

COURT OF APPEALS
NOV 29 11 29 AM '08
STATE OF WASHINGTON
BY [Signature]
DEPUTY

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION II

In re Personal Restraint Petition of:

MICHAEL DEAN CRAYNE

Petitioner.

Case No. 42515-7

PERSONAL RESTRAINT PETITION

If there is not enough room on this form, use other pages and write "See Attached." Fill out this entire form before you sign this form in front of a notary public (free in the law library).

A. STATUS OF PETITIONER

I, M I C H A E L D E A N C R A Y N E,
(Full name and current address)

Stafford Creek Corr. Ctr., 191 Constantine Way, Aberdeen, WA., 98520

apply for relief from confinement. I am now in custody serving a sentence on conviction of a crime. I am now in custody because of a *Judgment and Sentence*.

1. The court in which I was sentenced is: COWLITZ COUNTY SUPERIOR COURT
2. I was convicted of the crime(s) of: ASLT., 1-degree; 2-ct's Vio. N/Cont. Order
3. I was sentenced after (check one) Trial Plea of Guilty on 11/04/08
(Date of sentence)
4. The Judge who imposed sentence was JAMES WARME
5. My lawyer at trial court was JOHN A. HAYS
(Name and address if known)

6. I did did not _____ appeal from the decision of the trial court. If I did appeal, I appealed to: COWLITZ COUNTY SUPERIOR COURT

(Name of court or courts to which appeal took place)

7. My lawyer for my appeal was: Robert M. Quillian; Olympia, Washington.
(Name and address if known or write "none")

The decision of the appellate court was _____ was not published. (If the answer is that it *was* published, and I have this information) the decision is published in _____

8. Since my conviction I have _____ have not asked a court for some relief from my sentence other than I have already written above. (If the answer is "I have asked a court", the court I asked was N/A. Relief was denied on _____
(Name of court)

(Date of Decision or, if more than one, all dates)

(If you have answered in question 7 that you did ask for relief), the name of your lawyer in the proceedings mentioned in my answer was _____
(Name and address if known)

9. If the answers to the above questions do not really tell about the proceedings and the courts, judges and attorneys involved in your case, tell about it here: Petitioner seeks
to withdraw his guilty plea due to ineffective assistance of trial counsel;

A Notice of Appeal was timely filed in the COWLITZ COUNTY SUPERIOR COURT
and Equitable Tolling may apply.

B. GROUNDS FOR RELIEF:

(If I claim more than one reason for relief from confinement, I will attach sheets for each separately, in the same was as the first one. The attached sheets should be numbered "First Ground", "Second Ground", "Third Ground", etc.). I claim that I have ___ reason(s) for this court to grant me relief from the conviction and sentence described in Part A.

Three Ground
(First, Second, etc.)

1. I should be given a new trial or released from confinement because (State legal reasons why you think there was some error made in your case which gives you the right to a new trial or release from confinement): The Petitioner should be allowed to withdraw his plea due to manifest injustice
See OPENING BRIEF IN SUPPORT;

2. The following facts are important when considering my case. (After each fact statement put the name of the person or person who know the fact and will support your statement of the fact. If the fact is already in the record of your case, indicate that also) . Counsel misinformed the Petitioner of the availability of a diminished capacity defense.

3. The following reported court decisions (indicate citations) in cases similar to mine show the error I believed happened in my case: See OPENING BRIEF IN SUPPORT;

4. The following statutes and constitutional provisions should be considered by the court: Sixth, and Fourteenth Amendments to the United States Constitution, and Art. 1, Section 22, (amend. 10)

5. This petition is the best way I know to get the relief I want, and no other way will work as well because: exhausted available remedies.

C. STATEMENT OF FINANCES:

I cannot afford to pay the \$250 filing fee or cannot afford to pay an attorney to help me fill out this form. I have attached a certified copy of my prison finance statement (trust account).

- 1. I do do not ask the court to file this without making me pay the \$250 filing fee because I am so poor and cannot pay the fee.
- 2. I have \$ 0 in my prison or institution account. (Attach *certified* six month statement of inmate trust account, available from inmate accounting.)
- 3. I do do not ask the court to appoint a lawyer for me.
- 4. I am am not employed. My salary or wages amount to \$ 0 a month. My employer is:

N/A

(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, I got a total of \$ _____.)
- 6. During the past 12 months I:
 - 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 \$ 150.00.
 - Did did not have any cash except as noted in (C)(2) above. If I do, the total cash I have is: \$ _____.
 - Did did not have savings or checking account. If so, total in all accounts is \$ _____.
 - Did did 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 each item or property is worth and how much you owe on it. Do not list household furniture, furnishings, and clothing which you or your family own.

<i>Items</i>	<i>Value</i>
N/A	

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

N/A

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

Name & Address

Relationship

Age

not applicable

10. All the bills I owe are listed here:

Name & Address of creditor

Amount

not applicable

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.

 X Other: vacate my guilty plea, and remand for trial.

(Please specify)

PLRA IN FORMA PAUPERIS STATUS REPORT
FOR DEFINED PERIOD : 01/01/2011 TO 06/30/2011

DOC : 0000325024
DOB : 04/17/1954

NAME : CRAYNE MICHAEL

ADMIT DATE :11/17/2008
ADMIT TIME :00:00

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
154.17	30.83	32.60	6.52

STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
OFFICE OF CORRECTIONAL OPERATIONS
STAFFORD CREEK CORRECTION CENTER
CERTIFIED BY: GL Harp

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF COWLITZ

MICHAEL DEAN CRAYNE) No. 07-1-01405-2
)
) Plaintiff / Petitioner,)
)
 v.) ORDER OF INDIGENCY
)
 STATE OF WASHINGTON)
)
) Defendant / Respondent.)
 _____)

ORDER

The court finds that the Plaintiff lacks sufficient funds to prosecute an appeal and applicable law grants Plaintiff a right to review at public expense to the extent defined in this order.

The court orders as follows:

1. The filing fee is waived.
2. Mr. Crayne, is entitled to the following at public expense:
 - a. Those portions of the verbatim report of proceedings reasonably necessary for review as follows:

Clerk's papers, portions of record
relating to guilty plea, and verbatim
report of hearing and ruling on
motion to withdraw guilty plea (4/15/2011 and
(4/29/2011).

b. A copy of the clerk's papers:

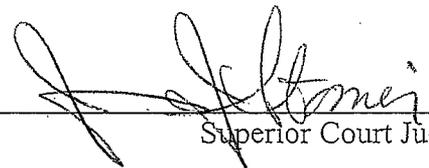
see above.

c. Preparation of original documents to be reproduced by the clerk as provided in rule 14.3(b).

d. Reproduction of briefs and other papers on review that are reproduced by the clerk of the appellate court.

e. ~~The cost of transmitting the following cumbersome exhibits:~~

ORDERED this 11 day of July, 2011.



Superior Court Judge
Presiding

Presented by:

Michael D. Crayne

DOC# 325024 H4-B

191 Constantine Way
Aberdeen, Wa 98520

II. DECLARATION / CERTIFICATION OF INDIGENCE

I, Michael Dean Crayne, Appellant pro se, certify I am the Appellant in this action and I wish to appeal the judgment that was entered in the above entitled cause. I further certify as follows:

- 1. That I do not have any money in checking and/or savings accounts () I have \$ _____ grand total in all checking and savings accounts.
- 2. That I am: not married () married and my wife's monthly income is: \$ _____
- 3. That I own: () No personal property other than my personal effects.
 Personal property (automobile, money, inmate account, motors, tools, etc) valued at \$ -\$500.00
 No real property () Real property valued at \$ _____
() Stocks, bonds, notes, or other valuables (NOT furniture, clothes or household goods) worth: \$ _____
- 4. That I have the following income: No income from any source
() Income from **employment**, disability payments, SSI, insurance, annuities, stocks, bonds, interests, dividends, rental payments, etc., in the amount of \$ _____ on an average monthly basis.
I received \$ _____ after taxes over the past 12 months. The name and address of my employer is:
- 5. That I have: () No debts Debts in the total amount from all debts owed of \$ \$2,000.00+
- 6. I am without other means to prosecute an appeal and desire that public funds be expended for that purpose.
- 7. I can contribute the following amount toward the expense of review: \$ 0
- 8. The following is a brief statement of the nature of the case and the issue sought to be reviewed.

The Appellant/Defendant was misinformed of the direct consequences of his plea. As a consequence, he was denied effective assistance of counsel, in violation of the Sixth, and Fourteenth Amendment to the United States Constitution.

- 9. I ask the court to provide the following at public expense: all filing fees, attorney fees, preparation, reproduction, and distribution of briefs, preparation of verbatim report of proceedings, and preparation of necessary clerk's papers.
- 10. I authorize the court to obtain verification information regarding my financial status from banks, employers, or other individuals or institutions, if appropriate.
- 11. I certify that I will immediately report any change in my financial status to the court.
- 12. I certify that review is being sought in good faith. I declare that all of the above is true and correct under penalty of perjury of the laws of the State of Washington.

Done this 21 day of JUNE, 2011.

Signed: Mike Crayne DOC # 325024

Print name: MICHAEL DEAN CRAYNE
Stafford Creek Correction Center, Unit:
191 Constantine Way
Aberdeen, WA 98520

COURT OF APPEALS
DIVISION II

CERTIFICATE OF SERVICE

11 AUG 2011 09:17

STATE OF WASHINGTON
DEAN
DEPUTY

I, Michael Dean Crayne Mr. Michael Dean
Craynes Authorized Representative, did deposit
the following documents, by first class mail,
pre-paid postage, under COA# 42469-0-II, under
Cowlitz County Cause# 07-1-01405-2:

PETITIONER'S OPENING BRIEF in support of PRP;
APPENDICES in support of the APPLICATION

addressed to the following:

COURT OF APPEALS, DIVISION TWO
950 BROADWAY, STE. 300,
TACOMA, WA., 98402-4454

and

MICHELLE L. SHAFFER
COWLITZ COUNTY PROS. ATTY. OFFICE
312 S.W., 1st. AVE.,
KELSO, WA., 98626-1799

I declare under penalty of perjury under the
laws of the State of Washington that the
foregoing is true, and correct.

MAILED this 26 Day of AUGUST, 2011.

Karen Rings POA
Authorized Representative
on behalf of MICHAEL DEAN CRAYNE

11 AUG 2011 09:17

E. OATH OF PETITIONER

STATE OF WASHINGTON)
) ss.
COUNTY OF GRAY'S HARBOR)

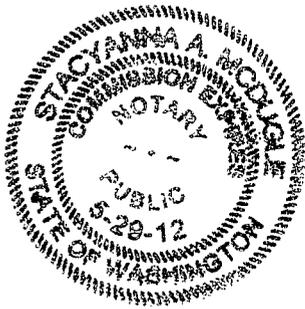
After being first duly sworn, on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents and I affirm the contents of this petition are true and correct under penalty of perjury of the laws of the State of Washington.

(Sign before a Notary) *Michael Dean Crayne* ^{POA} *Karen Rings*
(Print Name) MICHAEL DEAN CRAYNE

DOC # 325024, UNIT H-4
STAFFORD CREEK CORRECTION CENTER
191 CONSTANTINE WY
ABERDEEN WA 98520

SUBSCRIBED AND SWORN to before me this 21st day of AUGUST, 20 11.

Stacyanna A. McCollough
Notary Public in and for the State of Washington
Residing at ~~Gray's Harbor~~ Thurston County



General Power of Attorney

(with Durable Provision)

NOTICE: THIS IS AN IMPORTANT DOCUMENT. BEFORE SIGNING THIS DOCUMENT, YOU SHOULD KNOW THESE IMPORTANT FACTS. THE PURPOSE OF THIS POWER OF ATTORNEY IS TO GIVE THE PERSON WHOM YOU DESIGNATE (YOUR "AGENT") BROAD POWERS TO HANDLE YOUR PROPERTY, WHICH MAY INCLUDE POWERS TO PLEDGE, SELL OR OTHERWISE DISPOSE OF ANY REAL OR PERSONAL PROPERTY WITHOUT ADVANCE NOTICE TO YOU OR APPROVAL BY YOU. YOU MAY SPECIFY THAT THESE POWERS WILL EXIST EVEN AFTER YOU BECOME DISABLED, INCAPACITATED OR INCOMPETENT. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL OR OTHER HEALTH CARE DECISIONS FOR YOU. IF THERE IS ANYTHING ABOUT THIS FORM THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

TO ALL PERSONS, be it known that I, Michael D Crayne
of Cashwa Rock wa
the undersigned Grantor (hereinafter Principal), do hereby make and grant a general power of attorney to Karen Rings
of Olympia, WA
and do thereupon constitute and appoint said individual as my Attorney-in-Fact/Agent.

If my Agent is unable to serve for any reason, I designate Hendran Carle
of Shelton wa 98584, as my successor Agent.

My Attorney-in-Fact/Agent shall act in my name, place and stead in any way that I myself could do, if I were personally present, with respect to the following matters, to the extent that I am permitted by law to act through an agent:

(NOTICE: The Principal must write his or her initials in the corresponding blank space of each box below with respect to each of the subdivisions (A) through (N) below for which the Principal wants to give the agent authority. If the blank space within a box for any particular subdivision is NOT initialed, NO AUTHORITY WILL BE GRANTED for matters that are included in that subdivision. Cross out each power withheld.)

- [ME] (A) Real estate transactions
- [ME] (B) Tangible personal property transactions
- [ME] (C) Bond, share and commodity transactions
- [ME] (D) Banking transactions
- [ME] (E) Business operating transactions
- [ME] (F) Insurance transactions
- [ME] (G) Gifts to charities and individuals other than Attorney-in-Fact/Agent
(If trust distributions are involved or tax consequences are anticipated, consult an attorney.)
- [ME] (H) Claims and litigation
- [ME] (I) Personal relationships and affairs
- [ME] (J) Benefits from military service

- [ME] (K) Records, reports and statements
- [ME] (L) Full and unqualified authority to my Attorney-in-Fact/Agent to delegate any or all of the foregoing powers to any person or persons whom my Attorney-in-Fact/Agent shall select
- [ME] (M) Access to safe deposit box(es)
- [ME] (N) All other matters

Durable Provision:

- [ME] (O) If the blank space in the block to the left is initialed by the Principal, this power of attorney shall not be affected by the subsequent disability or incompetence of the Principal.

Other Terms: _____

My Attorney-in-Fact/Agent hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with my best interests as he or she in his or her best discretion deems advisable, and I affirm and ratify all acts so undertaken.

TO INDUCE ANY THIRD PARTY TO ACT HEREUNDER, I HEREBY AGREE THAT ANY THIRD PARTY RECEIVING A DULY EXECUTED COPY OR FACSIMILE OF THIS INSTRUMENT MAY ACT HEREUNDER, AND THAT REVOCATION OR TERMINATION HEREOF SHALL BE INEFFECTIVE AS TO SUCH THIRD PARTY UNLESS AND UNTIL ACTUAL NOTICE OR KNOWLEDGE OF SUCH REVOCATION OR TERMINATION SHALL HAVE BEEN RECEIVED BY SUCH THIRD PARTY, AND I FOR MYSELF AND FOR MY HEIRS, EXECUTORS, LEGAL REPRESENTATIVES AND ASSIGNS, HEREBY AGREE TO INDEMNIFY AND HOLD HARMLESS ANY SUCH THIRD PARTY FROM AND AGAINST ANY AND ALL CLAIMS THAT MAY ARISE AGAINST SUCH THIRD PARTY BY REASON OF SUCH THIRD PARTY HAVING RELIED ON THE PROVISIONS OF THIS INSTRUMENT.

Signed under seal this 30th ~~October~~ day of October, 2008.

Signed in the presence of:

[Signature]
 Witness

[Signature]
 Grantor (Principal)

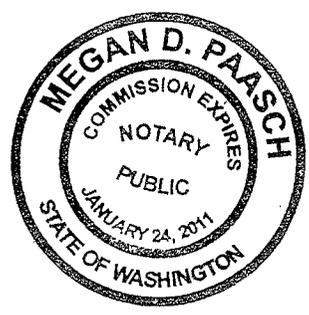
[Signature]
 Witness

[Signature]
 Attorney-in-Fact/Agent

State of Washington)
County of Cowlitz)

On October 30 2008, before me, Megan D Paasch,
appeared Michael Crayne and Karen Kings, personally known to me (or proved
to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within
instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

WITNESS my hand and official seal.
Megan D Paasch
Signature of Notary



Affiant Known Produced ID
Type of ID WA Driver License
(Seal)

**IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II**

In re: Personal Restraint Petition of: MICHAEL DEAN CRAYNE	Case No. _____ PERSONAL RESTRAINT PETITION
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PETITIONER'S OPENING BRIEF

Michael D. Crayne
Stafford Creek Corr. Ctr.,
191 Constantine Way,
Aberdeen, WA., 98520

**IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II**

<p>In re: Personal Restraint Petition of:</p> <p style="text-align: center;">MICHAEL DEAN CRAYNE</p>	<p>Case No. <u>42469-0-II</u></p> <p style="text-align: center;">PERSONAL RESTRAINT PETITION</p>
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PETITIONER'S OPENING BRIEF

Michael D. Crayne
Stafford Creek Corr. Ctr.,
191 Constantine Way,
Aberdeen, WA., 98520

TABLE OF AUTHORITIES CITED

Supreme Court:

<u>Cases</u>	<u>Page Number(s)</u>
<u>State v. Adams</u> , 91 Wn.2d 86, 586 P.2d 1168 (1978).....	15
<u>State v. Aho</u> , 137 Wn.2d 736, 975 P.2d 512 (1999).....	16
<u>State v. Coates</u> , 107 Wn.2d 882, 735 P.2d 64 (1987).....	14
<u>State v. Craig</u> , 82 Wn.2d 777, 514 P.2d 151 (1973).....	11
<u>State v. Ferrick</u> , 81 Wn.2d 942, 506 P.2d 860 (1973).....	10
<u>State v. Jeffries</u> , 105 Wn.2d 398, 717 P.2d 722 (1986).....	14
<u>State v. Miller</u> , 110 Wn.2d 528, 756 P.2d 122 (1989).....	21
<u>State v. Moore</u> , 61 Wn.2d 165, 377 P.2d 456 (1963).....	11
<u>State v. Osborne</u> , 102 Wn.2d 87, 684 P.2d 683 (1984).....	8
<u>In Re Personal Restraint of Rice</u> , 128 Wn.2d 876, 828 P.2d 1086 (1992).....	7
<u>State v. Saas</u> , 118 Wn.2d 37, 820 P.2d 505 (1991).....	6
<u>State v. Taylor</u> , 83 Wn.2d 594, 521 P.2d 699 (1974).....	6

Cases:	Page Number
<u>State v. Thomas</u> , 109 Wn.2d 222, 743 P.2d 816 (1987).....	8, 16
<u>State v. Tyler</u> , 77 Wn.2d 726, 466 P.2d 120 (1970).....	10
<u>State v. White</u> , 60 Wn.2d 551, 374 P.2d 942 (1962).....	11

Court of Appeals:

Cases:

<u>State v. Martin</u> , 14 Wn.App. 74, 538 P.2d 873 (1975).....	10
<u>State v. Norby</u> , 20 Wn.App. 378, 579 P.2d 1358 (1978).....	12
<u>In re Personal Restraint of Reise</u> , 146 Wn.App. 772, 192 P.3d 949 (2008).....	21
<u>State v. Simmons</u> , 30 Wn.App. 432, 635 P.2d 745 (1981).....	12
<u>State v. Talley</u> , 83 Wn.App. 750, 923 P.2d 721 (1996).....	2

SUPREME COURT Cases:

<u>Strickland v. Washington</u> , 466 U.S. 668 (1984)....	passim
<u>United States v. Bagley</u> , 473 U.S. 667 (1985).....	9

CONSTITUTIONAL PROVISIONS AND STATUTES

RAP 16.4
 CrR 4.2(f)
 RCW 10.76.010
 The Sixth, and Fourteenth Amendments to the United-
 States Constitution.

**IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION II**

In re: Personal Restraint Petition of: MICHAEL DEAN CRAYNE	Case No. <u>42469-0-II</u> PERSONAL RESTRAINT PETITION
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I. STATUS OF PETITIONER

Mr. Michael Dean Crayne, is presently in-custody of the Department of Corrections, (Stafford Creek Corr. Ctr.), pursuant to a court-order, judgment and sentence, in STATE V. CRAYNE, Cause# 07-1-01405-2, on: plea agreement that was a direct result of ineffective assistance of counsel, in violation of the Sixth Amendment to the United States Constitution.

No other petitions have been filed in the appellate courts, related to this cause and issues. Petitioner subsequently filed motion to withdraw his guilty plea in the Superior Court in and for the County of Cowlitz, which was consequently denied. Petitioner timely filed notice of appeal, and this personal restraint petition seasonably followed.

II. STANDARD FOR REVIEW

The standards set forth in In Re Personal Restraint of Isadore, 151 Wn.2d 294, 298-99, 88 P.3d 390 (2004), applies

due to the Petitioner's unlawful restraint. See RAP 16.4-(b)(c) and (7).

III. EVIDENTIARY HEARING

The Petitioner, Mr. Crayne, moves this honorable court for an evidentiary hearing, in order to develop the facts of the underlying federal claims. Respondent may argue against this petition, rather than concede to its manifest injustice. State v. Talley, 83 Wn.App. 750, 758-60, 923 P.2d 721 (1996).

IV. ISSUES PRESENTED FOR REVIEW

ARGUMENT 1: Whether Defense Counsel Was Ineffective For Failing to Properly Present A Diminished Capacity Defense?

ARGUMENT 2: Whether Counsel's Failure to Obtain all Expert Opinions Supporting Diminished Capacity, Constitute Ineffective Assistance of Counsel?

ARGUMENT 3: Whether Counsel Was Ineffective By Misinforming The Defendant of the Unavailability of the Diminished Capacity Defense or Expert Opinions Supporting the Defense?

V. STATEMENT OF THE CASE

The petitioner's wife Cindy Crayne has had a long history of emotional and mental problems. She had not been so bad as to need constant medication or have legal options imposed on her. She has grandmal seizures caused by epilepsy. She sometimes gets delusional and has been having a lot of trouble with this. The petitioner had been trying to convince her to go to counseling, which they had done before but this time she refused to go. A friend of the petitioner of 20 years, a Mr. West, knew of these troubles and was taking advantage of her. Mr. West was fueling her delusions with lies. He had convinced Cindy to alienate herself from her family and everyone that would tell her the truth.

Mr. West had Cindy so controlled that at the time of her dad's and grandmother's recent passing she would not return phone calls from her sister, Chris, in their time of loss. Before Mr. West's influence, Cindy and her sister would talk for hours on the phone. After Cindy and the petitioner talked, she finally on Friday 11-2-07 agreed to counseling. An appointment was made for the next week. The next day, Mr. West talked Cindy out of going to the agreed upon counseling.

After several years of his wife's troubled behavior and his own constant pain from a failed back surgery, the petitioner was suffering from severe depression. Shortly before the incident on 11-5-07, the petitioner had sought out counseling and the help of a psychiatrist and had started taking several prescription antidepressants. After the disappointment of Cindy's cancelling the counseling, the petitioner had not slept in 3 days. On Sunday 11-4-07, he thought that with enough beer he would finally get some sleep. He stayed home just wanting to sleep. He had no desire for trouble. After their talk the petitioner had good reason to believe that his wife was ready for and wanted help.

Thanks to the lack of sleep, depression, antidepressants, and alcohol induced bad judgment, the petitioner came up with what he thought was a can't-miss plan to help his wife and family. It did not occur to him that it might not work or that things might go wrong, or that it might look like something other than him trying to help his wife. The petitioner thought he was doing the right thing and that his wife expected him to help her. He did not think about there being legal consequences for helping his wife. This train of thought amounts to diminished mental capacity. Appendix 6 (Dr. Garner's Evaluation.)

The petitioner went to Mr. West's place of residence on 11-5-07 to confront him about his interference between the petitioner and his wife and their family. The petitioner planned to confront Mr. West at his pickup truck when he left for work that morning. Not knowing how physical things might get or what it would do to his bad back, the petitioner did take a gun that he had made years before. It was just intended to scare Mr. West if it became necessary. If not, Mr. West would not have known it was there. The petitioner's plan was to hide the gun on the back bumper of the pickup. It was just an accident that the petitioner was crossing in front of the RV's door when it opened. The petitioner placed his gun on the ground when the door opened. Mr. West did not see the gun at all. When Mr. West started to step out, the petitioner saw the pistol in his right hand. Thinking Mr. West intended to shoot him, the petitioner grabbed the gun from Mr. West. Mr. West yanked back and fell back onto the floor of the RV pulling the petitioner in with him. The two men wrestled on the floor for the gun. It happened that Cindy was inside the RV and she tried to break it up. The petitioner was afraid that if he let go of the gun, Mr. West would shoot him and he was afraid that the gun might go off and hit Cindy. At one point, the petitioner was holding Cindy back with one hand while wrestling for the pistol with the other. He was telling Cindy to get away. This is a gun, you might get shot. The petitioner did not push Cindy down. If she did fall down, it would have been from stumbling over clutter in the small RV.

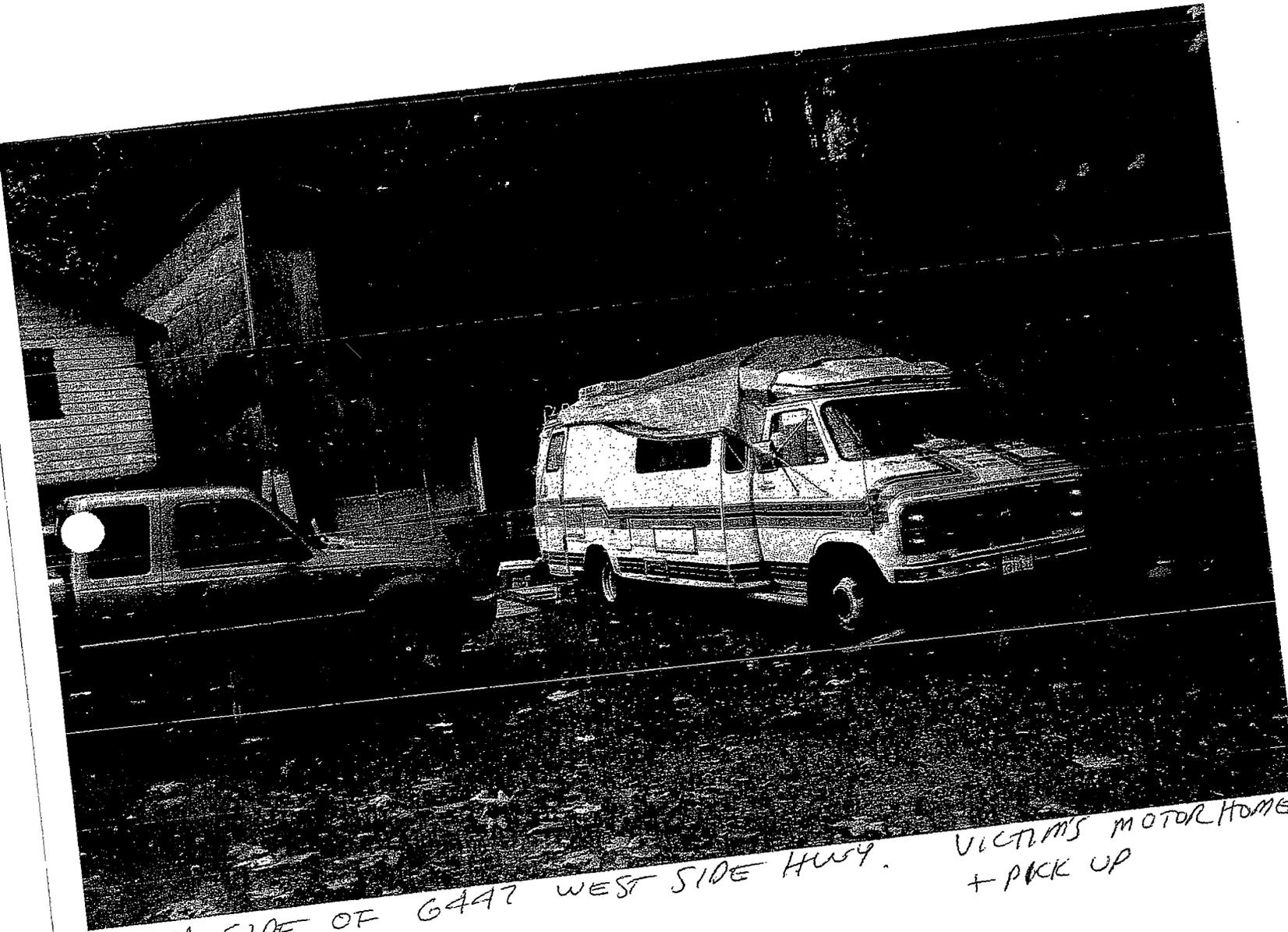
Mr. West and Cindy had been doing a lot of off road riding on quad ATV's and if she had any injures that is where they came from. Cindy did not go straight to or even timely to the emergency room for an exam. Cindy has had a bad knee since 1974. Her knee is always swollen. She also bruises easily. The petitioner did not and under the circumstances, could not have pushed Cindy down while he was on the floor wrestling over a gun with Mr. West. When the petitioner got the pistol away from Mr. West and control of the situation, he thought that it was all over. The petitioner turned and took a step toward the door and was starting to unload the gun when Mr. West jumped him from behind. Mr. West tried to take the gun back. This time Mr. West and the petitioner wrestled to exhaustion, and they agreed to throw the gun out the open door on the count of three. They then stepped out the door into the open to catch their breath. Believing Mr. West was unloading the pistol the petitioner picked up his gun to do the same. That was the first time Mr. West saw the petitioner's gun.

Mr. West realized the petitioner had a gun so Mr. West dropped his gun to the ground and grabbed the petitioner's gun. Cindy stepped in grabbing the gun also. Not worried that Cindy would shoot him, but worried for her safety, the petitioner let Cindy take the gun

Cindy placed it on the ground and laid on it. Cindy then got up and carried it around for about five minutes while the petitioner tried to explain that it was very dangerous and that she should let him unload the gun or let him show her how to do it. Instead, she hid the gun. Then they waited for the officers to show up.

The officers that came to the scene jumped to the worst conclusion they could come up with. They shared their conclusions with Cindy and Mr. West which made it easy for them to make concurring statements that were nothing but lies. As happens with lies, when compared to the truth, they are shown to be the lies they are. There were no punches thrown by any one. The petitioner did not try to shoot Mr. West or pistol whip him with it or any of the things he could have done to hurt him if he had wanted to. It simply did not happen the way they are claiming.

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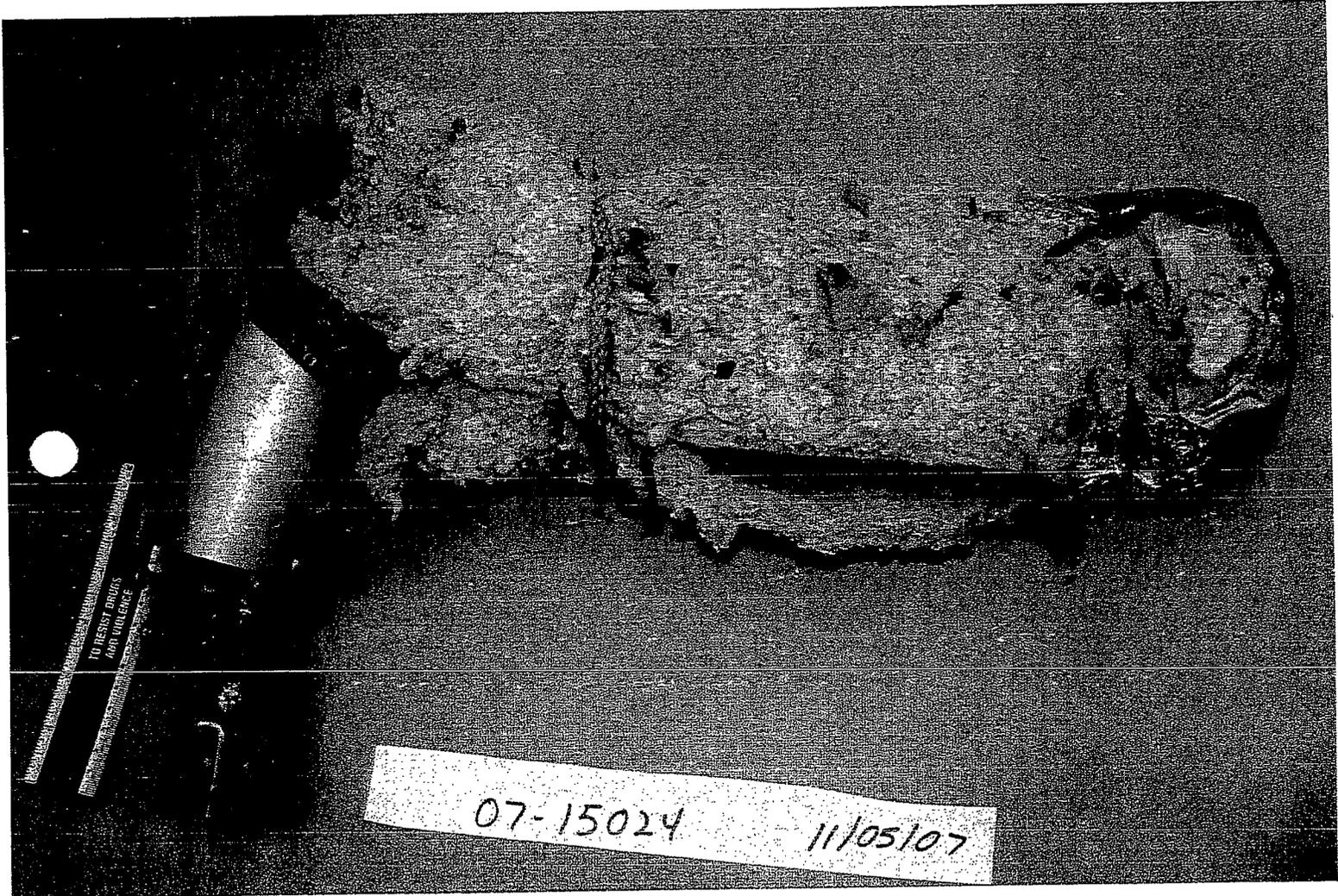


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COWLITZ COUNTY SHERIFF'S OFFICE
STATEMENT CONTINUATION

STATEMENT OF WESLEY L WEST

CASE NUMBER 07 15024

PAGE NUMBER 2

We hear dogs barking outside Barking which is not uncommon cause we have racoon + bear out here I had gotten my 380 pistol to go outside to see what was going on when I opened door to motorhome a man Mike Cray pushed his way into the motorhome, pointed a weapon at me & said Im gonna kill you, you son of a Bitch. I had pushed his weapon up & against the counter with my hand. He grabbed my pistol + dropped his weapon. I kicked it out the door, We began struggling with my pistol. He had my pistol pointed at my chest & said hed kill me. We struggled in the motorhome, Cindy Crayne tried to help me. Mike shoved her backwards. As he did so our struggle took us out the door, Struggling on the ground for several minutes over the gun. Luckily the safety was on & he didnt know how to operate it. Was able to throw the pistol under the pick-up. Still struggling on the ground, Cindy came outside Cindy ~~grabbed~~ got knocked down & landed on Mikes gun Cindy got up & hid the gun from Mike. I called my Dad to call 911

I Cindy Crayne wrote this statement while Leo told me the story
Cindy Crayne Wesley L West

I, WESLEY L WEST, do certify (declare) under penalty of perjury under the laws of the state of Washington that I have read the foregoing statement or it has been read to me and I know the contents of the statement, and that the foregoing statement is true and correct. (RCW 9A.72.085)

Signed on this 5 day of NOV, 2007, in Cowlitz County, Washington.

Signature Wesley L West

Witness _____

Witness [Signature]

VI. DIMINISHED CAPACITY

The Petitioner informed his defense counsel, Mr. Hays, of his primary psychiatrist, Dr. Garner, and to contact the physician for a possible mental status defense.

However, Mr. Hays appointed another psychiatrist, Dr. Larsen, for an evaluation in Oregon City. See Appendix-F, (medical reports, including WSH).

After these evaluations were conducted, counsel informed the Petitioner that the two medical reports "contradicted" each other. Due to this misinformation, and the lack of an investigation into Petitioner's mental-status defense, and the availability thereof, the Petitioner plead guilty.

Further, the plea agreement was reinforced by counsel, who exclaimed that both Dr. Larsen and the WSH report "canceled each other out," and therefore, the Petitioner lacked the availability of a diminished capacity defense.

Absolutely no meetings were conducted between counsel and the Petitioner, prior to the Petitioner being rushed into accepting the plea agreement.

Thereafter, the Petitioner moved the sentencing court to withdraw his guilty plea on the grounds that he was deprived of effective assistance of counsel, and after multiple continuances, and the denial thereof, Petitioner timely filed notice of appeal, and this personal restraint petition followed.

ARGUMENT

Defense Counsel Was Ineffective In Failing To Properly Present A Mental Status Defense, Which Deprived Him Of Rights Guaranteed by the Sixth, and Fourteenth Amendments To The United States Constitution. See Strickland v. Washington, 466 U.S. 668, 686 (1984).

In CrR 4.2(f), the term 'manifest injustice' is nowhere in

rule itself, but Washington case-law has developed some definition and clarification of the term.

In this regard, a "manifest injustice" is "an injustice that is obscure." State v. Saas, 118 Wn.2d 37, 42, 820 P.2d 505 (1991), (citing, State v. Taylor, 83 Wn.2d 594, 596, 521 P.2d 699 (1974)).

In its essentials, CrR 4.2(f) imposes a demanding standard on a defendant who seeks to withdraw his guilty plea. Id. The Washington Supreme Court in Taylor, provided a list of four nonexclusive determinations of "manifest injustice:"

(1) denial of effective assistance, (2) plea... not ratified by the defendant or one authorized (by him) to do so, (3) plea was involuntary, and (4) plea agreement was not kept by the prosecution.

Taylor, at 597.

Mr. Crayne argues that a manifest injustice has occurred both because (1) he was denied effective assistance of counsel, and (3) his plea was not voluntary. Specifically, the claim of ineffective assistance of counsel, relates to defense counsel's failure to properly present a diminished capacity defense, based on voluntary intoxication, and chronic neurotransmitter deficit disorder.¹

¹Chronic Neurotransmitter Deficit Disorder results when the failing of the executive function of the brain, causes both judgment and impulse control to cease.

The Petitioner also informed counsel that Dr. Garner was prepared to give extensive testimony which would have absolved the Petitioner of the crimes charged. See APPENDIX-F (Medical Report of FRANK A. GARNER, M.D.).

To prevail on an ineffective assistance of counsel claim, the defendant must show (1) ineffective representation and (2) resulting prejudice. Strickland v. Washington, 466 U.S. 668, 687 (1984); In Re Personal Restraint of Rice, 128 Wn.2d 876, 908, 828 P.2d 1086 (1992).

In Strickland, in an opinion by Justice Sandra Day O'Connor, the United States Supreme Court established this two-part test for determining whether counsel's assistance at sentencing (or trial), was ineffective.

"First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction...resulted from a breakdown in the adversary process that renders the result unreliable."

Strickland, Id. at 687.

The Supreme Court of Washington had adopted this

Strickland test in State v. Thomas, to "ensure a fair and impartial trial." 109 Wn.2d 222, 227, 743 P.2d 816 (1987), (citing, State v. Osborne, 102 Wn.2d 87, 99, 684 P.2d 683 (1984); State v. Ermert, 94 Wn.2d 839, 849, 621 P.2d 121 (1980)).

Like Thomas, supra, the present case relates to a claim alleging the counsel's failure to properly present a diminished capacity defense based on voluntary intoxication, *inter alia*.

In Thomas, the petitioner claimed she was denied effective assistance of counsel because her assigned counsel failed to competently present this diminished capacity defense, based on voluntary intoxication to a charge of attempting to elude police. Id. at 223. The Supreme Court of Washington concluded that Thomas was deprived of effective assistance of counsel because counsel failed to offer a critical jury instruction which would have "better enabled her counsel to argue the ... theory of the case," 109 Wn.2d at 227, and the jury would have had a correct statement of the law if the instruction had been given." Id. at 228.

In Thomas, counsel's representation "fell below an objective standard of reasonableness." Id. at

232, (citing, Strickland, 466 U.S. at 688)).

In the present case, defense counsel failed to engage in a reasonable investigation into the Petitioner's diminished capacity. Specifically, Dr. Garner was not contacted, whose report or testimony would have been crucial to the mental status defense, and material during trial.

The test for materiality in a failure to disclose claim, and the test for prejudice in an ineffective assistance of counsel claim are the same: "A reasonable probability that the outcome would have been different." See United States v. Bagley, 473 U.S. 667, 682 (1985); Strickland, 466 U.S. at 694.

In this regard, the unavailability of Dr. Garner's report or testimony was prejudicial, which establishes the first prong of the Strickland test: "Whether the petitioner received ineffective representation."

Ineffective representation occurs where counsel's conduct falls below an objective standard of reasonableness, Strickland, 466 U.S. at 688. When assessing the 'reasonableness' of counsel's challenged conduct "on the facts of the particular case, viewed as of the time of counsel's conduct," it is a reasonable probability that a jury would conclude that the Petitioner's counsel acted unreasonably in connection with Dr. Garner.

The evidence reflects that trial counsel misinformed the defendant in regards to the availability of the diminished capacity defense. Appellate counsel, upon moving the trial court for withdrawal of the guilty plea, received a copy of Dr. Garner's June 17, 2010, report regarding Crayne's voluntary intoxication, and diminished-capacity defense. The record further shows that the Petitioner suffers from anxiety and depression through the lack of sleep at the time of the incident in question.

Therefore, there were no sound reasons by trial counsel to inquire further of Dr. Garner's report under the circumstances then known to defense counsel. An expert may give an opinion regarding a defendant's ability to form a specific intent when the following foundational requirements are satisfied:

(1) The defendant lacked the ability to form a specific intent due to a mental disorder. State v. Ferrick, 81 Wn.2d 942, 944-45, 506 P.2d 860 (1973), (the presence of a mental condition not amounting to criminal insanity is relevant to the elements or degrees of certain crimes involving specific intent).

(2) The expert is qualified to testify on the subject. State v. Martin, 14 Wn.App. 74, 538 P.2d 873 (1975). Here, Dr. Garner is qualified to give medical expert opinions.

(3) The expert personally examines the defendant along with a diagnosis, thereby, being able to testify to an opinion with reasonable medical certainty. Id.

(4) The expert's testimony is based on substantial supporting evidence. See State v. Tyler, 77 Wn.2d 726, 755-56, 466 P.2d 120 (1970).

(5) The cause of the inability to form a specific intent must be a mental disorder, not emotions like jealousy, fear, anger, and hatred. See State v. Moore, 61 Wn.2d 165, 173, 377 P.2d 456 (1963).

(6) The mental disorder must be causally connected to a lack of specific intent, not just reduced perception, overreaction, or other irrelevant mental states. State v. Martin, supra.

(7) The inability to form a specific intent must occur at a time relevant to the offense. See State v. Craig, 82 Wn.2d 777, 780-81, 514 P.2d 151 (1973).

(8) The mental disorder must substantially reduce the probability that the defendant formed the alleged intent. See State v. White, 60 Wn.2d 551, 585-586, 374 P.2d 942 (1962), cert. denied, 375 U.S. 883 (1963), (citing, RCW 10.76.010)).

(9) The lack of specific intent may not be inferred from evidence of a mental disorder, and it is insufficient to only give conclusory testimony that a mental disorder caused an inability to form specific intent. The opinion must contain an explanation of how the mental disorder had this effect. State v. Ferrick, supra

The analysis to this point has been within the terms of the traditional rule that only "specific intent" can be negated by this type of evidence. The Petitioner's primary psychiatrist had submitted the medical report to the parties, which challenged the State's information charging the Petitioner of "intent" at the time of the offenses.

The medical report further reflects that the Petitioner has established the foundational requirements as to the Petitioner's ability to form a specific intent. Id. Thus, an intent to produce a certain result from the act would be specific intent. This distinction between the intent to produce a certain result (specific-intent), and the awareness of a result of one's conduct (knowledge) should not determine the admissibility of expert medical evidence of a mental disability caused by a mental disorder. The relevance of "voluntary intoxication" to the existence of "knowledge" has been previously recognized. See State v. Simmons, 30 Wn.App. 432, 435, 635 P.2d 745 (1981), (citing, State v. Norby, 20 Wn.App. 378, 579 P.2d 1358 (1978)).

In this regard, it would be incongruous to allow a defense to "knowledge" where the defendant was responsible for his mental state (voluntary intoxication) and to reject it where the defendant was not responsible for his mental state (mental disorder).

In conclusion, in applying these rules to the facts of the instant case, this court should conclude that Dr. Garner's medical report satisfied the foundational requirements for the admission of an expert opinion,

that Mr. Crayne, the Petitioner in this case, was severely impaired in his ability to form an specific intent to commit the crimes as charged in the information; the pschiatrist personally examined Mr. Crayne, and diagnosed- medically recognized mental disorders; the diagnosis and other relevant facts in the record were included in the hypothetical question that formed the basis for the doctor's opinions. Dr. Garner's evaluations before, and after the alleged offenses occurred, logically connected the facts in the hypothetical, including the mental disorder, with his opinions concerning Mr. Crayne's inability to form intent at the time of the alleged offenses. Further, this opinion by Dr. Garner was supported by his explanation of the mechanism by which the ability to form intent was impaired, due to voluntary intoxication, lack of sleep, neurotransmitter deficit disorder, inter-alia.

Defense counsel's exclusion of the psychiatric opinion about Mr. Crayne's ability to form an intent to injure, denied the Petitioner an opportunity to raise all grounds for his alleged inability to form the requisite intent. More significantly, it entirely

deprived Mr. Crayne of his claim that the mental impairment was greater because of the combined of the mental disorders, and voluntary intoxication with the lack of sleep.

Therefore, the Petitioner has shown that counsel's performance was deficient. Specifically, counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed by the Sixth Amendment.

Further, the Petitioner has shown that this deficient performance prejudiced his defense of diminished mental capacity. Therefore, it can be said that Mr. Crayne's guilty plea resulted from a breakdown in the adversary process that has rendered the plea unreliable. See State v. Jeffries, 105 Wn.2d 398, 418, 717 P.2d 722, cert. denied, 93 L.Ed.2d 301 (1986); Hence, the failure of counsel to properly present a diminished capacity defense based on voluntary intoxication, and mental disorder, despite the affirmative showing of a noncriminal or innocent mental-state constitutes ineffective assistance. See State v. Coates, 107 Wn.2d 882, 889, 735 P.2d 64 (1987), (Evidence of voluntary intoxication is relevant to the trier of fact in determining in the first instance whether the defendant acted with a particular degree

of mental culpability). Thus, this court's confidence in the outcome is undermined such that it cannot say that Mr. Crayne received effective representation. Strickland, 466 U.S. supra at 694. A reasonably competent attorney would have been sufficiently aware of relevant legal principles to adequately investigate potential mental status defenses. Hence, counsel's deficient performance deprived Crayne of a fair trial.

Point 2:

COUNSEL'S FAILURE TO OBTAIN AN EXPERT OPINION SUPPORTING DIMINISHED CAPACITY, CONSTITUTES INEFFECTIVE ASSISTANCE OF COUNSEL, IN VIOLATION OF THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

Mr. Crayne's second allegation of error involves his counsel's failure to ascertain that Dr. Garner, Mr. Crayne's primary psychiatrist, was available to submit medical reports in regards to the Petitioner's mental stability. Counsel thought that Dr. Garner was the Petitioner's "back" doctor.

Instead, counsel appointed Dr. Larsen, from Oregon City, to obtain a medical report for the mental status defense. Petitioner asserts that counsel's failure to ascertain Dr. Garner's qualifications cannot be dismissed as a trial tactic. State v. Adams, 91 Wn.2d 86, 90, 586 P.2d 1168 (1978), and counsel's competency

or lack thereof. Dr. Garner's medical report or testimony would certainly have been helpful as to Mr. Crayne's voluntary intoxication, and mental deficit disorder. Hence, he was prejudiced by counsel's ineffective assistance.

In this regard, in failing to discover Dr. Garner's qualifications as Mr. Crayne's primary psychiatrist, counsel's performance was deficient. Counsel had conducted an unreasonable investigation as to Dr. Garner's expertise, and should have discovered that the psychiatrist was qualified to give medical reports and testimony, which was needed for the Petitioner's diminished capacity defense. These reports offer substantial lay-testimony regarding the Petitioner's multiple psychiatric deficit disorders, that were well established and documented prior to the alleged offenses.

This glaring fact is significant and shows the lack of investigation that was performed in Mr. Crayne's defense. While counsel apparently hired an investigator to interview the two alleged victims, the failure to contact Dr. Garner, fell below the prevailing professional norms. Second, while sentencing transcripts of the plea hearing contains various statements or testimony

by Mr. Crayne, that he carefully reviewed the documents and understood everything that was going on, it is submitted that his testimony and declarations contain the true account of his case, and provide full and complete justification for withdrawal of his plea. This reaffirms that this court's confidence in the outcome is undermined.

Based on all the circumstances, this court should hold that counsel's representation fell below an objective standard of reasonableness. Strickland, Id. at 688.

Point 3:

COUNSEL WAS INEFFECTIVE BY MISINFORMING THE DEFENDANT OF THE EXPERT OPINION SUPPORTING DIMINISHED CAPACITY, IN VIOLATION OF THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

Finally, Mr. Crayne argues that his guilty plea was not voluntary because he was misinformed by defense counsel concerning a number of matters. Specifically, counsel misinformed Mr. Crayne that the State's psychiatrist contradicted the defense psychiatrist, (Dr. Larsen's) medical evaluation, when in fact, both parties had agreed to his diminished capacity.

This Honorable court, in taking together the entire body of evidence, (reports, testimony, etc.), in this case, it should reach the conclusion that Mr. Crayne simply did not knowingly, or voluntarily make a fully informed decision to plead guilty. It is well established that the Petitioner has a learning disability and that his ability to both comprehend complex matters, and to read with any real degree of comprehension is limited at best. This disability is mentioned in the report of Dr. Larsen, in the deposition testimony of Dr. Garner, and was even acknowledged by defense counsel Hay's in his testimony.

Based upon the declaration and testimony of Mr. Crayne, it is further clear that in no way was there sufficient time spent with him by counsel, in explaining the evidence, the possible defenses, ramifications of a guilty plea, and available alternatives, so as to make his plea voluntary.

In its essentials, the central issue goes to Mr. Crayne's understanding of what his options were and more importantly, why those options were what they were. The Petitioner's statements reflects that he was 'rambling,' and discussed matters that had very little relevance to the issues before the sentencing

court. It is crystal clear from the Petitioner's testimony, that he was misinformed by defense counsel of the mental status defense. In no way does the psychiatric evaluations contradict each other:

1. Forensic Mental Health Report

The State psychiatric report reflects that the Petitioner's diagnosis is (a) Axis 1: Depressive disorder, Alcohol abuse by history, and Partner Relationship Problem. APPENDIX F.

2. Defense Psychiatrist Larsen

Dr. Jerry K. Larsen, evaluated the Petitioner and included the curriculum vita, which reflects that the Petitioner's diagnosis is (a) Axis 1: Depressive disorder, Alcohol abuse, Alcohol Intoxication, Possible Opioid Intoxication. APPENDIX F.

It is also clear that Dr. Garner was prepared to give extensive testimony which, if believed by a jury, could have completely absolved Mr. Crayne of the crimes charged by Information. However, no contact was made by defense counsel with Dr. Garner before the plea agreement was made. The meetings with Mr. Crayne and counsel were few and were very rushed. Counsel simply neglected the proper and necessary time needed to fully evaluate the Petitioner's case, and his options in a knowing manner.

It was not until Mr. Crayne had gotten to prison, and had an opportunity to get the information from his appellate attorney, that he realized the shortcomings of trial counsel, and that he had not been fully and properly informed of the available defenses.

It was at this point that the Petitioner filed multiple hearing settings on his motion to withdraw his guilty plea in the trial court. In this regard, Mr. Crayne was misinformed by counsel, that no defense would be available if he went to trial. See In re Personal Restraint of Reise, 146 Wn.App. 772, 787-88, 192 P.3d 949 (2008). See also State v. Miller, 110 Wn.2d 528, 531, 756 P.2d 122 (1988).

Therefore, Mr. Crayne should be allowed to withdraw his guilty plea, and proceed to trial on his diminished capacity defense.

VII. CONCLUSION

The Petitioner respectfully request that this Court grant his petition, and vacate his convictions, and remand for trial on his diminished capacity defense.

Respectfully submitted,

/S/ MICHAEL DEAN CRAYNE
Petitioner-Appellant

June 10, 2010

Mr. Robert M. Quillian
Attorney at Law
2833-A Parkmont Lane SW
Olympia, WA 98502

Re: Michael Crayne
DOB: 04/17/1954

Dear Mr. Quillian:

Thank you for your letter of March 21st, 2010 regarding Mr. Crayne. I am happy to respond in his behalf.

I apologize for my delay in providing you this letter.

Mr. Crayne was referred to me by his therapist Paula Warne for treatment of depression and insomnia. He contacted my office on 10/11/1997. I saw him first on 10/24/1997 at 11:00 a.m. He had been prescribed an anti-depressant Citalopram (Celexa) which he stated "wasn't helping", and had also previously been given Sertraline (Zoloft) which he also described as having not been helpful. These medications had been prescribed by his primary care physician Robert Amadorf, M.D.

At the time of first evaluation, Mr. Crayne could not cease from weeping. His eye lids and entire orbital area were swollen and he continued to weep throughout the interview. His cheeks were inflamed from the tears and the abrasion of facial tissues. His eye contact was poor. He was a methodical historian, answering questions cooperatively. He was oriented, only moderately insightful, with a somewhat naive thinking process. He discussed his lifelong difficulty with reading and spelling disorders. This made it somewhat difficult to assess his intellectual level, which is most likely below average.

Although he was in considerable pain, during the interviews he was not overly complaining about this nor did he minimize it. He was more matter of fact and accepting of his chronically disabling and painful condition. He reported a history of having had two back surgeries for degenerative disc disease plus one knee surgery. Mr. Crayne walked with a cane which he also used to assume and rise from a seated position.

He repeatedly expressed his embarrassment about his "weakness" in being so tearful.

He complained of racing and scattered thoughts and extreme preoccupation with the loss of his wife, daughter and grandchild through his wife's having separated from him, and the resultant alienation from his daughter.

He had intrusive suicidal thoughts but lacked both plan and intent. There were no expressions of intent or thought to threaten or harm anyone else.

Frank A. Garner, M.D., LLC., *Physician, Psychiatry*
600 Royal Street, Suite D, Kelso, WA 98626 360.423.8900 Fax 360.575.1754

Michael Crayne

Page 2.

Mr. Crayne has no history of anti-social behavior throughout his childhood, adolescent and adult life. He had an honorable military term. He has been a law abiding citizen. He maintained employment very reliably and consistently until the time of his forced retirement due to physical disability. He did evidence sociopathic thinking at any time I saw him. Mr. Crayne in fact is a relatively simple man, without guile, and with rather severe multiple learning disabilities. There is no evidence or history of deceitfulness, conniving, manipulation, nor anti-social intent, activity, or thought.

On November 5th, 2007, Mr. Crayne allegedly confronted his wife's boyfriend, Wesley Leo West with a handmade weapon. In reviewing the event, Mr. Crayne was completely mystified as to how he could have conceived of such a plan, was shocked that he could have believed such a plan could have been effective for his believed intent, and was astonished that he would have done such a thing without considering that something might go wrong with his plan. He did not, at the time of the offense, consider that his intended confrontation of another individual with a weapon was illegal, a violation of the other persons rights, or that he would have legal consequence for it. He simplistically thought, at the time, that he could threaten Mr. West who would promptly give his wife back and she would quite happily and willingly return home.

This was his train of thought, as he described it after the fact. He continued to wonder as he recounted the event how he ever could entertain such a plan and couldn't imagine how he could have considered that it actually would work out as he intended. His action was very clearly outside his values and usual patterns of functioning.

Let me discuss the mechanisms by which Mr. Crayne's mental illness and diminished mental capacity led to his behaviors which generated the events of the weekend of November 5th 2007.

Diagnoses, at the time of first visit were:

1. 300.4 Dysthymic Disorder, Severe (which is chronic major depressive disorder), with suicidal ideation, but no plan or intent, and with excessive rumination.
2. 300.01 Panic Disorder with agoraphobias, spontaneous panic attacks, tachycardia, shortness of breath, extreme dread, and social isolation.
3. 307.42 Insomnia, secondary to chronic pain disorder, panic/anxiety and depression.
4. 315.2 Learning Disorder of written language, reading disorder, lifelong.
5. 305.10 Nicotine dependency (cigars).
6. 309.28 Grief adjustment disorder with both grief and anxiety.
7. Alcohol abuse - episodic
8. 307.89 Pain Disorder, associated with both psychological factors and general medical Condition: chronic.

Michael Crayne

Page 3.

V81.1 Partner Related Problems

V81.20 Parent-Child Relational Problems

AXIS II No evidence of personality disorder

- AXIS III
1. Status post two lumbar surgeries, secondary to degenerative disc disease.
 2. SP Knee surgery, with subsequent chronic pain.
 3. Chronic pain disorder, secondary to both back and knee disorders and surgeries;
 4. Neurotransmitter deficit, secondary to:
 - a. chronic pain
 - b. sleep deprivation
 - c. nicotine abuse/use
 - d. chronic use of pain medication
 - e. anti-depressant use
 - f. alcohol use/abuse
 - g. nutritional inadequacy
 5. Restless leg symptoms and increased muscle tension exacerbated by magnesium insufficiency.

- AXIS IV
1. Crisis - separation and alienation from wife, daughter and grandchild.
 2. Unemployed - forced medical retirement.
 3. Social Isolation.
 4. Medical disability/ forced.
 5. Limitation of alternative modes of employment.
 6. Limitation of physical activity due to chronic pain.

AXIS V 42 Serious - suicidal ideation, panic, chronic sleep deprivation.

Discussion and Treatment Plan

Neurotransmitters are the brain and nervous system chemicals that mediate all thought, mood, movement, and function of the nervous system and all interactions between the nervous system and the body. Adequate amounts of neurotransmitters are necessary for normal mental and physical function. Neurotransmitters are replenished predominately during sleep; therefore quality to sleep is critical. Four hours of uninterrupted sleep is regarded as minimal for neurotransmitter replenishment. Mr. Crayne had long-term chronic sleep deprivation and disruption with very poor sleep quality, and was therefore very neurotransmitter depleted.

Michael Crayne

Page 4.

Mr. Crayne was begun on Trazodone (for sleep) plus Cymbalta (for sleep, pain and depression). He was still quite weepy on 10/29/2007, our second visit, and was not yet sleeping. Pain was severe and he clearly still had suicidal thoughts. Trazodone was increased and a second anti-depressant, Bupropion, on was added.

On 11/12/2007, our third visit, Mr. Crayne reported that he had slept adequately for one night. The following night began a series of events that culminated in his confrontation with Mr. Leo West with a loaded weapon. He reported to me the following narrative.

1. Mr. Crayne had conversed with his wife, Cindy Crayne, all night Thursday, November 2nd about their relationship and estrangement. Mrs. Crayne allegedly agreed to see a counselor with Mr. Crayne to work on their relationship, with the plan and intent of her returning home to live with him. She left Friday morning. In the evening of Friday, November 3rd, she called him to say she had changed her mind; she was not coming back, and told him "goodbye". This precipitated a tremendous crisis for Mr. Crayne. He was already in great distress regarding his marriage. He felt that Mrs. Crayne had "messed with his head". He was extremely agitated. Mr. Crayne had not slept Thursday night, and he did not sleep Friday night either. Nor did he sleep Saturday night, November 4th. To try to cope with his extreme distress, he unfortunately began consuming large quantities of beer. Mr. Crayne had been drinking 4-5 beers/daily for several days. By Sunday November 5th, he had not slept for three (3) nights and was continuing to drink. On Sunday, Mr. Crayne reported to have consumed 19 cans of beer plus most of an 18 pack. He had not eaten properly for three days and was not taking his medication properly. On Sunday evening he took his regular sleeping medication and went to bed. He stated that he was unable to "shut off his mind" from the turmoil of his dilemma. He reported "I suddenly had the brilliant idea" to show Mrs. Crayne how much he loved her by going to Mr. West's (the boyfriend's) house, where she was staying, and "scaring" him with a gun. Mr. Crayne had some time previously constructed a gun himself, which he had discarded into his shop's scrap pile. He had not constructed the gun with any intent to use it. After he retrieved the gun from his scrap bin, Mr. Crayne drove to Mr. West's house to wait for him to emerge Monday morning when he would leave for work. Mr. Crayne had constructed a safety on the gun, which he left on. Again, Mr. Crayne alleged that he never intended to fire the gun. His stated intent was to "show Cindy how serious [he] was". When Mr. West did emerge from his house, Mr. Crayne was surprised that things immediately began to go awry. Mr. West was bearing a gun himself. Mr. Crayne dropped his gun and "went after [Mr. West]" to prevent him from firing the gun. Mr. West fell back through the doorway, they "fought" over the gun, and Mr. Crayne was able to get the gun pointed out the door, then got the gun outside, then wrestled with Mr. West over Mr. Crayne's gun. He said the gun may have misfired when Mrs. Crayne was holding it but he could not recall this with certainty. He stated that he did not discharge the weapon himself. He reported that Mrs. Crayne had "jumped in" at some point, despite Mr. Crayne having instructed her to stay back. No one was hurt.

As Mr. Crayne was recounting the event to me during his appointment on 11/12/2007, he continued to exclaim his dismay at what he had done. He wondered how such an idea could have occurred to him in the first place, and furthermore, how he could possibly have thought his "brilliant idea" might have been successful.

Michael Crayne

Page 5.

He stated that he was, on the office visit of 11/12/2007, again feeling a great deal of tension, pain, knots in his stomach and other symptoms of stress, which had greatly diminished prior to his all night conversation with his wife. He repeatedly referred to the conversation with her as "when she messed with me", "when she messed with my head".

Discussion:

1. Mr. Crayne has multiple psychiatric mental disorders, well established and documented prior to this incident.
2. These mental disorders were substantially negatively affected:
 - (a). By his wife agreeing to move back home, then suddenly reversing that decision. He was extremely distraught and dismayed by this.
 - (b). Mr. Crayne having no sleep from Thursday morning onward. By the evening of Sunday November 5th night he had been sleepless for at least 84 hours!
3. Mr. Crayne had consumed over 24 cans of beer on Sunday alone. He was intoxicated.
4. Mr. Crayne had not eaten properly for days, and was therefore inadequately able to think.
5. Mr. Crayne had taken his sleeping medication, Trazodone, Sunday night when he attempted to go to bed and sleep, (before he had his "brilliant idea"). Trazodone substantially increases the sedative effect of alcohol, and therefore, Mr. Crayne's judgment and reasoning ability was even further eroded.
6. Mr. Crayne had not taken his medications properly during the period of time from Thursday through Sunday. The lack of medication greatly amplified his already extremely emotional state. This further impaired his emotional responses and judgment.

The synergistic effect of these combined factors caused extreme neurotransmitter deficit, in a situation of extreme emotional crisis, at a time when Mr. Crayne was already suffering from chronic neurotransmitter deficit. Under such conditions, the prefrontal cortex of the brain ceases to function properly. This area of the brain is responsible for what is known as executive function. Executive function enables a person to assess their anticipated decisions and actions prior to actually taking action, and therefore to assess the outcome of a considered action beforehand. Executive function allows one to anticipate possible negative outcomes and plan for them. When executive function fails, both judgment and impulse control are absent. Emotional reactive, non-logical thinking and reflexive primitive mental processes take over.

It is no wonder that Mr. Crayne still is perplexed by his own actions during the events of early morning Sunday, November 5th, 2007. He did not have the benefit of his own innate reasoning ability.

Michael Crayne

Page 6.

It is quite clear that Mr. Crayne had no intent to murder anyone. Although his plan was carried out over several hours time, he was suffering from a mental and central nervous system malfunction which did render him incapable of rational reasoned intent and rendered him incapable of performing pertinent self assessment of his intended activities whatsoever.

As previously stated, in recalling the events of November 5th, after the fact, Mr. Crayne could not comprehend how he could have been so naive as to think that he could "impress" his wife by "scaring off" Mr. West, and that he would be so easily "scared off". Furthermore, he wondered how he could have possibly thought that Mrs. Crayne would be so moved by his brave actions, that she would immediately come back home.

After the incident, our treatment over the next number of months continued. Mr. Crayne became quite improved on his medication regimen. Despite the separation and alienation from his wife and daughter and grandchild, and with the ongoing pressure of the legal process, he was feeling and functioning substantially better by last visit on 10/09/2008 than he had been prior to treatment. He was not drinking and he had been able to substantially reduce his pain medication since his pain levels had diminished substantially. He was only occasionally tearful and was sleeping reasonably well, considering his need to shift position during the night due to back and leg pain. He had reduced his nicotine use, but was still smoking many cigars. Mr. Crayne was no longer suffering panic attacks, and had no suicidal ideation. He was lonely, but was socializing with neighbors and friends.

As I previously stated, I did not at any point find evidence that Mr. Crayne had intent to harm others. He consistently expressed remorse, regret, and concern that he had committed an offense which was so remotely out of character for him. He was dismayed that he had, through his actions, made his relationship with his wife irretrievable and his life situation substantially worse.

If I may be of further assistance with Mr. Crayne's case, please inform me.

Sincerely,



Frank A. Garner, M.D.

Curriculum Vitae
Frank A. Garner, M.D.
Physician, Psychiatry

September 1966-June 1970	Albertson College of Idaho Caldwell, Idaho Bachelor of Science, Zoology
July 1970-June 1974	Drexel Medical University Philadelphia, Pennsylvania Doctorate of Medicine, Honors in Child Psychiatry
June 1974-June 1977	University of Utah Medical Center Salt Lake City, Utah Residency, Adult Psychiatry
June 1977-August 1985	University of Utah Instructor, College of Medicine Lecturer, College of Nursing Lecturer, College of Social Work Instructor, Dept. of Continuing Education
June 1977-June 1979	Community Mental Health Services Salt Lake County, West Side Unit Staff Psychiatrist
June 1978-May 1983	LDS Hospital Salt Lake City, Utah Medical Director, Adolescent Psychiatry
May 1980-August 1985	Family and Group Therapy Institute Salt Lake City, Utah Psychiatric Consultant and Instructor Private Practice, Psychiatry
August 1980-August 1985	Episcopal Diocese of Utah Salt Lake City, Utah Psychiatric Consultant
June 1977-August 1985	Psychiatric Consultant, Instructor, and Lecturer Public Health Services Salt Lake City, Utah

**Curriculum Vitae, Page 2
Frank A. Garner, M.D.**

May 1981-August 1985	Assessment Services Associates Salt Lake City, Utah Founder and Director
June 1986-September 1989	Good Samaritan Hospital Corvallis, Oregon Staff Psychiatrist Chief of Psychiatry 1987-1989
September 1989-May 1994	Good Samaritan Hospital Corvallis, Oregon Courtesy Staff
January 1986-January 1990	Benton County Department of Health Corvallis, Oregon Member, Health Dept. Advisory Board
January 1986-September 1989	Children's Farm Home Corvallis, Oregon Consulting Psychiatrist
October 1985-September 1989	Oregon State University Corvallis, Oregon Student Health Center Consulting Psychiatrist
January 1990-August 1991	Fibromyalgia Education and Support Services Corvallis, Oregon
October 1991-May 1, 1994	Children's Farm Home Corvallis, Oregon Interim Medical Director
January 1995-Present	Gateway Presentations Educational and Consultation Services Founder and Director
August 1, 1998-January 1, 2004	Taking Charge of Your Health Public Educational Services Founder and Director
September 1985-November 1, 2004	Corvallis, Oregon Private Practice, Psychiatry

Curriculum Vitae, Page 3
Frank A. Garner, M.D.

June 2004-September 2004

Rainier, Oregon
Private Practice Psychiatry

September 1, 2004-Present

Longview/Kelso, Washington
Private Practice, Psychiatry.



WILLAMETTE VALLEY FAMILY CENTER, LLC

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May 8, 2008

MAY 22 2008

John Hays
Attorney at Law
1402 Broadway
Longview, WA 98632

RE: Michael D. Crayne, Case No. 07-1-01405-2

Dear Mr. Hays:

At your kind request, on 5/8/08 in my private office I conducted a lengthy psychiatric alcohol and drug evaluation of Michael Crayne. Prior to that evaluation I reviewed incident reports authored by Officer Haebe, charging information and medical records of Cindy Crayne. I also reviewed the probable cause statement and supplemental reports by Officers Reiss, Bauman, Hanberry, and Schallert. I reviewed the statements by Donald Barnell, Cindy Crayne, Joanne Purvis, Barbara Roller, Leo West, and Wesley West. Detective Haebe reports an incident where an estranged husband confronted his estranged wife's boyfriend at 6447 Westside Highway in Castle Rock, allegedly threatened and attempted to shoot the boyfriend with a homemade firearm that was constructed by the subject. The subject reportedly wrestled the boyfriend's firearm away and pointed that firearm at the boyfriend while pulling on the trigger, no shots were fired. Witness Donald Barnell reported hearing dogs barking and allegedly Michael Crayne admitted to Deputy Bauman that he constructed a .32 caliber firearm. Cindy Crayne reportedly suffered multiple superficial abrasions and multiple contusions as reported by Dr. Kenneth Stone at the St. John Medical Center. Charging information alleges Attempted Murder in the First Degree, Burglary in the First Degree/Assault, Possession of a Machine Gun or a Short Barreled Shotgun/Rifle, and Assault in the Fourth Degree/Domestic Violence. Officer Reiss reports that Michael Crayne had requested an attorney and allegedly said "...I think I screwed up..." Officer Bauman reported that Michael Crayne had taken his back pain medication and antidepressants and allegedly he had consumed only five beers throughout the entire night. He repeatedly told officers that "...I just wanted to scare him..." It is also alleged that during the scuffle he stated "...I'm going to kill you mother fucker..." and it was alleged that Crayne was pulling the trigger to fire the Lorcin .380 but was unable to fire because of the safety being on. Officer Haebe reported that at some point last mid year Purvis witnessed Michael Crayne brandishing an axe toward Leo Crayne. Later in the report "...Purvis said that based on how Crayne was brandishing the axe/hatchet she felt that Crayne might be intending to confront West but nothing happened as West walked away from the residence and got

into a car which drove away..." (I assume Leo Crayne is misstated meaning Leo West.) I am currently awaiting the medical records from the psychiatrist treating Michael Crayne.

Michael Crayne is a 54 year old Caucasian male born 4/17/54 in Longview, Washington. Michael has an older sister Glenda, now in her late sixties, living in Shelton, Washington. She was married, is now widowed, has two of her own children and two adopted children. She has suffered from back pain and subsequent surgery and now remains close to her family. Glenda has abused neither alcohol nor illicit drugs. Michael's brother Al, now 65 years of age, is a commercial fisherman in Alaska. He is married with three children and Michael last saw him some 10 years ago. His sister Ida, now in her early sixties, lives in Castle Rock, is married and has three children and two step children. She has abused neither alcohol nor illicit drugs and none of the siblings suffer from mental disease nor defect. Michael's brother Roy, 56 years of age, lives in Longview and recently underwent radical surgery for throat cancer. He is a chronic smoker, married with two children. His sister Karen, now 60 years of age, lives in Olympia. She is twice married with two children. Her son has suffered from depression and has been treated with antidepressants. Michael's sister Rose, 58 years of age, "...dropped out of the family a long time ago, been married and divorced a bunch of times and lives in Longview..."

Michael's mother Althea died in her eighties four years ago from "...old age..." She was a kind and caring woman who was never abusive to the children. She was however abused by her husband, Michael's father. Althea was born and reared in Minnesota and has a high school education. Michael knows nothing about the mother's extended family. The maternal grandfather died many years ago and the grandmother was reportedly demanding, mean, abusive, bossy, and the kids "...ran and hide when she to visit..." She died when Michael was six years of age.

Michael's father Charles was born in Wyoming. He died some 19 years ago and did not finish high school. He was however an aluminum plant manager in Longview. He had fathered seven children before he married Althea but Michael knows nothing about his half siblings. Charles was confrontive and at times abusive to his wife and the older children. He played favorites and gave everything to "...Roy and Ida and he didn't give me anything..." When Michael was born his father was in his fifties. Charles did not abuse alcohol or illicit drugs and reportedly had no problems with the law. He had three brothers and two sisters. Uncle Clayton was married with four children and is described as a "...nice guy..." His uncle Jess however was a "...phony preacher who would steal behind your back..." Michael states that when he was eight years old his uncle Jess "...stole my tools..." He knows nothing about his paternal grandfather and vaguely remembers his grandmother as being kind and caring.

Michael knows nothing about his mother's health during his pregnancy. He was a big baby but does not recall his birth weight. He met expected developmental milestones and started grade school in Ocean Park. Mid way through that year the family moved to Castle Rock where he then again started the first grade, passing from subject to subject,

grade to grade, until the tenth grade when he dropped out of school never to return. The family lived on the edge of town and the children were frequently camping, playing, swimming and boating. They all enjoyed riding a motorcycle, which they shared. Michael rode horses and frequently skipped school. He was a poor student, eventually diagnosed with a learning disability. He has always had difficulty with spelling, remembering names and numbers. He did occasionally play football but in the tenth grade he went "...pinecone picking for seeds..." then dropped out of school never to return. When he at the age of 19 he joined the Army he did complete a GED. Before the age of 18 he was rarely involved in physical altercations and he never ran away from home. He was occasionally truant, denies stealing and robbed from no one. He did not carry a weapon nor was he a gang member. He reports no arrests, no problems with the police, no confrontations with teachers. He did not vandalize property, set fires or torture animals. He occasionally with friends would drink beer and wine, but used no illicit drugs.

At the age of 18 while living at home he worked in a mobile home manufacturing plant. He moved into a small cabin, completed his GED and then entered the Army. He became a mortar man and served for a year until he injured his back. At the age of 20 he received a medical discharge. At the age of 19, before entering the service, he met and married Cindy, then 18 years of age. Upon release he worked as a choker setter and truck driver. Cindy suffered from juvenile petit mal seizures which she "...outgrew when she was 16..." When Cindy became pregnant with their daughter Morgan, now 28 years of age, she developed grand mal seizures, which through the years were only partially controlled. At the age of three Morgan was hospitalized with spinal meningitis and since has suffered recurrent ear infections. Morgan had been living in Castle Rock caring for her child, now five years of age. Michael currently knows not where Morgan resides, since their last contact in November 2007. He then describes a number of jobs including choker setter, chip truck driver, flatbed driver, and for a time he worked in a rock pit. His back worsened and he underwent surgery some 17 years ago for a ruptured disc in the upper back and says "...it was as good as new..." The family then moved to Arizona where he worked in a yarn mill for three years. The family simply could not tolerate the heat and they moved back to Castle Rock. He would occasionally drink beer but never used illicit drugs.

In 2001 while doing maintenance on a locomotive for Weyerhaeuser he states, "...my back went out..." He was evaluated onsite by a Weyerhaeuser physician, referred to a surgeon in Vancouver and subsequently underwent two back surgeries. Thoracic surgery was successful but the lumbar surgery was not and he continues to have significant pain and discomfort with weakness in his right leg. He ambulates currently only with a cane and walks very carefully. With continued pain he underwent another surgery, removing the metal appliances from his back, but experienced no improvement. He has since been followed by his physician and has been prescribed six Roxicet 7.5mg daily. Michael became seriously depressed and was started on Zoloft, perhaps six years ago. He noted some improvement but then his mood began to fall, he began to have mood swings, and he was referred to Dr. Garner, a psychiatrist who recently placed him on Wellbutrin 75mg three daily, Valproic acid 250mg two three times per day, Seroquel 200mg a half

table per day, and Celexa 40mg three times daily. His mood has since improved and he is no longer suicidal. Prior to the change in medication he attempted suicide by crashing his truck. His course is now complicated by a pending divorce which will be described. In 1996 he was diagnosed with genital warts. He and his wife had frequently hiked to Bagby Hot Springs where he believes he contracted the genital warts from the "...wood bathtubs..." He adamantly denies that he has had any sexual interaction with anyone other than his wife. Cindy however began having mood swings, became irritable, began menopause, had hot flashes and became, as he describes, "...weird..." She began to do strange things. A neighbor in 2002, named Leo, began to pay unusual attention to Cindy. Michael had known Leo for over 20 years and states, "...he's only had one girlfriend in all those years..." In 2006 she began to disappear, spend time at home and it was then that Michael learned that Cindy and Leo were sleeping together. She then called Michael stating that she wanted him to leave the door open so she could come and "...get her things..." Michael thought that they had made an agreement that she would take her personal items, he would keep his items but in fact, as he describes, "...she cleaned me out...we had also made an agreement that I would pay her \$50,000 and the divorce would not be contested..." After she "...took all my things I told her I wouldn't give her the fifty thousand until the divorce was final..." He became angry and that point Morgan intervened stating that she would take the money, put it in the bank and distribute it according to the parent's wishes, assuming that both kept their word. She obtained an attorney and then made allegations that Michael called her stupid, made fun of her, that in some way he caused the complications after her gall bladder surgery, and eventually a no contact order was written.

Cindy had been staying with Morgan some three days per week. Michael had called Morgan and Cindy answered the phone and told him that Morgan was in the shower. Cindy asked that Michael come pick her up and later allegedly stated that she would like to come back if all could be forgiven. Michael picked her up, later they returned and Cindy was dropped off to baby sit for Drake after they had been up talking from 11:00 p.m. till 5:30 a.m. The following morning at perhaps 10:00 a.m. Cindy called and stated that she was going to spend time with Bugs, her girlfriend, they were going to town and she would call Michael later. That evening at 10:00 p.m. she called stating "...changed my mind good bye..." Michael called several times, leaving messages which were not answered. He became increasingly upset, did not sleep for the second and then again the third night, and then on Sunday, fatigued and tired, but unable to relax, he began drinking beer. He estimates that between noon and 11:30 p.m. he steadily drank and consumed 36 Budweiser Select beers. He then weighed 255 pounds. He laid down, nodded for a moment, then startled and was wide awake. Then within "...15 minutes I thought I'd take a gun and I'd, I'd scare Leo and she'd come back to me and I'd shoot out his window if I had to, but I had to get her away from him..." He had some time in the past constructed a homemade gun. He walked to the scrap drawer, retrieved the gun, cut the barrels off, and rode a bicycle to Leo's, again stating "...I wanted to scare him..." As he approached Leo's motor home, parked near Leo's father's home, he heard dogs barking. He walked up to the door, when the light came on the door opened and Leo confronted him with a gun. Michael insisted that he dropped his weapon and that he and Leo struggled over the semi-automatic pistol. It was still dark and Michael says, "...I got the

gun away from him with the safety on..." They again struggled for the gun, as Michael attempted to remove the clip they mutually "threw" the gun out the door. Michael believes he said something like "...what did I ever do to you..." and he denies that he threatened to harm Leo and denies that he used profanity. He was then again attacked by Cindy and Leo. Cindy obtained the gun, Michael wanted to unload the weapon but she refused and "...walked out and threw the gun away..." The police arrived and Michael was arrested, taken to the Longview jail and made bail two days later.

Michael now understands that he is charged with Attempted Murder and if found guilty he could face 30 years imprisonment. He recalls the name of his attorney and trusts the attorney's representation, and knows the respective responsibilities of the judge, the jury and the district attorney. He tells me that a plea offer was made for 10 years imprisonment which he refused. He also clearly states that he has never before been arrested. He is not a violent individual and believes that no one would honestly accuse of him of violence or threats of violence. The only legal issues he recalls is a ticket for not wearing his seatbelt.

Past medical history reveals three back surgeries, surgery on this right knee and superficial surgery to remove an abscess on his buttocks. He reports no fractures, no serious illnesses, and is allergic to "...a pain pill, it made me itch..." He reports no other serious injuries other than back problems as described.

MENTAL STATUS EXAM

Michael Crayne was interviewed in my office where he arrived early, casually dressed and groomed, walking carefully with a cane. He was oriented to time, date, place and person. Throughout the interview he generally smiled, was bright and cooperative. He placed his mood at eight and tells me that the current medications are "...working well..." He reports one suicide attempt by wrecking an automobile as described in 2007. There were no hallucinations, no delusions, no ideas of reference, and nothing to suggest an underlying thought disorder. He could recall only four to five digits forward and three in reverse. He could recall none of three unrelated words at five minutes, after ten minutes and prompting he could recall one of three unrelated words. He with some difficulty could figure simple change. He could not subtract serial sevens, making several unrecognized errors. His responses to simplistic proverbs were abstract, becoming totally concrete as the interpretations became more difficult. He does for the past eight years report marked uncontrolled mood swings, now controlled with medication. At the time of the alleged event he does not recall the names of the medications prescribed, but is certain he had taken some six Roxicet along with the alcohol described. His grasp of current events and general knowledge are limited but age appropriate. His IQ was thought to be in the functionally low normal range. He was affectually appropriate, smiling, cooperative, displayed good eye contact and spoke with normal latency, duration and volume of utterance.

PSYCHOLOGICAL TESTING

An embedded Slossen IQ of 93 places him in the low normal range of intelligence. The Hamilton Depression and Hamilton Anxiety Scales scores were essentially unremarkable but did suggest mood swings. The DAST Drug Abuse Assessment was unremarkable with the MAST Alcohol Abuse Assessment does suggest the periodic overuse of alcoholic beverages.

DIAGNOSES

- Axis I: 311.0 Depressive Disorder NOS, Moderate to Severe
 305.00 Alcohol Abuse (by Self Report)
 303.00 Alcohol Intoxication (by Self Report)
 292.89 Possible Opioid Intoxication (by History)
- Axis II: No diagnosis
- Axis III: Chronic Back Pain with Weakness of the Right Leg
- Axis IV: Psychosocial and environmental problems related to interaction with the legal system.
- Axis V: Code 60

DISCUSSION

Michael Crayne is a 54 year old Caucasian male who displays no evidence of a mental defect, with an IQ in the low normal range. He has led a stable life free of legal problems, without any history of arrests, DUIs, and only one reported traffic ticket as described. He has, in spite of his back problems, been able to work intermittently and reports no prior history of depression, mood swings or suicidal ideation. After the back surgery he became mobile, certainly less ambulatory, and was unable to work. His wife, by his estimation, entered menopause and allegedly had an affair with Leo West as described. This led to a separation and pending divorce, which in turn led to depression, hopelessness, persistent agitation, and insomnia. He was treated with a variety of medications including antidepressants, and was taking opioid analgesics at the time of his reported intoxication. If we assume that Michael Crayne did consume 36 beers prior to the alleged event at perhaps 5:00 a.m., and if we assume that he weighed 255 pounds, then at the time of the alleged event his blood alcohol would predictably have been a .2 or greater. This estimation is complicated by the presence of opioid analgesics which would exacerbate his intoxicated state, cause a euphoria, and combined the two drugs would act a disinhibitor. He also was taking antidepressants which would in turn complicate this picture, and with reasonable medical certainty would exacerbate the intoxicated state described.

Alcohol is a disinhibiting agent which interferes with implantation of memory. Impulses through the hippocampus into long term memory are disrupted. We therefore see failure in cognition, affective stability and impulse control. When we consider the added euphoric effect of opioids we create a situation in which the individual in this case becomes unable to rationally consider his behavior, understand the potential dangers to self or others and therefore Michael Crayne acted in an uncharacteristic, potentially disastrous manner, rendered unable to foresee the consequences of his behavior. Considering the prescribed medications, his condition would predictably worsen. He was a seriously depressed individual facing the loss of his wife, friend, and the life he had known for thirty years. He acted in the impulsive manner described. He is now certainly apologetic and he clearly tells me repeatedly that he only intended to frighten his former friend, and that he did not intend to shoot anyone. He is very familiar with guns, knows how to use weapons and could certainly have harmed an individual had he chosen to do so. This behavior is clearly the product of a mentally ill individual seriously impaired with alcohol, opioids and medications as described. He is, as described, apologetic and this is an abhorrent behavior and I believe the chance of reoffending is nil. He is currently stable on the psychotropic medication and as such understands the nature of the charges against him and can currently aid and assist in his own defense. If you have further questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jerry K. Larsen". The signature is written in dark ink and is positioned above the typed name.

Jerry K. Larsen, M.D.P.C.
Associate Clinical Professor of Psychiatry
Oregon Health Sciences University, Rtd.

JERRY K. LARSEN, M.D., P.C.
PHYSICIAN AND SURGEON

CURRICULUM VITA

- Office: Jerry K. Larsen, M.D., P.C.
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- Residence: Jerry K. Larsen
15525 SE River Forest Drive
Milwaukie, OR 97267
- Undergraduate Education: University of Oregon, Eugene, Oregon, 1960-1964
- Medical School: University of Oregon Health Sciences University, Portland,
Oregon, 1964-1968
- Rotating Internship: Emanuel Hospital, Portland, Oregon, 1968-1969
- Residency: University of Oregon Health Sciences University, 1969-
1972
- Falk Fellowship: American Psychiatric Association, 1972-1973
- Interim Director: Outpatient Emergency Psychiatric Services, Department of
Psychiatry, University of Oregon Health Sciences Center,
1963-1964
- Founder/Medical Director: Psychiatric Services, Woodland Park Hospital, Portland,
Oregon/Adolescent Center Woodland Park Hospital,
Portland, Oregon/Geriatric Program Woodland Park
Hospital, 1974-1979
- Founder/Medical Director: Psychiatric Services, Riverside Psychiatric Hospital,
Sellwood, Oregon, 1979-1985
- Medical Director: Psychiatric Services, Woodland Park Hospital, 1985-1995

Consultant: Probate Court, Multnomah County, Certified Forensic
Psychiatrist, State of Oregon/State of Washington

Founder/Medical Director: CODA, 1972-2003

Lecturing Consultant: Lederle Laboratories
Pfizer Laboratories

Current Practice: Outpatient Psychiatry/Alcohol and Drug
Therapies/Buprenorphine Treatment Program/Forensic
Consultant

Associate Clinical Professor Psychiatry, University of
Oregon Health Sciences Center, R1d



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
WESTERN STATE HOSPITAL
W37-19 • 9601 Steilacoom Blvd SW • Tacoma WA 98498-7213 • (253) 582-8900

August 28, 2008

PFECC - (OUTPATIENT)

FORENSIC MENTAL HEALTH REPORT

RE: STATE OF WASHINGTON
vs.
MICHAEL DEAN CRAYNE

CAUSE NO: 07-1-01405-2
WSH NO: 433989 (Outpatient)
DOB: 04/17/1954

The forensic mental health evaluation, as reflected in this report, was conducted pursuant to court order under the authority of RCW 10.77.060. This document has been released only to the court and other persons legally authorized to receive it and is intended for their use only. Any other use of this report is not authorized by the undersigned.

REASON FOR REFERRAL:

The Superior Court for Cowlitz County, in an order dated 03/11/08 requested the above-referenced defendant be examined in regards to his mental condition, and his "capacity to form intent to commit the crime" in accordance with RCW 10.77.060(3). By statute, we are also obliged to supply opinions as to whether the defendant presented a substantial likelihood of committing criminal acts jeopardizing public safety or security unless kept under further control by the court or other persons and whether the defendant should be evaluated by a Designated Mental Health Professional under RCW 71.05. The statutory requirement for two examiners was waived, however for the purposes of this evaluation: we utilized our program practice of using two examiners for cases which may have complicated clinical issues.

Mr. Crayne was charged with Attempted Murder in the First Degree, Burglary in the First Degree – Assault, Possession of a Machine Gun or Short-Barreled Shotgun/Rifle and Assault in the Forth Degree – Domestic Violence, which allegedly occurred on or about 11/05/2007. To summarize discovery documents, it was alleged the defendant, armed with a home made firearm, contacted his estranged wife's boyfriend (Leo West) at his residence where Mr. Crayne confronted and threatened to kill him. It was further alleged that Mr. West was also armed with a firearm, which the two subsequently struggled with to take control of. In the process of the struggle, the defendant reportedly gained control and pointed the gun at Mr. West's chest and pulled the trigger, but the gun did not fire because the safety was on. Also in the process of the struggle, the defendant's estranged wife, Cindy Crayne, picked up and discarded the defendant's firearm in a nearby pile of leaves and then jumped on Mr. Crayne's back and began to hit him to



**Forensic Mental Health Report
Michael Dean Crayne**

August 28, 2008

Page 2

protect Mr. West. In the process of Ms. Crayne's attempted intervention, she was pushed or knocked backwards, which caused her to strike a wooden partition wall with the side of her neck and back of her head. Mr. Crayne was taken into custody and advised of his Miranda rights. He answered some questions about the altercation and was later transported to the Hall of Justice for further questioning. When re-advised of his Miranda rights Mr. Crayne requested to speak with a lawyer. Given he was also experiencing severe back pain from a previous medical condition that had been compounded by the altercation with Mr. West, Mr. Crayne was transported to St. John Hospital via ambulance where he was medically cleared and then transported to the Cowlitz County Jail. Per his own report, Mr. Crayne bailed himself out of jail two days later. Apart from another brief incarceration for allegedly violating a no contact order against his wife, Mr. Crayne has remained out of custody awaiting the resolution of his case.

The referral for this evaluation was considered to be complete on 03/18/08 after the referring court order and discovery materials had been received, although a telephone call was made to defense counsel, John Hays on 03/17/08 to ensure that the evaluation was requested since Mr. Hays had not signed the order and it is our program policy not to conduct an evaluation unless a defendant is represented by counsel, particularly when a request has been made to evaluate a defendant's mental condition at the time of an alleged offense. On 03/19/08 our office received a call from Mr. Hays' assistant to inform us that Mr. Hays wanted us to "hold off" on the evaluation and that he would "let us know if/when" the case was to be put on our waiting list. On 07/08/08, our office received a call from Michelle Shaffer, Deputy Prosecuting Attorney to enquire about the status of the evaluation and she was informed of the information given to us by Mr. Hays' assistant. Later the same day we were informed via email by Ms. Shaffer that the court set over the trial to facilitate the WSH evaluation and that the assigned evaluator should contact Mr. Hays office to schedule the evaluation. The undersigned were assigned to this case on 07/16/08 and contacted Mr. Hays office on 07/23/08 to schedule the examination.

NATURE OF THE EVALUATION:

Rights and Confidentiality:

Mr. Crayne arrived one hour and fifteen minutes early for his scheduled out-of-custody appointment which occurred in Dr. Finch's office at the Program for Forensic Evaluations in Corrections and the Community at Western State Hospital on 07/25/08. He ambulated carefully and with the assistance of a cane. At the beginning of the interview Mr. Crayne was informed of the purpose and non-confidential nature of the examination, the neutral and non-treatment role of these examiners and who would receive a copy of the report. He was advised he could defer to answer questions, or request to have his attorney present and that a possible recommendation for additional evaluation and/or mental health treatment could be offered as part of the examination procedure, specifically for civil commitment to a hospital for presenting a danger to himself or others if this risk presented itself. Mr. Crayne appeared to have an adequate understanding of his notification of rights and remarked that it might be to his benefit to have counsel present, given admonitions by his attorney not to discuss the details of the alleged offense. We encouraged Mr.

**Forensic Mental Health Report
Michael Dean Crayne**

**August 28, 2008
Page 3**

Crayne to call Mr. Hays, informed him that Mr. Hays' office had made the arrangements and was aware that we would be interviewing him, and that we had reviewed the police reports as well as the defense retained evaluation report by Jerry Larsen. Mr. Crayne then agreed to proceed with the interview and was again reminded that he could call his attorney or defer to answer questions if he was not certain whether or not he should respond to them. The interview with Mr. Crayne lasted approximately two hours and thirty minutes.

Database:

In addition to the clinical interview, the following information was reviewed and considered:

1. Discovery information supplied by the Prosecutor's Office which included the referring court order, Information Charging; Defendant Information; Cowlitz County Superior Court Arrestee Information and Probable Cause Sheet; Law Enforcement Incident and Supplemental Reports; copy of RCW 9A.32.030 - Murder in the First Degree; Cowlitz County Sheriff's Office Uniform Incident Report Form (Det. Bruce Haebc); Supplemental Reports (Det. James Hanberry; B. Bauman; Sgt. J. Reiss); Statement of Rights; Supplemental Report # 1 (Bruce Haebc); Handwritten Statements by Donald U. Barnell; Leo West (2 statements); Cindy Crayne; and Barbara Jean Roller; Cowlitz County Booking Sheet; the defendant's criminal history (none); printout of 911 log; Property Evidence; and photocopies of the alleged victim's motor home and pick-up truck, the weapon made by the defendant and Cindy Crayne. Also supplied was a letter to Mr. Hays by Jerry K. Larsen, M.D.P.C. of Willamette Valley Family Center, LLC (05/08/08) of a psychiatric and drug evaluation of the defendant.
2. Criminal history printout of the National Crime Information Center (NCIC).
3. Mental Health Division Databases.
4. Consultation with the Medical Records Department at Western State Hospital revealed the defendant had not previously been evaluated or treated by our institution.
5. Telephonic consultation with Frank A. Garner, M.D. (07/29/08) by Roman Gleyzer, M.D.; requested records received 08/15/08.
6. Voicemail exchange with Lower Columbia Mental Health by Indra Finch, Ph.D. (08/07/08).
7. Telephonic consultation with Angie Gogerty, Offender Services by Indra Finch, Ph.D. (08/08/08).
8. Telephonic consultation with Paula Wanne, LMFC by Indra Finch, Ph.D. (08/11/08)
9. Records were requested and received from Cowlitz County Corrections Department on 07/25/08. Additionally, voicemail and email messages were exchanged between Dr. Finch and Terance Arakaki, Cowlitz County Corrections.
10. Records were requested and received by St. John Medical Center - Peace Health (07/24/08).

**Forensic Mental Health Report
Michael Dean Crayne**

**August 28, 2008
Page 4**

RELEVANT CLINICAL INFORMATION:

The following psychosocial history was supplied solely by the defendant's self-report and is thus limited by the credibility of the defendant. Only that subset of information relevant to the purpose of this evaluation is reported here and it therefore does not represent a complete history of the defendant.

Mr. Crayne was born Longview, Washington to an intact family, the youngest child with seven "direct" brothers and sisters and seven half siblings. Both parents are deceased, his father twenty years ago and his mother two years ago. Mr. Crayne denied a history of developmental problems or any sort of abuse while growing up, but had learning disabilities in reading and spelling throughout school. When he was tested by a college counselor, he was informed he was "off the charts" in terms of his mechanical abilities, but fared less well with reading and spelling, and was identified as having "minor dyslexia." Mr. Crayne dropped out of school in his sophomore year in high school and joined the Army where he received his GED. While in high school he was never suspended but was told on one occasion to leave and not come back before he got a haircut. He additionally took courses in automotive and engine repair. Mr. Crayne began working "under the table" at his age of 17 and on his 18th birthday began building motor homes, where he worked for 1 1/2 years. He held several other jobs including working in the woods as a logger, drove dump trucks and a rock driller until his back injuries forced him to quit various jobs. He last worked for Weyerhaeuser in 1990 as a locomotive mechanic for 11 years until his back surgery in 2001. As noted above, Mr. Crayne joined the Army and served for over one year until he received a medical discharge, due to back problems. He does receive VA benefits of \$780 a month and is also supported by an L&I pension due to his back injuries.

Mr. Crayne married at his age of nineteen, two months after his wife, Cindy Crayne, turned 18. They are in the process of a divorce. They have a daughter, born six years after they married and who is 28 years old. Mr. Crayne indicated there were no episodes of physical confrontations during their marriage, and "always thought [their marriage] was pretty good."

Of his medical history, Mr. Crayne sustained nerve damage in his back that goes down his legs. He has had a "bad back" all his life which resulted in his medical discharge from the Army in 1975. He had back surgery 15 years ago which "worked excellent" noting he "came out as good as new" but needed another surgery "7 years ago this month" in two places which also "came out fine on the top" but "on the bottom" where it was "fused with metal" has "hurt worse ever since." Mr. Crayne also had surgery on his knee for a torn ligament. When asked about injuries where he may have sustained a loss of consciousness, Mr. Crayne noted three occasions - two of which he could remember - where he "woke up with people looking at me" once during a football game and once after he "flipped a motorcycle" and hit his head. He did not believe these injuries resulted in significant impairment and has not ever had a seizure. Mr. Crayne has never been hospitalized for psychiatric reasons but has been seeing Frank Garner, M.D. for 13-14 months, whom he was referred to by his primary care physician, Dr. Arnsdorf, at St. John Hospital

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 5

because of his depression. He explained he had become far more emotional, was crying over things on television and then "1 ½ to 2 years later, my wife ran off with my friend and things went downhill." Mr. Crayne explained he and his wife had been married for 33 years and had been together all through high school and looking back, he still can't believe all that had transpired or the situation he is currently in. He was prescribed Paxil and also began seeing Pamela Warne, a marriage and family counselor. Mr. Crayne had been seeing both Dr. Garner and Ms. Warne prior to the instant offense.

When asked about his history of alcohol use, Mr. Crayne recalled he and his friends had "snuck beer into the 8th grade dance." While he acknowledged that his mother (described as a tea totaller) used to think he drank too much, he estimated he would consume four or five beers about three times a week. He would occasionally consume mixed drinks or "ladies drinks" as he "can't stand hard alcohol." He told us he had not consumed alcohol since the instant offense. Of his use of street drugs, "as a kid" Mr. Crayne smoked marijuana but essentially stopped when he was 28 years old apart from "maybe a couple of times coincidentally." He denied abusing prescribed pain medication but thought he might have taken an extra pain pill on the night of the alleged offense. He explained the last time his prescription was cut back because it was not lasting more than one month. He noted, "they only want me to have one month at a time" possibly because "the pills I take I guess is a Federal thing" which the pharmacy restricts. He noted he was required to give a random drug test two weeks before but had not heard back and was not worried about it. Mr. Crayne denied use of other illicit drugs and has never used drugs intravenously.

Prior to the instant offense, Mr. Crayne had "never been in any trouble at all," specifically, he had no juvenile or adult criminal history. He had been incarcerated on the instant offense and bailed himself out of jail the following day. He explained that he was re-incarcerated for violating a no contact order with the alleged victim after he thought he was leaving a message for his daughter for a Thanksgiving greeting, but it turned out the alleged victim was staying there. Mr. Crayne added that their daughter felt she was "being put in the middle" so "took off and quit talking to us." He was incarcerated and it "took two days to see the Judge" but he was subsequently released. Of the instant offense, Mr. Crayne remarked he had never done anything like this before, "nothing that stupid" given he has "too much to lose" including his house and personal belongings, and "now I'm terribly embarrassed about things that happened."

COLLATERAL SOURCES:

Mental Health Division Databases showed the defendant had contact with mental health staff after he was incarcerated in the Cowlitz County Jail on the instant charges. Per this database, the principle diagnosis was recurrent major depression, moderate (11/05/07). Mr. Crayne had no listed community mental health case manager, evaluation and treatment center contacts or other psychiatric inpatient services; co-occurring disorders, community outpatient mental health

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 6

treatment (apart from his afore-mentioned contact in the jail), investigations by crisis services or state hospital admissions.

St. John Medical Center – Peacc Health supplied records of the defendant's examination and treatment on 11/05/2007. He noted to have been seen at 08:02 complaining of a back injury and severe pain in the lower lumbar spine following a physical altercation. He was also noted to have had depression. His medications included Roxicet (two bid); Cymbalta Cap EC (30 mg 1-2 tabs po daily); Sertaline Tab (100 mg – 2 tabs po daily); Lidocaine ointment; Senokot tablet (8.6mg 1-2 tab po 2/day. It was noted he was not taking his Hydrochlorothiazide tablet (25 mg – 0.5 tab po daily) his Atenolol tablet (25 mg 0.5 tab po daily) or his Lisinopril tablet (5mg 1 tab po daily). His physical examination described him as alert, and there were no abnormalities noted in his physical examination. Mr. Crayne was administered 2 mg IV Dilaudid for pain, and a tetanus shot (he was overdue). He was noted to be "discharged home in good condition." Clinical impression was noted as "chronic back pain: lumbar strain with sciatica (acute exacerbation); abrasion to right knee. There was no mention of a toxicology or blood alcohol level screen in the supplied records.

Mr. Crayne had a follow up appointment on 12/21/07 and was described as "doing significantly better" was "alert, oriented, no acute distress" and "in good spirits." He was noted to be depressed per Dr. Garner.

Designated Mental Health Professionals (DMHP) of Cowlitz County had no record of crisis contacts with the defendant. He was noted to have a contact with the jail social worker, but no DMHP involvement.

Cowlitz County Jail records included two mental health assessments completed on 11/05/07 and 12/03/07. On the date of Mr. Crayne's arrest, he denied suicidal ideation although acknowledged he had made an attempt approximately one month before. He endorsed feeling depressed ("I cry all the time") and was on "4 different pills" for his stomach. He denied current suicidal ideation, intent or plan, or withdrawal issues. He was placed in special housing to accommodate his medical issues (back problems) and was placed on 30 minute medical checks. Mr. Crayne was seen for the second time following his booking on 12/03/07 and when asked about a potential history of suicide, he replied "few months back. kind half-ass. I guess not." He was prescribed pain medications and antidepressants from "private doctors" and confirmed ongoing depression and chronic back pain, necessitating a cane for walking. He was described as cooperative, polite, with a stable affect, denied drug or alcohol use, suicidal or assaultive ideation or intention. He also denied withdrawal issues.

In consultation with Terance Arakaki, Offender Services Mental Health Professional, it was clarified that Mr. Crayne was released on personal recognizance the day after his initial arrest (11/06/07) and after his arrest on 12/03/07 he was released two days later on bail.

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 7

Angie Gogarty, provides community monitoring of the defendant while he is out of custody awaiting resolution of his case. Mr. Crayne has been checking in weekly since 11/2007, was described as "very appropriate" in his interactions, is generally in good spirits, patient and has never appeared angry or demonstrated any behavioral problems. He has appeared to be heavily medicated and somnolent at times, noting on at least one occasion he fell asleep in his chair and was late checking in.

Paula Warne, Licensed Marriage and Family Therapist, began seeing Mr. Crayne on 10/10/2007. At the time of his initial presentation, "he was a mess" given he was in significant pain from his back, he had no medical insurance and "his wife ran off with his best friend." He was described as "really depressed," was not sleeping and "talked about suicide." She described general themes of Mr. Crayne's "terrible grief about his wife leaving and his physical pain that was debilitating" and preventing him from doing things he used to be able to do. Ms. Warne believed that sometime between 10/10 and 10/15/07 Mr. Crayne may have sought help from St. John Hospital. She referred the defendant to Frank Garner for a psychiatric consult and to address Mr. Crayne's issues of pain and poor sleep possibly around 10/15/07. Once Mr. Crayne began seeing Dr. Garner, he seemed to feel better and his sleep improved. Of their sessions (notes taken on: 10/15, 10/29, 11/14, 11/28, 12/12/07 and 01/09/08), Ms. Warne related that the defendant disclosed concerns about his estrangement from his daughter and wife, his feelings of isolation and his efforts to reunite with his wife. Ms. Warne did not have a notation of this, but recalled Mr. Crayne had left her a message requesting an appointment so he and his wife could come in for a session. Ms. Warne recalled the defendant reported his wife had come to visit him and had talked about reconciling, which made him very optimistic, particularly when she agreed to come with him for a session. However, his wife then abruptly changed her mind, said "goodbye" and the session did not occur. She recalled the defendant disclosed to her at a subsequent session (possibly 11/14/08) that he drank a lot of alcohol which was not typical of him and ended up going over to the alleged victim's home with the intention of scaring him. He reportedly told Ms. Warne that he had an axe and told the alleged victim he was going to axe his car and had left his gun by the other man's (Mr. West's) truck. Ms. Warne recalled the defendant related "he and the man got into a fight over the other man's gun" and that Mr. Crayne had been fearful that "the other man would kill him." She recalled that Mr. Crayne related that his wife called the police and told them the defendant had threatened to kill Mr. West and he was subsequently charged with Assault with a Deadly Weapon. Ms. Warne recalled the defendant did not initially think he would get into much trouble since he had left his own gun by Mr. West's truck. Ms. Warne specified, "He said he threatened to axe the car but it wasn't clear whether or not he had the axe with him. He [Mr. Crayne] said 'I wanted him to be scared' and he was afraid the guy was going to kill him. He said then, though, that he realized he [Mr. Crayne] didn't want to die" and it was after this point that he no longer felt suicidal.

By the time of their 11/28/07 appointment, Mr. Crayne felt the "same" but was sleeping better and not crying as much as he had in previous weeks. He had no contact from his daughter and

**Forensic Mental Health Report
Michael Dean Crayne**

**August 28, 2008
Page 8**

had been told by his wife's sister that his wife had distanced herself from their friends and relatives. Mr. Crayne's new concern was how he was going to pay for an attorney given his legal charges. He then reported that he had tried to leave a message for his daughter (whom he had been worried about and not heard from) to wish her a Happy Thanksgiving, but somehow his wife retrieved the message. The defendant reportedly did not know if his wife had access to the house but he ended up getting arrested for violating the no contact order. In general, the defendant was feeling better during the day, but evenings were difficult because of trouble sleeping, however Ms. Warne believed the defendant reported he was getting six hours of sleep per night. Toward the end of their sessions Mr. Crayne's mood improved, he began watching movies with friends and he and Ms. Warne talked about ideas of activities that could occupy him. He began to feel better, felt his medications were effective and he was now realizing that his wife was now not the person he thought he knew, that he had "gone off the deep end" and needed to grieve his loss. Eventually, given financial concerns, Mr. Crayne stopped seeing Ms. Warne on a regular basis. Ms. Warne emphasized, "As grief stricken as he was he never talked about homicidal thoughts- only suicidal." She recalled, "He was mad but he only wanted to threaten him [Mr. West]."

Frank Garner, M.D. was consulted by telephone by Dr. Gleyzer on 07/29/08 and also supplied records of contacts with Mr. Crayne, who initially met with Dr. Garner on 10/24/07, as referred by Ms. Warne. Per the supplied progress notes, given the defendant's chronic back pain, he began to get depressed and was prescribed sertraline (antidepressant) which helped substantially with his depression until his wife left him and moved in with a mutual friend. As their daughter helped his wife move out, Mr. Crayne felt "triple betrayed - very hurt, became vindictive - now just tearful." His medications were changed from sertraline to citalopram with no benefit and he was not sleeping, up every two hours and experiencing unbearable pain. He became suicidal and admitted to intentionally running his car into a tree and wrecked his car. He also endorsed extreme ongoing anxiety, agitation and panic feelings and presented as anxious in the session, noting it was difficult for him to "go anywhere." He apparently had tried sleeping pills but they made him too groggy. He was described as agitated and tearful throughout the interview, but agreed to a no suicide contract. His pain was being managed by his primary care physician and he planned to continue meeting with Ms. Warne. Mr. Crayne disclosed his "only hope is that his wife will have hysterectomy and then may not be so volatile" and was distressed about his wife having two abortions when they were very young (his wife had seizures) and he wished he had more children, especially a son, as he felt very lonely. Mr. Crayne did not display any psychotic thoughts during their session, but did describe feeling "overwhelmingly exhausted." Dr. Garner prescribed Cymbalta to see if this would address both his pain and depression. Mr. Crayne denied use of alcohol but was very nicotine dependent on cigars. Dr. Garner next met with Mr. Crayne on 10/29/07 with primary concerns noted to be depression, pain and problems with sleep - mostly due to pain and pain intolerance - "deep sense of pain from depression - very concerned about wife never returning - still hopeful that she may return if has hysterectomy - tearful here today but not as much - better eye contact, cooperative - still suicidal thoughts."

Dr. Garner added a prescription for Trazadone and Bupropion with instructions to continue taking Cymbalta and discontinued the citalopram.

Mr. Crayne's next session with Dr. Garner was after the instant offense on 11/12/07. He reported he had "slept well one night on Trazadone" but "then was up all night with his wife who was going to see counselor with him, come back, etc. - then called him to say nevermind - was extremely upsetting to him - drank to excess, took Trazadone and then thought could convince wife he loved her by scaring boyfriend away - ended up in a terrible confrontation - now charged with attempted murder - was not his intent - not good judgment at the time - he can clearly see this now - embarrassed about it - but extremely tearful again, after 'she messed with my head' not sleeping with Trazadone." Dr. Garner changed Mr. Crayne's medications to a low dose of Seroquel.

Subsequent sessions (12/06, 12/26/07, 01/08/08, 01/25, 02/17, 03/07, 03/26, 04/11, 04/29, 05/22, 06/12, 07/10) documented very gradual improvement in Mr. Crayne's symptoms of depression, grief, feelings of loneliness, demonstrated tearfulness and ability to sleep which was addressed by increases in prescribed medications, with some progress lost when some of his medications were decreased. He "continued to grieve about losing everyone dear to him" (04/11/08) and continued to have problems with sleep. By the last supplied note (07/10/08) Mr. Crayne reported feeling "pretty good" had slept well the previous two nights and increased his activities with friends. He was relieved his phone harassment charges had been dropped and his other charges postponed until October. While he still was upset about his wife, he was "managing okay" was described as "much less tearful and agitated" and "appears happy," as he was "able to have good insight about this behavior when he was sleep deprived, very distraught and intoxicated - now shaking his head about how he would ever think of the thing he did."

Criminal history: Per the defendant's NCIC, there is a current protection order prohibiting the defendant's contact with Leo Wesley West and Cindy Lee Crayne, which appeared to have expired on 08/05/08. Per this database, Mr. Crayne has no known convictions or adverse findings. Apart from the instant allegations, Mr. Crayne had one charge of domestic violence court order violation (12/03/07) which was dismissed.

MENTAL STATUS EXAMINATION:

Mr. Crayne presented as a well developed, obese Caucasian male whose grooming and hygiene was well within normal limits. He displayed no overt problems in his psychomotor behavior, but ambulated carefully with the use of a cane. He was administered the Folstein Mini-Mental Status Examination and achieved a score of 25 out of a possible 30, losing points for missing the date by one day, having trouble calculating serial 7's or spelling a five letter word back wards (which could reflect his learning disabilities in this arena) and recalling two out of three words after an intervening distracting task. Mr. Crayne could name the current US President but had "no idea" who the Washington State Governor was, apart from her gender. He was aware of recent news

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 10

events and was able to name the most recent holiday. Mr. Crayne's response to similarities and a proverb were concrete and his response to a hypothetical question of judgment was pro-social. He was estimated to be functioning within the average range of adult intelligence.

Mr. Crayne's speech was average in rate, rhythm, volume and tone. He endorsed no sensory perceptual disturbances (such as auditory or visual hallucinations) and at no time during our interview did he present with elements of psychosis, mood instability or significant cognitive impairment. He noted he had begun talking in his sleep, reasoning this may have started because after 33 years of marriage he now has no one to talk to. He did not report or endorse any delusional ideation. Mr. Crayne demonstrated an appropriate range of affect and described his mood as, "For driving up here and doing this, okay." The sentence he wrote when requested on the Folstein was "I hate this stuff" which seemed to reflect his general feeling about the evaluation and discussing his legal situation which he repeatedly expressed feeling embarrassed about. He explained that several months ago he felt like he was having heart attacks and might not have shown up to the interview, but noted "I don't know if the pills or time or a bit of both" helped his general mood. Mr. Crayne endorsed suicidal ideation and an attempt prior to the instant offense. He thought he was "probably on the drunk side" when he deliberately drove his car off the road and ended up down a ditch, after he had been thinking about his wife and how he had taken care of her financially "all her life" and thought that since his pension was set up to go to her upon his death, he "thought that way, I still could." Mr. Crayne began crying during our interview as he discussed this, noting, "I'm still a little mad" but of his suicidal ideation, "I'm over that." He adamantly denied any thoughts of harming others and maintained, "didn't that night either - they got the intent totally wrong." Mr. Crayne reported no impairments in his appetite ("unfortunately it's too good") but described his sleep as, "terrible." He noted he "can't get to sleep, can't stop thinking about stuff and even at my best my legs wake me up - throbbing pain." He noted that if he is able to sleep four hours straight, it is a "good night" and he tends to doze off at 2 or 3 in the morning. He now sleeps in his recliner as, "If I lay in bed my mind goes places it shouldn't so I don't try anymore." In summary, at the time of our interview Mr. Crayne did not present with overt symptoms of psychosis, mood instability or cognitive impairment although continued to have some elements of depression related to his estrangement from his wife and daughter and current legal situation.

DIAGNOSTIC IMPRESSIONS:

Mr. Crayne did not have a history of major mental illness, but continued to present with symptoms consistent with depression (impaired sleep, tearfulness) that appear to have responded positively to antidepressant and mood stabilizing medications. He also suffers from chronic back pain which has only moderately responded to pharmacological intervention. He reportedly began using alcohol to a significant degree and his current prescriber wondered whether he still might be using alcohol to excess. There did not appear to be evidence of street drug use or abuse of prescription medications. Based on available information, our diagnostic impressions are as follows:

Axis I: Depressive disorder not otherwise specified (311)
Alcohol abuse by history (305.00)
Partner Relational Problem (V 61.10)

Axis II: No diagnosis (V 71.09)

Axis III: Chronic back pain

MENTAL STATE AT THE TIME OF THE ALLEGED OFFENSE:

Defendant's Version: Mr. Crayne explained that his wife had been having emotional problems throughout their marriage which he suspected were related in part to her hormonal imbalance. She had considerable difficulty during her pregnancy, and more recently had been told by her doctor she was pre-menopausal. She began to accuse Mr. Crayne of "things she knows I wouldn't say" and felt that she had "totally changed" in the several months prior to the instant offense. He explained that in the early 1990s they had "a lot of trouble," wherein his wife was "picking fights, doing stuff, accusing me" and he was able to get a referral from his company for a marriage counselor. Ms. Crayne went in first by herself with the plan for Mr. Crayne to go in by himself and then the two of them. He never knew what his wife spoke to the counselor about, but following her appointment, she was scheduled to see a psychiatrist and spent four hours for five days for psychological testing. She also was sent to take a class at a local college and had a notebook "My opinion means something." Mr. Crayne explained that his wife would never make decisions, leaving them up to him and then would complain about decisions he made. He noted she would forget or deny things she said, but after the meeting with the counselor and the class, their marriage seemed to improve for about four years and they got along better. When their more recent troubles began, he tried to remind her that she tended to do things "the hard way."

At some point in 2006, their daughter, Morgan, had taken on a job where she worked 12 hours a day, three days a week, and Ms. Crayne would stay over at her daughter's house to babysit. In October 2006 Ms. Crayne moved out of their home into their daughter's house and changed her address to their daughter's. They did not file for divorce until six months after his wife moved out. Of this time period, Mr. Crayne indicated he was "trying to get along - I thought she was going through something, I thought we'd get back together." Approximately four days prior to the instant offense (Thursday - 11/01/07) he had called to speak to his daughter about plans for Saturday - it was supposed to be good weather and he planned to fix up an old bicycle so he could teach his granddaughter to ride. He explained his wife generally did not answer the phone when he called (she could tell it was him from caller ID) but this time she did as Morgan was in the shower. Ms. Crayne reportedly told him to come pick her up. They ended up "talking all night" and "she agreed to see a marriage counselor." [Mr. Crayne explained that he had talked to Paula Warne about scheduling a session for himself and his wife and made an appointment to see her on Tuesday (possibly 11/06/07)]. In the morning, Ms. Crayne had to return to their

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 12

daughter's home to care for their granddaughter on Friday (Morgan had called). Mr. Crayne offered to watch her so his wife could sleep, but Ms. Crayne had already made plans to go with their friend Barbara ("Bugs") to town all day and reportedly told Mr. Crayne she would call him later. She did not call all day, but later did call around 10 or 11pm (Friday night) but he was outside, and left a message, "I changed my mind, goodbye!" [He was later told by their daughter that Mr. West picked Ms. Crayne up on Friday and did not bring her home until Tuesday]. Mr. Crayne recalled, "I got upset. I didn't sleep at all Friday night." Saturday, he was expected at a friend's birthday party, but "was a wreck" and called them to explain his situation. He did not sleep at all on Saturday night, and by Sunday, "I was so rummy - crying constantly. I decided I needed sleep and started drinking before noon." He believed he drank "quite a bit," but "couldn't say for sure" how much he consumed. He had part of an 18-pack and a whole 18-pack of beer in the refrigerator and recalled leaving a half-consumed can of beer on a barrel in his backyard before he left his house which was "the last of all of them." He took his pain medication about 9:00pm and then one or two more at 10:30pm, which was "closer than usual." By midnight, he was "nodding out in the chair" so turned off the television and laid down in bed. Within 15 minutes, he was "wide awake and came up with the idea" which "seemed like a dandy answer to the problem." Mr. Crayne had known Mr. West for about twenty years. He knew that Mr. West would leave for work between 4:30 and 5:00 am, to drive a dump truck. His intention was to be waiting for Mr. West to come out of his trailer on his way to work, where he would confront and "scare him into taking Cindy up to Morgan's house, leave her there and leave us alone." He noted, "If it went as planned, Cindy would never know I was there at all." He added, "All I was thinking about was getting her to that appointment [with Ms. Warne] - now I see it was a stupid way."

Mr. Crayne estimated that he left his house "a little after 1:30" in the morning. It was about four miles to Mr. West's trailer and given he did not know when Mr. West's neighbor went to work, he did not want to leave his car in the driveway so elected to ride a bicycle, noting he "knew the driveway bottom to top," believed he knew where the dogs would be tied up and drew a diagram for us of the layout. When asked about the gun, Mr. Crayne explained that "years ago" when he had injured his back, he "thought it would be kinda neat to make a homemade gun to play with from [spare] parts." He explained that the safety was on one side but the gun did not turn out how he had wanted it and he hadn't completely finished it (he felt better working on cars). He wrapped up the gun "just to scare him so it wouldn't make a sound" and to give Mr. West the understanding that "I could kill you when I want" clarifying, "I made it quiet to intimidate it enough. Not to shoot him. Because that would not have got Cindy to the appointment. My plan was for Cindy not to see me. On his way to work he drives past Morgan's house... I'm sure she didn't tell him we spent the whole night talking. She said she spent the whole day with Bugs but now it looks like she stayed with him." Mr. Crayne found a "dome tent bag" which was the "right size" to conceal the gun. He had broken down the gun and tried to put it across the bicycle handlebars for the ride. He estimated he "stopped maybe 15 times" on the 4-mile ride, noting, "I walked longer than I rode - I covered more ground riding" but he "would lean on the handlebars

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 13

— like a walker." When asked what it was like for him during the bike ride, Mr. Crayne replied, "Actually I think I was wide awake...Energy wise, pretty good -- I thought I was going out to resolve things. I think my thoughts were clear at the time. I thought I had the perfect plan. He would take Cindy to Morgan's and we would go to the meeting on Tuesday." Mr. Crayne was uncertain what time he arrived at Mr. West's home. When specifically asked, he indicated he loaded the gun after he got to the house but was not sure how many bullets he had with him as he had some from when he built the gun so just scooped up a handful from the drawer, and "mighta had ten." He explained the gun "broke down like a shotgun" but did not have a mechanism like a shotgun.

Mr. Crayne stashed his bicycle off a neighbor's driveway in a deer trail and walked in between the homes. He sat and waited, noting Mr. West's stepfather had windows facing toward Mr. West's trailer and there were quad bikes and a hot tub closer to the house which created an obstruction. He felt that he had been waiting so long, when the dogs began barking, and the light was turned on he had come closer to the door than he had planned, "So I knew he came out. I saw he had a pistol in his hand. We talked a little bit — mostly I told him what a low life he was" adding, "Mostly that he was a back stabbing low life. [Why?] He's taking advantage of her — she's having problems. She way out classes him...I knew it would end it fisticuffs." Mr. Crayne's plan was to "jump him when he came out" but once he noticed Mr. West had a gun, "I put my gun down" and "we took to wrasseling" and "Cindy kept getting into it — I was hollering at her to 'get back- we were fighting over a gun' and we decided to throw it out the door so none of us would have it." Mr. Crayne remarked, "By that time, my back hurt, he was out of breath and it was time to quit." He believed they may have counted to ten before throwing the gun out the door. He then picked up his gun and when he did so, Mr. West "said, 'you brought your own gun?' When Cindy tried to get the gun, I turned it loose" and threw the gun "like from here to that chair" — indicating a chair in the interview room. He recalled Ms. Crayne got his gun and to keep it from him, "she was going to lay on it — I told her not to do that, 'let me show you at least how to uncock it' she said 'I don't believe you.'" Mr. Crayne noted, "They said I shot it at Leo and it misfired — they had a gun expert look at it and said it didn't misfire." Mr. Crayne contended, "Leo was lying his ass off — he said as soon as he opened the door I punched him, It's not true I wouldn't have cheap-shotted him. If I would, it would have ended. It would have been hard from that angle." He thought it was possible that Mr. West got a bloody lip during their altercation, but noted, "He started screaming so I tried to put my hand over his mouth — while he was still in the doorway or shortly after, he hollered to Cindy, 'Mike's out here!'" As soon as Mr. Crayne found out the police were enroute, "Cindy didn't want to say anything to the police about guns. Once Leo told them about the gun, the cat was out of the bag." He indicated that after the wrestling match, he "pretty much sobered up. While I was sitting there, I thought 'Trespassing — a misdemeanor at most.' I didn't think it would be any seriouser than that. It never occurred that this was not a great plan." After he spoke with the police, "He said Attempted Murder. I said, 'I screwed up.' It was the first time I thought it was really stupid." He added, "When I went out there it just didn't occur to me that anything could go wrong. If it did go off there would be no

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 14

sound. The only thing he had was a truck and all I'd have to pay for would be a broken window. The cops thought all kinds of other things."

Forensic Formulation:
Diminished Capacity:

Assessment of the defendant's capacity to form the mental state required to commit the alleged offenses was requested. Someone could be found diminished in his capacity if, as the result of a mental disorder not amounting to insanity, he is incapable of forming the mental state that is an element of the crime charged. Mr. Crayne is charged with Attempted Murder in the First Degree, Burglary in the First Degree- Assault, Possession of a Machine Gun or Short Barreled Shotgun/Rifle and Assault in the Fourth Degree- Domestic Violence. The mental state for three of the four charges is "intent" (Possession of a Machine Gun or Short Barreled Shotgun/Rifle appears to be a strict liability crime). Intent is defined in RCW 9A.08.010(1)(a) as follows: A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a crime.

The question of capacity to form intent requires analysis of: 1) the presence of a mental disorder or extreme intoxication; 2) analysis of what symptoms were likely present at the time of the offense; 3) identification of the mental abilities impaired by the symptoms; and 4) the probability and degree to which these impairments may have interfered with the ability form the requisite mental state.

Mr. Crayne did not have a documented history of major mental illness, but had been treated for depression and suicidal ideation following his separation from his wife. He sought counseling and was referred to a psychiatrist who prescribed a variety of medications to treat his depressive symptoms and pain management from his chronic leg and back pain. Mr. Crayne had made one suicide attempt prior to the instant offense and per both of his treatment providers (Paula Warne, LMFC and Frank Garner, MD) had suicidal ideation up until the time of the alleged offense. Per their records, Mr. Crayne's report about his depression, problems sleeping, hopes to reunite with his wife, and her statement that she would consider attending a counseling session with him, were consistent with his reports to the undersigned and both Dr. Garner and Ms. Warne assessed Mr. Crayne as being in acute distress and at risk for suicide. Dr. Garner's notes reflected Mr. Crayne had agreed to a no suicide contract. Per Mr. Crayne's report, he had stayed up all night talking to Cindy Crayne on Thursday, then again all night on Friday after she told him she had changed her mind about seeing the counselor, and again on Saturday. It was not clear whether he had any sleep during the daytime hours of those days. He indicated he began drinking beer around noon on Sunday (11/04/07), as well as "a couple more after I came up with this bright idea" and then rode to the alleged victim's home. There was no mention of a blood alcohol level after he was brought to St. John Hospital for medical clearance prior his being booked into jail and neither the hospital records nor jail records made mention that he presented as intoxicated at

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 15

these times. There was no mention in the police reports regarding potential alcohol use or intoxication of Mr. Crayne.

Mr. Crayne reported a vivid memory of events, stated his thoughts were clear and he was wide awake en route to the alleged victim's home. He described an elaborate plan regarding the manner in which he would confront the alleged victim and scare him with the hope that this would result in Mr. West agreeing to take Ms. Crayne to her daughter's so Mr. Crayne could then take her to a counseling appointment. The police report also quoted the defendant as stating he had come to the house with the purpose of scaring Mr. West. Mr. Crayne's account of the ensuing events was different from the alleged victims' report. Nevertheless, Mr. Crayne's description of his actions suggested he had the *capacity* to engage in goal-directed and purposeful behavior. He disclosed to the undersigned, the police, his treatment providers and Mr. Larsen that it had been his intention to "scare" Mr. West with the hope of reuniting with his wife. Whether or not this constitutes diminished capacity or that Mr. Crayne *intended* to commit the crime of murder, entered the home of Mr. West with intent to commit a crime or to assault his wife is a matter best left to the trier of fact.

DANGER TO OTHERS & LIKELIHOOD OF COMMITTING FUTURE CRIMINAL OFFENSES:

This opinion concerning dangerousness was court ordered and conducted within the scope of RCW 10.77.060 regarding pre-trial mental health evaluations. An opinion is to be made as to whether or not the defendant presents as a substantial risk of danger to others or substantial likelihood of committing criminal acts, jeopardizing public safety or security, unless kept under further control of the court or other persons or institutions. An additional opinion is required as to whether or not the defendant should receive a RCW 71.05 civil commitment evaluation by a CDMHP. This opinion is based solely upon the above evaluation under RCW 10.77.060. Other reasons may exist to require a civil commitment evaluation, which fall within the scope of other standards outside the purview of this evaluation.

Cautionary Note: In considering the defendant's risk for future violence and future criminal acts it should be noted that, given the limitations of our knowledge in the area of discussing future risk, in addition to the frequently incomplete historical data available in these types of assessments, mental health professionals can best assist the court in making pretrial dangerousness assessments by identifying the presence of known risk factors, providing a clinical formulation of how these factors affect the defendant, and providing risk management recommendations. This assessment does rely considerably on the defendant's self-report and this sets an upper limit on the reliability of any opinions rendered. Static or unchanging factors help establish a baseline level of risk. They do not predict individual risks, but evaluate whether a defendant has characteristics similar to offenders in high risk categories.

Forensic Mental Health Report
Michael Dean Crayne

August 28, 2008
Page 16

Mr. Crayne's NCIC criminal history noted no prior arrests, convictions, adverse findings or traffic related offenses before the instant allegations. His additional charge of violating a domestic court order violation (12/03/2007) was dismissed. He has regularly checked in while residing out of custody awaiting resolution of his case with no problematic behavior reported. He has been compliant in taking his prescribed medications and per information made available to the undersigned, has followed all required conditions in the community (e.g. kept appointments, attended court hearings and made himself available for the instant evaluation).

Current practice in risk assessment considers factors that have been correlated with aggressive proclivity. The HCR-20 is one such measure that organizes these factors into three categories, Historical, Clinical, and Risk Management items. [N.B. This assessment was conducted without the use of the Hare Psychopathy Checklist, which could potentially change a person's score by two points, thereby underestimating potential risk. Therefore the HCR-20 was not formally completed and scored, but was used as a guideline for identifying known risk factors.] Historical factors are aspects of a person's life that are enduring and unlikely to change. Historical items for Mr. Crayne are relatively few and appear more recent – specifically his current relationship instability with his wife and substance abuse problems (alcohol). Protective factors included a lack of previous violence, no reported violence in his developmental years, stable employment until his disabling back injury, no history of major mental illness or early maladjustment, no apparent personality disorder and compliance with supervision requirements while awaiting resolution of his case. Clinical items consider current psychological functioning and are also few, to include limited insight. Protective factors included his absent criminal history and pro-social attitudes, no active symptoms of major mental illness, apart from the instant offense lack of impulsivity and initiating his involvement in mental health treatment. Risk Management items forecast how individuals will adjust to future circumstances, and for Mr. Crayne include possible exposure to destabilizing influences (e.g. alcohol), limited personal support and stress. He otherwise lives in his own home and has been compliant with his medications and community supervision. Based upon available information, it is our clinical opinion that Mr. Crayne would present a low imminent risk to others and a low risk for criminal reoffense. Interventions that would be expected to mediate these risk factors could include strict abstinence from intoxicating substances, full compliance with his treatment provides and community supervision.

CIVIL COMMITMENT:

At the time of our interview, Mr. Crayne did not present with the sorts of symptoms that would necessitate an urgent referral for an evaluation under RCW 71.05 and therefore this is not recommended at this time.

**Forensic Mental Health Report
Michael Dean Crayne**

**August 28, 2008
Page 17**

This evaluation is completed with the submission of this report. Please contact the undersigned if we may be of further service to the Court in this matter.



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Center for Forensic Services – Western State Hospital

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