* of current formulations of evolving knowledge” in the mental health field.” *Id.*, at 71 (quoting *State v. Greene*, 92 Wn.App. 80, 98, 960 P.2d 980 (1998) (quoting DSM-IV at xxvii)).<sup>4</sup> Second, both the State’s and the defendant’s mental health experts agreed that DID is generally accepted as a legitimate disorder within the psychiatric community. The State’s expert even cited two polls of mental health professionals that demonstrated an acceptance rate of between 60 and 80 percent. While the defendant’s expert noted that there is some disagreement regarding the legitimacy of DID, he stated that this is not unusual of any other disorder listed in the DSM-IV, which generally obtain an 85 percent consensus rate. *Id.*, at 72. The court thus concluded that evidence of DID was admissible under the *Frye* standard because any dispute about its existence as a diagnosable mental disorder was minimal at best. *Id.*

Quite the opposite conclusion was reached by the Court of Appeals in *State v. Sipin*, 130 Wn.App. 403, 123 P.3d 862 (2005). In that case, a vehicular homicide prosecution, the State sought to introduce accident reconstruction evidence generated by a computer program named PC-CRASH to demonstrate that the defendant, not the victim, was driving the vehicle at the time of the accident. *Sipin*, 130 Wn.App. at 408.

★ The court agreed with the defendant that the evidence was inadmissible under *Frye* for

<sup>4</sup> See also *In re Young*, 122 Wn.2d 1, 28 n. 4, 857 P.2d 989 (1993) (The DSM “is a document frequently relied upon by courts in determining the acceptance of psychiatric diagnosis.” (citations omitted)). In fact, one commentator has described the DSM-IV-TR as “the official ‘bible’ of the psychodiagnostic nosology, used by psychiatrists, psychologists, clinical social workers, and other mental health professionals to diagnose mental disorders.” T. Zander, *Civil Commitment Without Psychosis: The Law’s Reliance on the Weakest Links in Psychodiagnosis*, *Journal of Sexual Offender Civil Commitment: Science and the Law*, at 18 (2005).

sexual sadism); *In re Broten*, 130 Wn.App. 326, ¶ 12, 122 P.3d 942 (2005) (Dr. Judd diagnosed Broten with pedophilia, paraphilia NOS, and antisocial personality disorder); *In re Strauss*, 106 Wn.App. 1, 6, 20 P.3d 1022 (2001) (Dr. Gollogly diagnosed Strauss with paraphilia NOS (rape), sexual sadism, and personality disorder NOS with antisocial features), *aff'd sub nom. in In re Thorell*, 149 Wn.2d 724, 72 P.3d 708 (2003). The petitioners in these cases did not challenge, and the courts therefore could not consider, whether paraphilia NOS (nonconsent) is admissible under the Frye standard. This makes perfect sense in light of the additionally diagnosed sexual disorders since challenging admission of paraphilia NOS in these cases would have been as futile as a doctor treating heart disease in a patient with terminal cancer. There have been a number of Washington cases in which paraphilia NOS (nonconsent) was the only reported sexual disorder,<sup>8</sup> but again admission of the disorder was not challenged under *Frye*. Thus, it does not appear that Washington case law precludes a Frye challenge to the admission of paraphilia NOS (nonconsent) at trial.

NOTE:

Moreover, a review of the text and history of the DSM-IV-TR and relevant expert opinions reveal that there is strong disagreement as to whether paraphilia NOS (nonconsent) is an actual mental disorder. *See* Sections (II)(A)(2) & (3), *infra*. Many of the expert publications that address this topic were not released until after the U.S. Supreme Court upheld Kansas's SVP statute in 1997 and again in 2002. *See, e.g., T.*

<sup>8</sup> *In re Halgren*, 156 Wn.2d 795, 800, 132 P.3d 714 (2005); *In re Thorell (Ross)*, 149 Wn.2d 724, 761, 72 P.3d 708 (2003); *In re McGary*, 128 Wn.App. 467, 116 P.3d 415 (2005); *In re Hoisington*, 123 Wn.App. 138, 143, 94 P.3d 318 (2004); *In re Paschke*, 121 Wn.App. 614, 617, 90 P.3d 74 (2005); *In re Mathers*, 100 Wn.App. 336, 337, 998 P.2d 336 (2000). In all of these cases, paraphilia NOS (nonconsent) was diagnosed in conjunction with antisocial personality disorder. I have not located a case like mine where paraphilia NOS (nonconsent) and personality disorder NOS were the disorders that supported an SVP petition. This is crucial because a diagnosis of personality disorder NOS is just as susceptible to a Frye challenge as a diagnosis of paraphilia NOS. See T. Zander, *Civil Commitment Without Psychosis: The Law's Reliance on the Weakest Links in Psychodiagnosis*, *Journal of Sexual Offender Civil Commitment: Science and the Law*, at 58-62 (2005).



VANCOUVER  
GUIDANCE  
CLINIC, P.S.

October 23, 2007

RE: Ayers, Lenier  
DOB: 5/19/1959

To Whom It May Concern:

Mr. Lenier Ayers was seen for intake on 3/29/2000. He attended ten group sessions between 5/23/2000 and 7/25/2000. He was also administered an Abel Assessment for Sexual Interest. The results of the Abel were consistent with non-deviant sexual interest.

C. Kirk Johnson, Ph.D.  
Psychologist

(360) 694-2016

FAX (360) 694-8990

3112 MAIN  
VANCOUVER  
WASHINGTON

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**Recidivism of Sex Offenders  
Released from Prison in 1994**

**Age and Recidivism:  
How Accurate are Our Predictions?**  
*by Brett Trowbridge, Ph.D., J.D.*

Predicting Recidivism in Sex Offenders Using the VRAG  
and SORAG: The Contribution of Age-at-Release  
**Howard E. Barbaree, Calvin M. Langton, and Ray Blanchard**

A Comparison of the Abel Assessment for Sexual Interest and  
Penile Plethysmography in an Outpatient Sample of Sexual Offenders  
Steven R. Gray, Ed.D.<sup>1</sup>  
*Psychological and Consulting Services, Inc.*  
Joseph J. Plaud, Ph.D., BCBA<sup>2</sup>  
*Applied Behavioral Consultants, Inc.*  
*and Brown University*

**The Logic of Sexually Violent Predator Status in  
the United States of America**  
**Daniel F. Montaldi**  
Evaluation Team, Arizona Community Protection and Treatment Center

Running Head: DIAGNOSIS OF PEDOPHILIA  
The Utility of the Diagnosis of Pedophilia: A Comparison of Various Pedophilic  
Classifications  
Drew A. Kingston<sup>1</sup>, Philip Firestone<sup>1,2,3</sup>, Heather M. Moulden<sup>1</sup>, & John M. Bradford<sup>2</sup>

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*Exhibit 10.3*

**FILED**

**AUG 10 2007**

Sherry W. Parker, Clerk, Clark Co.

**STATE OF WASHINGTON  
CLARK COUNTY SUPERIOR COURT**

In re the Detention of:  
  
LENIER AYERS,  
  
Respondent.

NO. 01-2-00713-4  
  
ORDER ON SHOW CAUSE  
HEARING

THIS MATTER came before the Court on August 10, 2007, to determine whether the Respondent is entitled to a trial to determine whether he should be unconditionally released or released to a less restrictive alternative. At the hearing, the Petitioner was represented by Assistant Attorney General Malcolm Ross. The Respondent was not present, but was represented by his counsel, John Gutbezhal. In reaching a decision in this matter, the Court considered the pleadings filed in this matter, the evidence presented at the show cause hearing, and the argument of counsel. Based upon all of this, the Court enters the following Findings of Fact, Conclusions of Law, and Order:

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**ORIGINAL**

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**FINDINGS OF FACT**

1. The Respondent was committed to the care and custody of the Department of Social and Health Services (DSHS) as a sexually violent predator on September 7, 2005.

2. On September 1, 2006, DSHS submitted a written annual review of the Respondent's mental condition to this Court.

**CONCLUSIONS OF LAW**

1. This Court has jurisdiction over the parties and subject matter herein.

2. DSHS's annual review of the Respondent's mental condition provides prima facie evidence of the following:

a. The Respondent's condition remains such that he continues to meet the statutory definition of a sexually violent predator; and

b. Any proposed less restrictive alternative placement is not in the best interest of the Respondent, nor can conditions be imposed that would adequately protect the community.

3. Pursuant to *Detention of Petersen v. State*, 145 Wn.2d 789, 42 P.3d 952, 958 (2002), the Respondent did not present prima facie evidence that:

a. His condition has so changed that he no longer meets the criteria of a sexually violent predator; or

b. Release to a less restrictive alternative is in his best interest, and conditions can be imposed that would adequately protect the community.

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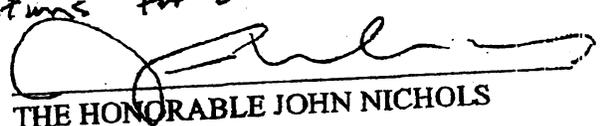
Based on the foregoing Findings of Fact and Conclusions of Law, the Court now enters the following:

**ORDER**

This Court's order civilly committing the Respondent to the custody of DSHS as a sexually violent predator shall continue until further order of the Court.

DATED this 10 day of Aug., 2007.

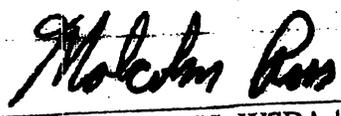
*\* The Respondent's motions for declaratory relief are denied.*



THE HONORABLE JOHN NICHOLS  
Judge of the Superior Court

Presented by:

ROBERT M. MCKENNA  
Attorney General



MALCOLM ROSS, WSBA # 22883  
Assistant Attorney General  
Attorney for Petitioner

Copy received; Approved as to form:



JOHN GUTBEZHAI, WSBA # 37277  
Attorney for Respondent

4000 S.W. Kruse Way Place  
Building 2, Suite 340  
Lake Oswego, Oregon 97035  
Ph: 503.594.1919 Fax: 503.697.1497

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4 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON FOR CLARK  
COUNTY

5 IN RE THE DETENTION OF ) Case No. 01-2-00713-4  
6 )  
7 ) MOTION FOR UNCONDITIONAL  
LENIER AYERS ) DISCHARGE;  
8 ) OR ALTERNATIVELY FOR  
9 ) LESS RESTRICTIVE  
10 ) CONDITIONAL RELEASE;  
11 ) MOTION IN LIMINE; MOTION  
FOR DECLARATORY  
12 ) JUDGMENT  
13 ) MOTION TO DISMISS

14 LENIER AYERS, having been previously committed, hereby moves this Court for an  
15 Order unconditionally discharging defendant from custody, or conditionally releasing on less  
16 restrictive conditions. Mr. Ayers does not meet the criteria for commitment under RCW  
17 71.09.090; or there is sufficient basis to believe that less restrictive means would ensure  
18 defendant would not re-offend based on any mental disease or defect.

19 Mr. Ayers, if not, unconditionally released, should be released, under supervision, to out  
20 patient treatment. The State's evidence shows that Mr. Ayers is resistant to being incarcerated,  
21 not to treatment.

22 Mr. Ayers relies on the attached examination conducted by Dr. Theodore S. Donaldson  
23 as well as the attached papers, Sexually Violent Predators in the Courtroom: Science on Trial(in  
24

25 Page 1 – DEFENDANT'S MOTION FOR RELEASE FROM CUSTODY

26 JOHN E. GUTBEZAHL, LLC  
4000 SW KRUSE WAY PLACE, BLDGY 2, SUITE 340 LAKE OSWEGO OREGON 97035  
JOHN@GUTBEZAHL.COM 503.594.1919

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4 part), Prentky, Janus, Barbaree, William Mitchell College of Law October 2006 and "When  
5 Prophecy Fails: Retreating from Prediction", Terence W. Campbell, Ph.D, Journal of Sexual  
6 Offender: Civil Commitment: Science and the Law, 2, p. 1-11 (2007).

7 Furthermore, Mr. Ayers moves this Court for an Order of Declaratory Judgment or  
8 alternately an Order limiting or preventing the State from arguing or using evidence that Mr.  
9 Ayers suffers from Paraphilia, not otherwise specified, Hebephilia. These motions are based  
10 upon the attached examination of Dr. Donaldson and "Sexually Violent Predators in the  
11 Courtroom: Science on Trial", Prentky, Janus, Barbaree, William Mitchell College of Law  
12 October 2006.

13  
14 Furthermore, Mr. Ayers moves this Court for an Order of Dismissal because RCW 71.09  
15 is unconstitutional as violative of the 5<sup>th</sup> and 14<sup>th</sup> Amendment of the U.S. Constitutions; violates  
16 defendant's substantive and procedural due process rights; places the defendant in jeopardy for  
17 the same offense, and that such confinement exceeds the maximum determinate sentence  
18 authorized by law.

19 July 13, 2007

20  
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22 \_\_\_\_\_  
23 JOHN E. GUTBEZAHL, WSB #37277  
24 Attorney for Defendant

25 Page 2 – DEFENDANT'S MOTION FOR RELEASE FROM CUSTODY

26 JOHN E. GUTBEZAHL, LLC  
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IN RE DETENTION OF AYERS Clark Co, Case # 01-2-00713-4 I certify that I have served a true a correct copy of upon the party listed below:

MOTION FOR UNCONDITIONAL RELEASE

XXXX: mailing via the U.S. Postal Service to

ROBERT LYONS  
ATTORNEY GENERAL'S OFFICE  
Criminal Justice Division  
800 Fifth Avenue Suite 2000  
Seattle, Washington 98104 - 3188

\_\_\_\_\_ : by FedEx/UPS/Transserv

July 13, 2007

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JOHN E. GUTBEZAHN, OSB#94084  
Attorney for Defendant

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June 25, 2007

John E. Gutbezahl  
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FORENSIC EVALUATION PURSUANT TO RCW 71.09

RE: AYERS, Lenier  
Date of Birth: 05/19/59  
Case #: 01-2-00713  
Facility: Special Commitment Center, McNeil Island  
County of Commitment: Clark  
Date of Evaluation: 06/20/07

Mr. Ayers was evaluated at the request of his attorney. The purpose of this evaluation is to determine whether or not Mr. Ayers meets the statutory requirements for civil commitment under RCW 71.09 as a sexually violent predator.

RCW 71.09 defines "sexually violent predator" as: "any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes a person likely to engage in predatory acts of sexual violence if not confined in a secure facility."

This evaluation is based on addressing three questions: 1. Has Mr. Ayers been convicted of or charged with a crime of sexual violence? 2. Does Mr. Ayers suffer from a mental abnormality or personality disorder? 3. As a result of his mental abnormality or personality disorder, is Mr. Ayers likely to engage in predatory acts of sexual violence?

he did. He has always denied the allegations made by Sherry. There appears to be some reason to believe Mr. Ayers in this account, given the comments made by Sherry's mother. However, whoever's story one believes, Mr. Ayers is guilty of sexual activities with minor females.

Mr. Ayers was first released from prison in January 1999 and then arrested on 03/07/99 in Los Angeles on drug charges. He was returned to the State of Washington on a parole violation and was released on 03/07/00. On 04/17/01, he pled to two counts of fourth degree sexual assault. He was not found guilty of assault with sexual motivation and no sex-offender conditions were imposed as part of his sentence. He was sentenced to 730 days, with credit for 260 days for time already served and the remaining days were suspended, and he was placed on four years probation. While these offenses involved teenage females (Ebony H., age sixteen; Mikaela J., age eighteen; and Stephanie E., age fourteen), there was apparently no actual sexual contact. (However, Mr. Ayers' behavior with these females would indicate that, at least with some of them, he was interested in a sexual encounter.)

2. Does Mr. Ayers suffer from a mental abnormality or personality disorder? No.

Under RCW 71.09, "'mental abnormality' means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes a person to the commission of criminal sexual acts in the degree constituting such person a menace to the health and safety to others."

It seems to be well accepted at this time by most, if not all, mental health professionals who do sexually violent predator evaluations that the mental abnormality in the statute requires that the individual suffers from a paraphilic diagnosis and that they have serious difficulty controlling acting on that paraphilia. While the statute identifies a personality disorder as a sufficient criterion for civil commitment, there is, however, no personality disorder in psychiatry or psychology that meets the requirement under RCW 71.09 of a "personality disorder which makes the person likely to engage in predatory acts of sexual violence." The only diagnosis which would predispose a person to sexual violence, or make a person sexually violent, is a paraphilia. Personality disorders may increase the risk, but in and of themselves, they do not predispose a person to any specific behavior. Moreover, RCW 71.09 does not describe the criteria for the statutory definition of a personality disorder, so that it is impossible to even determine if an offender has such a disorder.

The above stated definition of mental abnormality includes considerations for both a volitional and emotional component. However, it is clear that higher-court decisions, most especially the Kansas Supreme Court "in the Matter of the Care and Treatment of Michael T. Crane" (#82-080) did not consider emotional impairment relevant. The court noted:

A commitment under the Sexually Violent Predator Act is unconstitutional, absent of finding that a defendant suffers from a volitional impairment rendering him or her dangerous beyond his or her control.

There is no mention of emotional capacity, and in fact, the court went on to state:

It seems, therefore, that the result of the legislature's identifying emotional capacity, as well as volitional capacity, in the definition of 'mental abnormality' was to include a source of bad behavior other than inability to control behavior.

The U. S. Supreme Court in Kansas v. Crane only addressed the issue of behavior control and did not distinguish between emotional, cognitive, or volitional impairment.

In summary, the U. S. Supreme Court's position is that the impairment that is necessary for commitment under the SVP Act is that one suffers serious inability to control their sexually dangerous behavior due to a psychiatric impairment. Therefore, whatever diagnosis is deemed appropriate, it must be shown that that diagnosis does impair the offender in a manner dictated by the court. Further, the only psychiatric impairment that would predispose a person to sexual violence is a paraphilia. Therefore, in the SVP commitment, it is necessary to show that the individual suffers both from a paraphilia and has serious difficulty controlling acting on that paraphilia.

Mr. Ayers has been diagnosed by Dennis Doren (04/19/02) and by numerous of the above-referenced evaluations as suffering from Paraphilia, not otherwise specified, Hebephilia. The designation of Paraphilia, NOS, is used because there is no specific diagnosis for Hebephilia. One might be able to put it under the general heading of a paraphilia, not otherwise specified, if one could find sufficient evidence that the sexual behavior with minor females was, in fact, paraphilic. However, it must be stressed that sexual behavior with minor females could only be considered paraphilic if the behavior has caused distress or impairment in the offender. Some of the paraphilias appear to only require that the individual has acted on the behaviors, and while this is essentially a

nonsense position, it need not be argued in this case because, as noted in the DSM-IV-TR, page 566: "For the remaining paraphilias, the diagnosis is made if the behavior, sexual urges, or fantasies cause clinically significant distress or impairment in social, occupational, or other important areas of functioning." Note that remaining paraphilias would be, among other things, those included under Paraphilia, NOS.

The DSM-IV-TR, page 568, goes on to note: "Fantasies, behaviors, or objects are paraphilic only when they lead to clinically significant distress or impairment (e.g., are obligatory result in sexual dysfunction, require participation of nonconsenting individuals, lead to legal complications, interfere with social relationships)." Many evaluators interpret "legal complications" to mean that incarceration is evidence of impairment. However, in defining a mental disorder, on page xxxi of the DSM-IV-TR, it notes: "Whatever its original cause, it must currently be considered a manifestation of a behavioral, psychological, or biological dysfunction in the individual. Neither deviant behavior (e.g., political, religious, or sexual) nor conflicts that are primarily between the individual and society are mental disorders, unless the deviance or conflict is a symptom of a dysfunction in the individual, as described above."

To consider incarceration as a defining characteristic of a mental disorder is, on the face of it, unreasonable. Moreover, as noted in the above quotations from the DSM, incarceration does not identify dysfunction within the individual. If incarceration is the result of dysfunction, rather than simply the result of conflict with society, it could indicate a mental disorder. However, the key element is that it was dysfunction in the individual that resulted in incarceration and not merely having been incarcerated for committing a crime.

Most significantly, since there is no diagnosis of hebephilia within the DSM and since it has never even been seriously considered to be a mental disorder, one would have to find empirical evidence or at least some authoritative basis that now concludes that it might be. There appears to be none. The authoritative text on sexual deviance, edited by Laws and O'Donohue (1997), notes in chapter 20, devoted to the diagnostic category "Paraphilia, not otherwise specified," Milner and Dopke list thirty-eight categories of Paraphilia, NOS-hebephilia is not included in the list. Addressing the issue "distress or impairment," Milner and Dopke note: "Further, much of the research, at least in the Paraphilia, NOS, category, has focused solely on the behavioral manifestations of individuals (e.g., sexual contact with animals, sexual asphyxia), and have not assessed distress or

impairment. Thus, the research basis for Paraphilia, NOS, provides little information to clarify the relevance of distress or impairment to variations in sexual behavior."

Michael B. First, editor of text and criteria for the DSM and a recognized authority on diagnosis, recently responded to a question regarding the diagnosis of hebephilia:

★ — I don't think it was ever proposed by anyone. Furthermore, it was pretty clear that the DSM-IV sexual disorders workgroup had no interest in expanding the number of paraphilias. It was felt that any additional paraphilias could be diagnosed under Paraphilia, NOS. Also, of all the paraphilias, hebephilia is probably the one with the least validity. If one uses Jerry Wakefield's harmful dysfunction definition of mental disorder as applied to the paraphilias, a sexual arousal pattern is paraphilic if it represents a dysfunction in sexual arousal. In this case, dysfunction would apply if the sexual arousal pattern interfered with procreation (as you can see, this would suggest that homosexuality is a mental disorder. The reason it isn't is because of the lack of "harm"). Since hebephilia involves attraction to young females who are old enough to bear children, it is hard to argue that it is evidence of dysfunction. (E-mail 01/11/07.)

In summary, there is no empirical evidence to support the notion that hebephilia is a mental disorder or a sexual deviance; hence it cannot be cited as a version of Paraphilia, NOS. Dr. First's comments suggest that the possibility of defining hebephilia as a paraphilia seems most remote.

A source of much confusion regarding a diagnosis such as Hebephilia is that the term is frequently used only to indicate sex with minors. In the often cited study by Abel, et al., (1987), data is reported on the frequency of various paraphilic behaviors. However, the authors in no way considered the descriptions of the paraphilias as anything other than a definition of their sexual targets. That is, Hebephilia referred simply to those who have sex with minors; Pedophilia referred to those who had sex with children. There was no attempt to determine if the offenders in that study, in fact, met the diagnostic requirements for those disorders. More recently, Blanchard and Barbaree (2005) investigated the strength of sexual arousal as a function of age among Pedophiles, Hebephiles, and Teleiophiles. However, the authors clearly indicate that they were not making diagnoses, but only identifying the age group of the sex offender's victim. That is, the notion of hebephile is frequently used in the

literature, but does not indicate that it is a reference to a mental disorder. In order for Hebephilia to be a mental disorder, it must be shown that the individual was distressed or impaired by that behavior or by the sexual attraction to those sexual objects. That, in fact, is the very nature of diagnosis. All diagnosis is about underlying pathology and the impairments associated with that pathology. One cannot make a mental diagnosis purely on the basis of sexual behavior.

In view of the above, the primary focus of this evaluation of Mr. Ayers is to determine if there is convincing evidence that he was, in fact, distressed or impaired by his sexual activities with the minor females. The answer to that is fairly easy and straightforward. There is no indication that he was ever distressed or impaired in the slightest.

Even if one were willing to diagnose Mr. Ayers as being hebephilic purely on the basis of his sexual activities with minor females, one would have to consider that condition currently in remission, since Mr. Ayers has not demonstrated signs and symptoms of such a condition since at least the year 2000. Most definitely, he is not currently distressed or impaired by any sexual feelings that he has towards minor females.

The second element of the statutory definition of "mental abnormality" requires that Mr. Ayers has serious difficulty controlling his sexually dangerous behavior (volitional impairment). However, absent psychiatric impairment (e.g., a paraphilia), the control issue is moot. However, there is, in my opinion, no evidence that Mr. Ayers has ever had any serious difficulty controlling his sexual behavior, whether or not it is due to a mental disorder.

Mr. Ayers has a history of fairly serious diagnoses, mostly centered around some form of bipolar disorder. He has been prescribed medication for such a condition in the past, specifically from about 1991 to 1999 while in prison. In the current interview, he indicated that he did not like the medication, that it made him "feel dingy" and he "couldn't think." He stated that, when on the medication, it was as if "nothing mattered, no goals, no aspirations." He described himself as irrational and argumentative. In spite of this, he indicated that the medication did not make him "slowed down." Mr. Ayers' descriptions of his response to these medications, which included lithium and Depakote, would have to be described as atypical. Mr. Ayers has continued to be a difficult inmate both in prison and at the SCC. He has filed numerous grievances and is frequently argumentative and angry. He is described as being obsessed with various political and race

issues, and he sees himself as a victim of the system who does not meet the requirements for SVP commitment. In the current interview, he described the SVP commitment as "six years of frustration." However, the fact that Mr. Ayers may be difficult to get along with at the SCC does not indicate, in any way, that he is suitable for civil commitment under the sexually violent predator statute.

3. As the result of his mental abnormality or personality disorder; is Mr. Ayers likely to engage in predatory acts of sexual violence? No.

\* Mr. Ayers does not suffer from a mental abnormality, so he therefore cannot be dangerous because of it. There appears to be a tendency in SVP cases to go directly from a mental diagnosis to the issue of dangerousness and, in the case that both exist, to assume the criteria for commitment have been met. However, this leaves out entirely the necessary cause-effect relationship between mental disorder (a predisposition to sex offending) and volitional impairment, which combined cause a person to be likely to reoffend. In Mr. Ayers' case, it appears to be essentially impossible to establish the presence of a mental disorder (sexual psychopathology that predisposes him to sexual violence) or that he is volitionally impaired, so that whatever his level of dangerousness, it has nothing to do with the requisite mental abnormality.

However, in the following, I will make a few comments regarding prediction of future sex-offense recidivism independent of the mental abnormality. However, it should be pointed out that there is no basis and no research that would ever indicate whether or not an offender was dangerous due to the mental disorder. The most that one can do is to find evidence for the mental disorder and evidence for future dangerousness and hope that somehow the two are linked. This is largely an impossible task; however, probably an unnecessary one. If an offender met the requirements for a statutorily defined condition that qualifies for civil commitment, they would have to have a current diagnosis of a paraphilia and have serious difficulty controlling acting on that paraphilia. If an offender met those criteria, predictions of future sex-offense recidivism based on any kind of risk assessment is superfluous.

At this time, it is well established that actuarial prediction (based on empirically validated risk factors) is the only acceptable form of prediction and that clinical prediction (based on the unstructured assessments of clinicians) is not only inferior but unacceptably low. Dr. Doren based his risk assessment on the RRASOR, Static 99, and the Minnesota Sex Offender Screening Tool-Revised (MnSOST-R). The MnSOST-R has

significant statistical problems and, in my opinion, should not be used, and moreover it has not been normed on a Washington sample. Static 99 is probably the most appropriate instrument, since it does address the statutory requirement of a sex offense, although not a sexually violent offense. However, Static 99 has significant problems, primarily related to the fact that it has not been normed on a Washington sample nor on a recent sample. This will be discussed below.

Dr. Doren noted that Mr. Ayers has a high score on Static 99, which indicates a future risk of 52% or more likely than not. However, that risk estimate is a large overestimate of the actual risk presented by Mr. Ayers. Because Static 99 has not been normed on a Washington sample or on any recent sample, this is a serious limitation to interpreting Static 99 risk estimates. Unless an instrument is normed on the specific population on which it is to be used, one does not know if the estimate of risk is valid in the new population. Some research has shown that risk factors that apply in one population do not apply in another, and it is established that risk factors for young offenders do not all apply to older offenders. However, the most serious problem is that recidivism base rates are not stable across various populations, especially those at different points in time, and the relationship between a score and a probability estimate is highly dependent on the recidivism base rate. The developmental sample for Static 99 had a five-year recidivism rate of 18%, but this rate was obtained on some fairly old samples and may not apply to newer samples.

Recent studies indicate a reduction in sex offense recidivism (base rate) in the past decade or so. A report from the Department of Justice by Langan, et al., (November 2003) reports on the recidivism of sex offenders released in 1994 in fifteen states. Table 35 of that report notes that 3.3% of child molesters were rearrested for an offense against a child, and in Table 42, it is noted that child molesters had a 5.1% re-arrest recidivism rate for any sort of sex offense. The conviction recidivism rate was 3.5%. These numbers are based on a sample size of 4,295 child molesters released in fifteen states and followed for an average of three years. Static 99 (Hanson and Thornton (1999) had a conviction recidivism risk of 18% over five years. While it is somewhat difficult to compare a three-year risk length with a five-year risk length, it is quite apparent that the 3.5% risk noted by the Department of Justice is much less than the 18% reported by Hanson.

The Washington State Institute for Public Policy has reported on recent sex-offense recidivism rates in the State of Washington. Exhibit 2 in a report dated 08/26/05 noted that

the five-year felony sex-offense recidivism rate for child molesters was 2.3%. A second study, also published 08/26/05, based on a different time-frame sample, notes, in Exhibit 8, a 3% felony sex recidivism for child molesters and a 2.5% recidivism risk for sex involving a child for child molesters.

It is very clear from the above-referenced studies that the base rate of child-molest recidivism has reduced quite dramatically since the time period of the samples used in Static 99 and other prediction instruments. The Static 99 five-year recidivism risk was 18%, more than six times the Washington State reoffense risk noted in the past few years. This has important implications for the use of prediction instruments. Using Static 99 to measure recidivism risk in a sample of offenders from a significantly lower base rate of recidivism is unacceptable. The predictions based on risk instruments are highly sensitive to underlying base rates. That is, the relationship between a prediction instrument score and an estimated probability necessarily change as the base rate changes. The relationship also depends on the relative distributions of scores among recidivists and non-recidivists. As a result, using Static 99 in Mr. Ayers' case greatly exaggerates his risk due to the noted differences in base rate between the development of Static 99 and current estimated rates of reoffense in the United States.

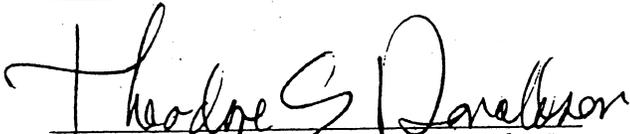
It is very clear from the above-referenced studies that the recidivism base rate for child molesters has dropped off dramatically since the time period of the samples used in Static 99 and other prediction instruments. The Static 99 five-year recidivism risk was 18%, more than four times the Washington State reoffense risk noted in the past few years. This has important implications for the use of prediction instruments. Using Static 99 to measure recidivism risk in a sample of offenders from a significantly lower base rate of recidivism is unacceptable. The predictions based on risk instruments are highly sensitive to underlying base rates. That is, the relationship between a prediction instrument score and an estimated probability necessarily change as the base rate changes. The relationship also depends on the relative distributions of scores among recidivists and non-recidivists. As a result, using Static 99 or any other prediction instrument in Mr. Ayers' case greatly exaggerates his risk due to the noted differences in base rates between the development of Static 99 and current estimated rates of reoffense in the United States.

In summary, there is no reliable way to reach a prediction of future sex-offense recidivism of greater than 50% in Mr. Ayers'

case. Most significantly, whatever risk he may pose, it is not due to a mental abnormality, and criminal inclination is not sufficient for civil commitment.

CONCLUSION

Mr. Ayers does not suffer from sexual pathology that causes him serious difficulty controlling his sexually dangerous behavior, and he therefore does not meet the requirements for commitment under RCW 71.09.

  
Theodore S. Donaldson, Ph.D.

tcsk

LENDER AYERS  
CSN. 33604-9 II  
RE: COMPLAINT #  
544Z

ADDENDUM TO COMPLAINT  
# 544Z AGAINST A DISTRICT  
COURT JUDGE FOR RACIAL, AND  
JUDICIAL BIAS, AS WELL AS PARTISAN  
POLITICAL MOTIVATION WITH REGARD  
TO STRONG PUBLIC OPINION AGAINST  
ALL SEX OFFENDERS REGARDLESS OF  
THE CASE.

6-PAGES, Plus  
28-PAGE  
MOTION  
DOCUMENT  
34 PAGES  
TOTAL

THE FOLLOWING DOCUMENT IS COMPRISED OF A MOTION, AND THE SECOND EVALUATION PROVIDED BY AN UNBIASED, AND HIGHLY ETHICAL FORENSIC PSYCHOLOGIST. IN THE CONTENTS OF DR. THEODORE DONALDSON'S 12-PAGE S.V.P. ANALYSIS, HE HAS PRESENTED CLEAR, AND UNDERSTANDABLY CONVINCING, MAJORITY CONSENSUS BASED EVIDENCE TO VERIFY THAT (1.) THERE IS EX POST FACTO DOCUMENTATION SHOWING THAT MY COMMITMENT UNDER THE SEXUALLY VIOLENT PREDATOR ACT IS UNCONSTITUTIONAL, IN VIOLATION OF THE 71-09 STATUTE, ABSENT A CONCEPTUALLY-VALID, EXPERT MAJORITY, AND COLLECTIVE A.P.A. STRUCTURED OPINION, OF FINDING THAT I ACTUALLY SUFFER FROM A VOLITIONAL IMPAIRMENT THAT RENDERS ME DANGEROUS BEYOND MY CONTROL, AND (2.) THE STATES DIAGNOSIS IS INVALID SINCE THERE IS NO DIAGNOSIS OF HEBEPHILIA WITHIN THE DSM AND SUBSEQUENTLY NO AUTHORATIVE BASIS FOR MY CIVIL COMMITMENT UNDER SUCH AN INVALID CHARACTERIZATION.

ATTACHED TO THIS ADDENDUM DOCUMENT, AND AS PART IN PORTION OF THE ATTORNEY'S MOTION, IS AN 11-PAGE DECLARATION FROM DR. TERENCE CAMPBELL. WITHIN THE CONTENTS OF DR. CAMPBELL'S TESTIMONY, HE INCLUDES SWORN STATEMENTS, AND FIELD EXPERT'S, CONSENSUS BASED EVIDENCE FROM THE JOURNAL OF SEXUAL OFFENDER CIVIL COMMITMENT: SCIENCE AND LAW, PROVEING THAT THE STATES SVP EVALUATOR IN MY PARTICULAR CASE, IS EXTREMELY SUBJECTIVE, UNETHICAL, DISHONEST, AND HE DELIBERATELY MISREPRESENTS EVIDENCE IN HIS SV DIAGNOSIS, AND EVALUATION PROCESS, FOR THE UNDERHANDED PURPOSE OF SATISFYING THE OFFICE OF ATTORNEY GENERAL'S ASPIRED WANT TO PROSECUTE AND CONFIRM DUE CAUSE TO CIVILLY COMMIT. THE SAID DOCUMENT NAMES DENNIS DOREN AS THE CULPRIT OF THIS ONE-SIDED PARTISAN POLITICAL PRACTICE.

THE ATTACHED DR'S. SVP. EVALUATION DOCUMENT IS THE SECOND OF SUCH EXCULPATIVE SVP. ANALYSIS DOCUMENTS PROVIDED BY A HIGHLY ACCREDITED EXPERT IN THE FIELD OF PSYCHOSEXUAL ANALYSIS AND CONSENSUS BASED RECIDIVISM ACTUARIAL SCORE DETERMINATION, THE FIRST OF SUCH SVP. EVALUATION DOCUMENTS HAD BEEN PRESENTED TO JUDGE NICHOLS IN 2004. BY A PROMINENT, AND WELL PUBLISHED PHD. PROFESSOR OF PSYCHOLOGY, WHO GOES BY THE NAME OF DR. RICHARD WOLLERT. WITHIN THE CONTENTS OF PROFESSOR WOLLERT'S 54-PAGE, SVP. EVALUATION DOCUMENT, HE PROVIDED THE PRESIDING JUDGE WITH AN INDEPTH TECHNICAL RECORD THAT CORROBORATIVELY ELABORATES THE SAME PROBATIVE FACTS THAT INCLUDE LEGAL, DIAGNOSTIC, AND CONSENSUS BASED FINDINGS DISCOVERED IN THE ATTACHED SVP. ANALYSIS DOCUMENT PROVIDED BY DOCTOR THEODORE DONALDSON.

WITH REGARD TO THE OVERWHELMING AMOUNT OF EXCULPATIVE  
EXPERT DIAGNOSIS, AND LEGAL DOCUMENTATION THAT HAS  
BEEN, AND CONTINUES TO BE PRODUCED FOR PRESENTATION TO  
THIS PRESIDING JUDGE, AS PROOF THAT I NEVER MET THE  
STATUTORY REQUIREMENT FOR AN ACCURATE SUP. DETER-  
MINATION, THE FACT THAT HE HAS KNOWINGLY FAILED TO  
EXERCISE THE DEGREE OF CARE THAT ANOTHER JUDGE OF  
ORDINARY, UN-BIASED PRUDENCE, AND JUDICIAL OBJECTIVITY  
WOULD HAVE EXERCISED IN THE SAME CIRCUMSTANCE IS A  
CLEAR AND OBVIOUS DEMONSTRATION OF A FAILURE TO COMPLY  
WITH A STANDARD OF CONDUCT WITH WHICH  
ANY REASONABLY HONORABLE JUDGE COULD AND WOULD HAVE  
COMPLIED BY ORCHESTRATING A MEANS TO FACILITATING  
MY RELEASE, AND RETURN HOME TO FAMILY AND LOVED ONES  
IN LOS ANGELES DUE TO THE LACK OF STATUTORY REQUIREMENTS  
FOR AN ACCURATE SUP. DETERMINATION.

9TH.  
CIRCUIT

U.S. V. GREENSPAN 26 F.3d 1001, 1005 (10TH. CIR. 1994)

("JUDGES ACTUAL STATE OF MIND, PURITY OF HEART, INCORRUPTIBILITY, LACK OF PARTIALITY ARE NOT THE ISSUE" BUT RATHER TEST IS "WHETHER A REASONABLE PERSON, KNOWING ALL THE RELEVANT FACTS, WOULD HARBOR DOUBTS ABOUT JUDGES IMPARTIALITY")

10TH.  
CIRCUIT

U.S. V. INTERNATIONAL BUSINESS MACHS. CORP, 857 F. SUPP. 1089, 1091 (S.D.N.Y. 1994) (SECTIONS 144 AND 455 (b)(1) ARE CONSTRUED IN PARI MATERIA, AND THE TEST OF LEGAL SUFFICIENCY OF A MOTION FOR RECUSAL IS THE SAME UNDER BOTH STATUTES") MANDAMUS GRANTED, 45 F.3d 641, 644, 643 (2d CIR. 1995) (JUDICIAL AND EXTRAJUDICIAL ACTIONS OF DISTRICT JUDGE "TO RECUSE HIMSELF FROM FURTHER CONSIDERATION OF [THE CASE]").

9TH.  
CIRCUIT

U.S. V. SIBLA, 624 F.2d 864, 868 (9TH. CIR. 1980) EVEN IN SITUATION IN WHICH SOLE GROUND ALLEGED FOR RECUSAL IS BIAS OR PREJUDICE, § 144, AND 455 ARE COMPLEMENTARY RATHER THAN REPETITIVE; § 455 MODIFIES § 144 "IN REQUIRING THE JUDGE TO GO BEYOND THE SECTION 144

IN MY PARTICULAR CASE, THE PREVIOUSLY REPORTED, AND NOTED, MULTIPLE CIVIL, LEGAL, AND CONSTITUTIONAL AMENDMENT VIOLATIONS THAT HAD BEEN COMMITTED BY THIS EXTREMELY INDIFFERENT, AND SEEMINGLY OBLIVIOUS JUDGE, HAVE SERVED TO VERIFY IPSO FACTO EVIDENCE OF AN EXTRAJUDICIAL SOURCE THROUGH EITHER PARTISAN POLITICAL ACTION OR OTHERWISE. IN THIS CASE, THE JUDGES ACTIONS MUST BE CONSIDERED BY AN UNBIASED AND RATIONAL FINDER OF FACT, TO BE MUCH MORE THAN "CUMULATIVE-ERROR", SUCH NON-QUASIJUDICIAL ACTIONS ARE PROOF OF SERIOUS SUBJECTIVITY SHOWN BY A JUDGE IN VIOLATION OF EX POST FACTO LAW, AND IN FAVOR OF THE PROSECUTING ATTY. GEN'S. WANT TO SUBSTANTIATE, AND CONFIRM MY CIVIL COMMITMENT. THE JUDGES ACTIONS ALSO DEMONSTRATE EX PARTE SIGNIFICANCE. THEREFORE, I WOULD HUMBLLY ASK THAT THE COURT RECUSE THE JUDGE, AND GRANT A RETRIAL BY JURY OR DISMISS PETITION

SIGNED: THIS DAY OF 8-9-07

Lenier R. Ayers

## CLAIM 10

THE JUDGE IN MY CASE HAS ABRIDGED MY RIGHT UNDER THE 71.09 STATUTE, TO RECEIVE A NEW TRIAL, AND OR A L.R.A. HEARING AS HE HAS INDICATED, BECAUSE I HAVE NOT PARTICIPATED IN SCC. TREATMENT.

THE 71.09. STATUTE INDICATES THAT I AM ENTITLED TO AN L.R.A. HEARING EVERY YEAR. IF THERE IS A PHYSIOLOGICAL CHANGE THAT PROVES THAT I DON'T MEET THE STATUTORY REQUIREMENTS FOR AN SVP. DETERMINATION.

NEW EVIDENCE IN DR. THEODORE DONALDSON'S 2007, SUP. EVALUATION INDICATES THAT THERE IS NO INDICATION I SUFFER FROM A MENTAL ABNORMALITY, OR A PERSONALITY DISORDER THAT COMPELS ME TO COMMIT OFFENCES OF A SEXUAL NATURE. A PHD. PROFESSOR RICHARD WOLLERT MADE THE SAME DIAGNOSIS IN HIS 2004 SUP. EVALUATION DOCUMENT. AS EMPOWERS BY THE STATUTE, UNDER THE ABOVE CONDITIONS TO INDICATE EITHER A PHYSIOLOGICAL CHANGE OR ABSENT A MENTAL ABNORMALITY, THERE IS NO OBJECTIVE BASIS FOR ME TO BE, OR HAVE BEEN DENIED AN L.R.A. HEARING OR A RETRIAL TOWARDS UNCONDITIONAL RELEASE OR A LESS RESTRICTIVE ALTERNATIVE TO INDEFINITE-DETENTION, DUE TO NEW EVIDENCE PRESENTED IN THE ABOVE STATED, 2007, AND 2004 EXPERT EVALUATION DOCUMENTS.

ACCORDING TO THE STATUTE ONCE AN SVP. EVALUATOR INDICATES FOLLOWING AN ANNUAL EVALUATION, THAT I DO-NOT MEET THE PSYCHOLOGICAL REQUIREMENTS FOR AN SVP. DETERMINATION, I AM ENTITLED TO A RETRIAL. HIS DENIAL FROM THE JUDGE IS A PARTISAN POLITIC LACT.

WHAT SENSE WOULD IT MAKE FOR ME TO BE INDEFINITELY DETAINED, AND ACTIVELY PARTICIPATEING IN TREATMENT FOR A MENTAL ABNORMALITY, OR DIAGNOSIS THAT CARRIES NO CONCEPTUAL VALIDITY IN MY PARTICULAR CASE AT BAR?

SEE CASE LAW IR DETENTION OF THE STATE V. JACCA, STATE V. PETERSON, STATE V. HENRI WILLIAMS

CLAIM 6

8-12-07 ATTY. PHONE CALL:

DURING A 3-WAY CONVERSATION BETWEEN SHELLIE CLARK, MYSELF AND ATTY. JOHN GUTBEZAHN, THE STATES APPOINTED PUBLIC DEFENCE ATTORNEY, GUTBEZAHN HAD INDICATED THAT HE WOULD NOT FILE EITHER A MOTION FOR INTERLOCUTORY APPEAL IN RESPONSE TO THE JUDGES DENIED MOTION, NOR A MOTION FOR A RETRIAL, REGARDLESS OF THE SUBSTANTIAL EXCULPATORY LEGAL CIRCUMSTANCES THAT PROVIDE DUE CAUSE FOR THE FILING OF SUCH A MOTION. THE ATTY. STATED THIS FOLLOWING MY REQUEST THAT HE FILE THESE MOTIONS FOLLOWING THE JUDGES NEGLIGENT

CLAIM 7.

IN THIS INSTANCE THE ATTY. GUTBEZAHN HAS ATTEMPTED TO CREATE HIS OWN, SELF IMPOSED REGULATION, STATING THAT HE CANNOT FILE ANY MOTIONS, OR PROVIDE ANY FURTHER LEGAL REPRESENTATION UNTIL A LETTER IS WRITTEN TO THE JUDGE AUTHORIZING FURTHER SERVICES. IN DOING THIS, THE ATTY. IS ATTEMPTING TO DELAY THE 30-DAY TIME LIMIT IMPOSED ON REQUESTED INTERLOCUTORY AND RETRIAL MOTION FILING. THIS ACT IS A VIOLATION OF MY RIGHT TO LEGAL REPRESENTATION, AND HAS BEEN CORROBORATIVELY DEvised TO ENABLE THE JUDGES PARTISAN POLITICAL AVOIDANCE OF SUBSTANTIAL LITIGATION ISSUES THAT HAD BEEN RESEARCHED, AND PAINSTAKINGLY PRESENTED TO THE COURT IN THE DENIED 8-10-07 MOTION.

CLAIM 8.

PREVIOUSLY, AN INEFFECTIVE PUBLIC DEFENDER BEGAN COMMITTING SIMILAR SUBVERSIVE ACTS TO AVOID PROPERLY DEFENDING ME. AT THAT TIME I FILED A PROSE MOTION FOR THE JUDGE TO APPOINT ME A NEW ATTORNEY. THE JUDGE THAN NEGLECTFULLY RESPONDED IN AN EXTENSIVE DELAY TACTIC, BY FAILING TO APPOINT ME REPRESENTATION FOR 6-MONTHS. IN THIS CAPACITY, THE JUDGE AND AT LEAST INDIRECTLY COMPLICIT, PUBLIC DEFENCE COUNSEL HAVE OBSTRUCTED MY ABILITY TO PREVAIL THROUGH THE FACILITATION OF DUE PROCESS, AND EQUAL PROTECTIONS OF THE LAW. THIS MALICIOUS, AND EXPLOITATIONOUSLY NEGLIGENT DELAY, AND AVOIDANCE TACTIC IS CURRENTLY BEING OPERATED BETWEEN MY CURRENT ATTY. AND THE JUDGE.

IN THIS CAPACITY, AND IN REFERENCE TO ALL OF THE ABOVE REPORTED, CONSTANTLY DEVELOPING OBSTRUCTIVE ACTS, HAVING BEEN COMMITTED BETWEEN THE JUDGE, AND PUBLIC DEFENCE COUNSEL, THE JUDGE HAS METHODICLY MANAGED TO MANIPULATE THIS FEIGNED INEPTITUDE, AND INEFFECTIVENESS OF COUNSEL AS AN OVERLITIGATION STRATEGY OF PROLONGING THE UNESSENTIAL CONTINUATION OF MY POLITICALLY MOTIVATED, CIVIL DETENTION, AND IN VIOLATION OF MY RIGHTS.

CLAIM 9.

THE ATTORNEY'S STATEMENTS INDICATEING THAT HE WOULD NOT FILE THE ABOVE SAID, REQUESTED MOTIONS HAS SUBSEQUENTLY VIOLATED MY 6TH. AMENDMENT RIGHT TO COUNSEL, AS WELL AS DUE PROCESS, AND EQUAL PROTECTION OF THE LAW.

ON 8-12-07 ATTY. REFUSED  
TO FILE REQUEST FOR INTER-  
LOCUTORY APPEAL OR RETRIAL  
MOTIONS FOLLOWING JUDGES  
PARTISAN POLITICAL ACT OF  
DENYING LIMINE MOTION  
CONTAINING SUBSTANTIAL  
NEW EVIDENCE ACCORDING TO  
THE 71.09 STATUTE

CLAIM 1.

THE 71.09 STATUTE STATES THAT I AM  
ENTITLED TO A NEW TRIAL, AND OR LRA  
REVIEW HEARING EVERY YEAR FOLLOWING  
A REEVALUATION PROCESS WHERE NEW, OR  
SUBSTANTIAL EVIDENCE IS PRESENTED TO  
THE COURT THAT CONTRADICTS THE STATE  
PROSECUTORS SVP. EVALUATION IN VERIFICATION  
THAT I DONT MEET THE SVP. STATUTE REQUIREMENTS.

THE JUDGE SUBJECTIVELY DENIED MY SUBSTANTIAL  
MOTION THAT PRESENTED SOLID EXCULPATIVE  
EVIDENCE PROVEING I DONT MEET THE 71.09 PSYCHO-  
LOGICAL REQUIREMENTS FOR A SVP. DETERMINATION.

CLAIM 2.

THE JUDGES DENIAL OF THIS MOTION HAD BEEN AN ACT THAT  
SUBVERTED THE RULE OF LAW, DENYING MY RIGHT  
TO DUE PROCESS, AND EQUAL PROTECTION OF THE  
LAW, AND SUBSEQUENTLY DEVELOPING AN ON-GOING  
LEGAL ENVIRONMENT OF MALICIOUS PROSECUTION.

CLAIM 3.

THE DENIAL OF THIS 8-10-07 MOTION CAN BE PERCEIVED  
AS AN EX PARTE ACT, WITH PARTISAN POLITICAL, AND OR  
MOTIVATIONS OF JUDICIAL BIAS.

CLAIM 4.

THE STATED MOTION PROVIDES PROBATIVE EVIDENCE  
PROVEING THAT THE STATES SVP. EVALUATION CONTAINS  
DECEPTIVELY MISLEADING DIAGNOSIS, AND ACTUARIAL SCORE  
DETERMINATION DATA WHICH CARRIES NO CONSENSUS OR  
CONCEPTUAL VALIDITY. THEREFORE, ACCORDING TO FEDERAL  
RULES OF EVIDENCE, THIS IMPRECISE TESTIMONY IS INAD-  
MISABLE ACCORDING TO NEW EVIDENCE PRESENTED IN THE  
RECKLESSLY DENIED MOTION.

⑤ CASELAW IN RE DETENTION OF THE STATE V. JACCA, STATE V.  
PETERSON, STATE V. HENRI WILLIAMS CONFIRMS THAT I AM LEGALLY  
ENTITLED TO A NEW TRIAL UNDER THE ABOVE INTERMEDIATE  
CONDITIONS.

CLAIM 5.

ACCORDING TO THE 71.09 STATUTE, I HAD BEEN SENT TO THE  
SEC. FOR THE PURPOSE OF RECEIVING AN OBJECTIVE, TRANSPARENT,  
AN ACCURATE, AND CONSENSUS BASED PSYCHOLOGICAL EVALUATION  
FOR A DETERMINATION AS TO WHETHER OR NOT I MEET THE SVP.  
CRITERIA. ACCORDING TO DATA PRESENTED IN THE IGNORED  
8-10-07 MOTION, THE STATES SVP. EVALUATION CONTRADICTS THE  
STATUTES MOTIVE. INTENT.

ADDENDUM TO JUDICIAL  
CONDUCT COMPLAINT # 5442  
FILED: 10/10/07

ATTYS WILLFUL NEGLIGENCE,  
INAFFECTIVE ASSISTANCE OF  
COUNSEL, AND JUDICIAL  
MISCONDUCT OF A JUDGE

RECEIVED

OCT 12 2007

DUE TO THE FACT THAT BOTH JUDGE JOHN NICHOLS, AND HIS  
"SELECTIVELY APPOINTED, INAFFECTIVE PUBLIC DEFENCE COUNSELOR," ATTY-  
JOHN GUTBEZAHN, AS HE HAD BEEN CHOSEN BY THE JUDGE TO REPRESENT  
MY CASE, FOLLOWING AN "EXCESSIVE, 6-MONTH WAITING PERIOD,"  
PRECEDING A RECUSAL MOTION THAT I FILED WITH THE SUPERIOR  
COURT IN REQUEST OF A NEW ATTY. DUE TO THIS PREVIOUS ATTORNEY'S  
ON-GOING DISPLAY OF WILLFUL NEGLIGENCE, AS INDICATED IN THE ABOVE  
STATED MOTION. I HAVE SUBSEQUENTLY BEEN COMPELLINGLY REQUIRED  
TO FILE EXTENSIVE COMPLAINTS WITH THE PROPER AUTHORITIES AS A MEANS  
OF ACQUIRING SOME SORT OF ASSISTANCE TOWARDS STOPPING ANY  
FURTHER ABRIDGMENT OF MY DUE PROCESS, AND 6TH. AMENDMENT RIGHTS  
TO RECEIVE THE ASSISTANCE OF ADEQUATE COUNSEL FOR MY "CIVIL-  
DEFENCE REQUIREMENTS" IN AN SVP. CASE, AND TO HAVE SUCH COUNSEL  
DEMONSTRATE DUE DILIGENCE IN THE FILING OF NECESSARY MOTIONS  
IN A TIMELY MANNER AS IS REQUIRED IN LITIGATION FOR EITHER A NEW TRIAL  
PURSUANT THE 71.09 STATUTE OR MY UNCONDITIONAL RELEASE FROM CIVIL  
CONFINEMENT ACCORDING TO EVIDENCE PRESENTED TO JUDGE NICHOLS IN  
THE LIMINE MOTION THAT HE RECENTLY DENIED IN VIOLATION OF THE SAID  
STATUTES PRIMA-FACIA STIPULATION. [SEE DENIED 9/10/07 DECLARATORY  
JUDGEMENT, AND LIMINE MOTION FOR EXPERT, CONSENSUS BASED FACTS IN MY  
PARTICULAR CASE, THAT CONSTITUTE THE LEGAL JUSTIFICATION OF UNCONDI-  
TIONAL RELEASE.]

NOTE:

A JUDGE SHOULD DISPOSE PROMPTLY AND DILIGENTLY DISCHARGE ADMIN-  
ISTRATIVE RESPONSIBILITIES AND OTHER BUSINESS OF THE COURT:  
THE ABOVE STATED "6-MONTH WAITING PERIOD" IS JUST ONE OF  
MANY REPORTED IMPROPRIETIES DEMONSTRATED TO FACILITATE CONTINUED,  
UNNECESSARY, CIVIL DETENTION BY THIS PARTISAN JUDGE, IPSO-FACTO.

FOLLOWING THE JUDGES CALLOUS REVIEW OF THE ABOVE STATED LIMINE  
MOTION IN DISPLAY OF SUBSTANTIALLY APPROPRIATE, CONSENSUS BASED,  
NEW, AND EXCULPATORY, "PRIMA-FACIA EVIDENCE", HE PARTISANLY SUBVERTED  
MY DUE PROCESS RIGHTS TO BE HEARD DURING A NEW TRIAL, AN LRA HEARING,  
OR UNCONDITIONAL RELEASE THROUGH THE SIMPLE DENIAL OF THE ABOVE STATED  
MOTION.

DURING A 9/13/07 PHONECALL BETWEEN MYSELF, AND THE ABOVE STATED  
"SELECTIVELY APPOINTED, AND TOTALLY INEXPERIENCED SVP CASE ATTY, JOHN  
GUTBEZAHN CONCEDED THAT DURING AN OFF THE RECORD CONVERSATION  
BETWEEN HIMSELF, AND THE ABOVE STATED JUDGE, THE JUDGE DISCLOSED THAT  
HE DENIED MY MOTION BECAUSE I HAD NOT PARTICIPATED IN SCC. TREATMENT  
COURSES.

FOR THIS JUDGE TO HAVE SUBVERSIVELY DENIED THE PRIMA-FACIA STIPULATION AS IT WAS IMPOSED BY THE 71.09 STATUTE, SUCH AN AVOIDANCE OF THE LAW HAS OVERTLY DEMONSTRATED AN OUTRAGEOUSLY HINDERING ABRIDGEMENT OF THE ABOVE STATED RIGHTS, AND STIPULATION REQUIREMENTS OF OR RELATED TO THIS RULE.

DURING A 9/27/07 PHONECALL BETWEEN MYSELF, AND A VERY EXPERIENCED, HIGHLY QUALIFIED, "SVP. CASE ATTORNEY" WHO IS CURRENTLY BEING STRATEGICLY, AND MALICIOUSLY DELAYED FROM BEING APPOINTED AS PRIMARY DEFENCE COUNSEL IN MY CASE, ATTORNEY JIM SHOENBERGER INDICATED TO ME THAT DURING A PHONECALL BETWEEN HIMSELF AND MY CURRENT ATTY, MR. JOHN GUTBEZAHN, ATTY. GUTBEZAHN CONCEDED THAT "I AM HIS FIRST CIVIL COMMITMENT CASE CLIENT, AND THAT HE NEVER REPRESENTED AN SVP. CASE PRIOR TO BEING APPOINTED TO MY CASE."

DURING MY FIRST PHONE CONVERSATION WITH ATTY. (J. G.), HE LIED TO ME STATING THAT "HE HAD BEEN VERY FAMILIAR WITH SVP. CASES, AND THAT HE HAS REPRESENTED SEVERAL OF THESE PARTICULAR CASES". THIS FALSE DISCLOSURE REPRESENTS A CONFLICT OF INTEREST BETWEEN MYSELF AND THE YOUNG, AND OBVIOUSLY INEXPERIENCED ATTORNEY BECAUSE IF HE HAD BEEN TRUTHFUL FROM THE BEGINNING, AND INFORMED ME OF THIS INEXPERIENCE, I WOULD NOT HAVE ALLOWED HIM TO BE APPOINTED AS MY LEGAL REPRESENTATIVE.

#### QUESTION:

AFTER HAVING GRANTED MY PREVIOUS MOTION TO RECUSE, AND APPOINT ME A NEW ATTORNEY, DUE TO AN APPARENT INEFFECTIVE ASSISTANCE OF COUNSEL, WHY WOULD JUDGE NICHOLS APPOINT AN EVEN LESSE COMPETENT, INEXPERIENCED ATTY. TO MY CASE UNLESS HE HAD INTENTIONS UPON MANIPULATING THE UNSKILLED ATTORNEY INTO BECOMING COMPLIANT WITH HIS PARTISAN OBJECTIVE TO CONTINUE MY PROSECUTION IN ORDER TO INDEFINITELY DETAIN ME?

ASSIDE FROM RECENTLY HAVING MALICIOUSLY DENIED MY 9/10/07 MOTION IN ORDER TO SUBVERT MY RIGHT TO A NEW TRIAL, LRA, OR UNCONDITIONAL RELEASE ACCORDING TO RECENTLY DEVELOPED "PRIMA-FACIA EVIDENCE VERIFYING THAT I DO-NOT SUFFER FROM A PERSONALITY DISORDER OR MENTAL ABNORMALITY THAT COMPELLS SEXUAL DANGEROUSNESS, THE JUDGE, AND THE SAID ATTY. JOHN GUTBEZAHN HAVE CORROBORATIVELY

DEADLOCKED ANY AND ALL FURTHER EFFORTS THAT I INTEND TO PUT FOURTH TOWARDS LITIGATING FOR MY RELEASE OR RETRIAL BY WAY OF THE FOLLOWING MEANS:

ON OR ABOUT 9/14/07, DURING A TELEPHONE CONVERSATION BETWEEN MYSELF AND ATTY. (J.G.), HE WENT SO FAR AS TO INFORM ME THAT HE HAS ACTED AS MY ATTORNEY ON THIS CASE FOR 1-YEAR, AND IF I WANTED HIM TO REMAIN ON MY CASE AS THE REPRESENTING ATTORNEY, I AM REQUIRED TO WRITE THE JUDGE A LETTER REQUESTING THAT HE REAPPOINT HIM TO CONTINUE REPRESENTING MY CASE."

FIRST OF ALL THERE IS NO LAW STATING THAT SUCH A LETTER WRITING PROCESS IS NECESSARY FOR A STATE APPOINTED ATTORNEY OR PAID ATTORNEY TO CONTINUE REPRESENTING A CLIENT ONCE THE ATTY. HAS BEEN APPOINTED TO THE CLIENT'S CASE. I PERCEIVE SUCH AN UNORTHODOX SUGGESTION TO HAVE BEEN THIS ATTY'S. INDIRECT MEANS OF STATING THAT HE NO LONGER DESIRED TO REPRESENT MY CASE. FURTHERMORE, ATTY. GUTBEZAHN WENT ON TO STATE THAT HE DID NOT INTEND TO FILE MY REQUESTED INTERLOCUTORY APPEAL IN RESPONSE TO THE JUDGES 9/10/07 MOTION DENIAL NOR HAS HE ANY INTENT UPON FILING A RETRIAL MOTION DUE TO THE JUDGES STATEMENT INDICATING THAT HE DENIED THE ABOVE SAID MOTION BECAUSE I HAD FAILED TO PARTICIPATE IN SVP. TREATMENT WHILE AT THE SCC.

ATTY. GUTBEZAHN HAS REFUSED TO MAKE ANYTYPE OF RESPONSE TO ANY OF MY PHONECALLS IN REQUEST OF FURTHER LEGAL ASSISTANCE WITH MY CASE SINCE 9/14/07, AND THE JUDGE HAS DEMONSTRATED A COMPLICIT CORROBORATION WITH THIS ATTY, EXHIBITING A COCAINE RESPIRATORIAL MEETING OF THE MINDS, THROUGH HIS COMPLETE, AND TOTAL FAILURE TO PROVIDE ANYTYPE OF RESPONSE TO A NOTARIZED LETTER THAT I MAILED HIM AS PER THE ABOVE STATED 9/14/07 REQUEST FOR ME TO SEND SUCH A LETTER, AS HAD BEEN SUGGESTED BY ATTY. GUTBEZAHN, FOR HIS CONTINUED LEGAL ASSISTANCE.

NOTE:

I HAVE INCLUDED A NOTARIZED COPY OF THE ABOVE SAID LETTER SENT TO JUDGE NICHOLS ON 8/16/07. THERE HAS BEEN NO RESPONSE TO THIS LETTER. THEREFORE I AM CURRENTLY AT A DEADLOCK AS FAR AS ALL OF MY EFFORTS TOWARDS FURTHER LITIGATION IN RESPONSE TO THE JUDGES 9/10/07 MOTION DENIAL HAVE BEEN ABRIDGED AND SUBSEQUENTLY HALTERED WITH NO RELIEF IN SIGHT...

CC. ATTY. JOHN GUTBEZAHL  
MALCOLM ROSS WA. ST.  
ASST. ATTY. GEN.

8-11-07  
REQUEST FOR  
REAPPOINTMENT  
OF CURRENT, OR  
DILIGENT COUNSEL  
CASE # 33604-9-II IN RE:  
LENIER R. AYERS, PLAINTIFF

HONORABLE  
JUDGE JOHN NICHOLS  
CLARK COUNTY SUPERIOR  
COURT, VANCOUVER WASH.  
P.O. Bx. 5000  
VANCOUVER, WASHINGTON  
98666-5000

DEAR HONORABLE JUDGE,

ATTY. GUTBEZAHL HAS INDICATED THAT HE CAN NO LONGER  
PROVIDE ME NEEDED LEGAL REPRESENTATION UNLESS YOU  
REAUTHORIZE ANNUAL COMPENSATION FOR HIS CONTINUED  
COUNSEL IN MY CASE. AT THIS PARTICULAR POINT IN  
TIME, THERE HAPPENS TO BE A CRUCIAL URGENCY FOR THIS  
ATTORNEY'S UNHINDERED SERVICES TOWARDS FURTHER LITIGATION  
IN MY DEFENCE WITH RESPECT, AND APPRECIATION FOR MY  
1ST., AND 6TH. AMENDMENT RIGHTS, AS WELL AS THE CLAUSE  
MENTIONED WITHIN THE 71.09 STATUTE, WHERE IT INDICATES THAT  
THERE MUST BE EITHER A PHYSIOLOGICAL CHANGE OR IN MY  
PARTICULAR CASE IN ACCEPTION, A LACK OF PHYSIOLOGICAL  
MALFUNCTION, OR PSYCHOLOGICAL DISORDER THAT CAUSES SEXUAL  
COMPULSIVITY.

IMMEDIATE REQUIRED LEGAL  
REQUEST:

(8/27/07 - No Response  
from Judge Nichols.)

I ASSERT MY 1ST., AND 6TH. AMENDMENT RIGHTS IN HUMBLE  
REQUEST THAT THE SUPERIOR COURT CONTACT THE DEFENDERS ASSOC.  
TO EXPEDITE THE REAPPOINTMENT OF ATTY. GUTBEZAHL. OR, IF  
ATTY. GUTBEZAHL DECIDES NOT TO DILIGENTLY PURSUE TOWARDS MY  
RELEASE, I WOULD ASK THE COURT TO APPOINT A VERY QUALIFIED  
ATTORNEY WHO WILL.

P.S. I AM NOW IN THE PROCESS OF REENROLLING IN A D.B.T.  
COMPOUND TREATMENT PROGRAM TO PROVE OVER A PERIOD OF TIME,  
THAT I AM NOT THIS OVEREXAGGERATED THREAT TO SOCIETY AS HAS  
BEEN PERCEIVED THROUGH THE SUBJECTIVE LENS THAT I AM BEING  
VIEWED THROUGH FOR THIS POLITICAL DETENTION PROCESS...

SIGNED:

Lenier Ayers  
8-15-07



NOTARY SEAL:

Notary in Washington State  
my Comm. Ex 4-23-10  
Glen L. Whitbeck

DF14 0 \*FELONY OFFENDER REPORTING SYSTEM - R2V5\* 5/19/2008 10:34AM PAGE: 001  
PUBLIC DISCLOSURE INFORMATION - STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS  
SCREEN C - CONVICTION INFORMATION

NAME: LENIER AYERS DOC#: 984753 SID#: 15206469  
LFO OWED: NO LFO OWED AS OF: 5/18/2008  
CURRENT LOC: CIVILLY COMMIT CURRENT STATUS: UNAVAILABLE

\*\*\*\*\* NEWEST TO OLDEST SENTENCE INFORMATION \*\*\*\*\*

COUNTY	CAUSE	DT OF SNT	ST	MX	DT	CRIME DESCR-MOST	SER	SERV	CONDITIONS
	<del>91-1011074</del>	<del>4/19/01</del>	<del>4/19/02</del>			<del>MISD-ASSAULT</del>			
CLARK	91-1010480	12/26/91	10/07/01			NV CHILD SEX		BOTH AC CP CR	TR
CLARK	91-1010471	12/26/91	7/26/96			NV CHILD SEX		BOTH AC CP CR	TR
CLARK	90-1011003	12/26/91	10/07/01			NV CHILD SEX		BOTH AC CP CR	TR

F1=MENU, F3=EXIT, F7=PAGE BACKWARD, F8=PAGE FORWARD, ENTER=CONTINUE

4-© 1 Sess-1 206.194.129.5 FTCP1212 1/1

DF16 0 \*FELONY OFFENDER REPORTING SYSTEM - R2V5\* 5/19/2008 10:14AM PAGE: 001  
COUNTY CLERK INFORMATION - STATE OF WASHINGTON DEPARTMENT OF CORRECTIONS  
SCREEN E - LEGAL FINANCIAL OBLIGATION INFORMATION

NAME: LENIER AYERS DOC#: 984753 SID#: 15206469  
OFFENDER: SSN: 568-08-1348  
MAILING : NOT APPLICABLE SSN: 562-17-5499  
NAME AND: SSN: 567-17-5347  
ADDRESS : SSN:  
DATE SCREEN LAST UPDATED: SSN: -NO MORE SSN-  
LAST DATE OF CONTACT: 9/08/2004  
CURRENT LOC: CIVILLY COMMIT CURRENT STATUS: UNAVAILABLE  
COST OF SUPERVISION FEE BALANCE: \$ 0.00

\*\*\*\*\* LFO INFORMATION BY COUNTY \*\*\*\*\*

COUNTY	CAUSE	DATE OF SENT	SCHED END DATE	ST	MX	DT	OR	BIL	INT	DATE	CLCT	IBLE
CLARK	90-1011003	12/26/91	TOLLING	10/07/01	\$			50		4/01/00	N	
CLARK	91-1010471	12/26/91	TOLLING	7/26/96	\$			20		1/01/99	N	
CLARK	91-1010480	12/26/91	TOLLING	10/07/01	\$			20		1/01/99	N	
<del>CLARK</del>	<del>90-1011074</del>	<del>12/26/91</del>	<del>TOLLING</del>	<del>10/07/01</del>	<del>\$</del>			<del>50</del>		<del>4/01/00</del>	<del>N</del>	

THE LAST PAGE OF LEGAL FINANCIAL OBLIGATION INFORMATION IS DISPLAYED.  
F1=MENU, F2=PHIST, F3=EXIT, F7/F8=LFO BCK/FWD, F9/F10=SSN BCK/FWD