

FILED
Court of Appeals
Division II
State of Washington
11/15/2017 4:48 PM

NO. 50467-7-II

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

STATE OF WASHINGTON,

Respondent,

v.

RODMAN ALFRED WIDING.

Appellant.

ON APPEAL FROM THE
SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR CLARK COUNTY

The Honorable Derek J. Vanderwood, Judge
OPENING BRIEF OF APPELLANT

Peter B. Tiller, WSBA No. 20835
Of Attorneys for Appellant

The Tiller Law Firm
Corner of Rock and Pine
P. O. Box 58
Centralia, WA 98531
(360) 736-930

TABLE OF CONTENTS

	<u>Page</u>
<u>Table of Authorities</u>	iv-v
A. ASSIGNMENTS OF ERROR	1
B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR .	3
C. STATEMENT OF THE CASE	5
1. <u>Underlying facts and procedural history</u>	5
a. RCW 10.77.080 motion	8
b. RCW 10.77.110 disposition hearing.....	13
c. The court's ruling on commitment	17
D. ARGUMENT	17
1. THE COURT ERRED BY FINDING THAT MR. WIDING WOULD BE A DANGER TO OTHERS IF GIVEN AN UNCONDITIONAL RELEASE AND BY ORDERING COMMITMENT TO WESTERN STATE HOSPITAL	17
a. <i>Involuntary commitment of a person acquitted by reason of insanity requires a finding that the acquittee is dangerous to others</i>	17
b. <i>Following acquittal by reason of insanity, the State must prove confinement in a state mental institution is appropriate</i>	19
c. <i>RCW 10.77.110 requires a specific finding of dangerousness as a predicate for commitment of an insanity acquittee</i>	21

d.	<i>Mr. Widing's involuntary commitment violates due process because it is premised on an HCR-20 unsupported by the record</i>	23
e.	<i>The trial court erred by admitting Dr. Rice's opinion dismissing copper toxicity and renal failure as a likely cause of Mr. Widing's temporary psychosis, in violation of ER 702</i>	27
2.	MR. WIDING RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL	31
E.	CONCLUSION	34

TABLE OF AUTHORITIES

<u>WASHINGTON CASES</u>	<u>Page</u>
<i>State v. A.S.</i> , 138 Wn.2d 898, 982 P.2d 1156 (1999).....	29
<i>State v Aho</i> , 137 Wn.2d 736, 975 P.2d 512 (1999)	32
<i>State v. Atsbeha</i> , 142 Wn.2d 904, 16 P.3d 626 (2001).....	28
<i>State v. Bao Dinh Dang</i> , 178 Wn.2d 868, 312 P.3d 30 (2013).....	13, 19
<i>State v. Brasel</i> , 28 Wash.App. 303, 623 P.2d 696 (1981)	19
<i>State v. Byrd</i> , 30 Wn. App. 794, 638 P.2d 601 (1981)	32
<i>State v. Carter</i> , 56 Wn. App. 217, 783 P.2d 589 (1989).....	32
<i>State v. Greene</i> , 139 Wn.2d 64, 984 P.2d 1024 (1999).....	27, 32
<i>State v. Hicks</i> , 41 Wn. App. 303, 704 P.2d 1206 (1985).....	23
<i>State v. Jones</i> , 84 Wash.2d 823, 529 P.2d 1040 (1974)	18
<i>State v. Mak</i> , 105 Wn.2d 692, 718 P.2d 407 (1986).....	32
<i>State v. McFarland</i> , 73 Wn. App. 57, 867 P.2d 660 (1994) affirmed	127
Wn.2d 322, 899 P.2d 1251 (1995).....	31
<i>Oliver v. Pacific Northwest Bell Tel. Co.</i> , 106 Wn.2d 675, 724 P.2d 1003 (1986).....	29
<i>State v. Platt</i> , 143 Wash.2d 242, 19 P.3d 412 (2001).....	18
<i>In re Det. of Pouncy</i> , 144 Wn.App. 609, 184 P.3d 651 (2008), aff'd, 168 Wn.2d 382, 229 P.3d 678 (2010).....	28
<i>State v. Rafay</i> , 168 Wn. App. 734, 285 P.3d 83 (2012), review denied, 176 Wn.2d 1023 (2013)	27
<i>State v. Reid</i> , 144 Wash.2d 621, 30 P.3d 465 (2001)	18, 19
<i>Reese v. Stroh</i> , 128 Wn.2d 300, 907 P.2d 282 (1995)	29
<i>Safeco Ins. Co. v. McGrath</i> , 63 Wn.App. 170, 817 P.2d 861 (1991).....	28
<i>State v. Thomas</i> , 109 Wn.2d 222, 743 P.2d 816 (1987).....	31-32
<i>State v. Thomas</i> , 123 Wn.App. 771, 98 P.3d 1258 (2004).....	28
<i>State v. Wilcox</i> , 92 Wn.2d 610, 600 P.2d 561 (1979)	22-23
<i>State v. Willis</i> , 151 Wn.2d 255, 87 P.3d 1164 (2004)	27
 <u>UNITED STATES CASES</u>	
<i>Addington v. Texas</i> , 441 U.S. 418, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979)	20
<i>Foucha v. Louisiana</i> , 504 U.S. 71, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992).....	20, 23
<i>United States v. Hinckley</i> , 40 F.Supp.3d 8, 28 (2013).....	24, 26
<i>Jones v. United States</i> , 463 U.S. 354, 103 S. Ct. 3043, 77 L. Ed. 2d	

694 (1983).....	20
<i>O'Connor v. Donaldson</i> , 422 U.S. 563, 95 S.Ct. 2486, 45 L.Ed.2d 396 (1975).....	21
<i>Strickland v. Washington</i> , 466 U.S. 668, 104 S. Ct. 2052, 80 L. Ed. 2d 674 (1984).....	34
<i>Zinerman v. Burch</i> , 494 U.S. 113, 110 S. Ct. 975, 983, 108 L. Ed. 2d 100 (1990).....	20

OTHER AUTHORITIES

Page

Erica Beecher-Monas & Edgar Garcia-Rill, Danger at the Edge of Chaos: Predicting Violent Behavior in a Post-Daubert World, 24 Cardozo Law Review, 1876 (2003)	23-24, 25
American Psychiatric Association, Diagnostic and Statistical Manual of Mental Disorders (5th ed. 2013).....	
Douglass Mossman, Violence Risk, Is Clinical Judgment Enough?, Current Psychiatry, June 2008.....	24
<i>Hawkes v. State</i> , 433 Md. 105, 112, n. 9 (2013).....	24

REVISED CODE OF WASHINGTON

Page

RCW 10.77.110	21, 22
RCW 10.77.110(1)	21, 22, 33
RCW 10.77.020(1)	31
RCW 10.77.040	19
RCW 10.77.080	19
RCW 18.71.011	30
RCW 18.71.021	30
RCW 18.83.010	29-30

COURT RULES

Page

ER 702	27, 32, 33, 34
--------------	----------------

CONSTITUTIONAL PROVISIONS

Page

U.S. Const. Amend. VI.....	31
U.S. Const. Amend. XIV	23, 31
Wash. Const. art. I, § 3.....	23
Wash. Const. art. I, § 22.....	31

A. ASSIGNMENTS OF ERROR

1. The trial court denied the appellant Rodman Widing his Fourteenth Amendment right to substantive due process when it concluded that the appellant presented a substantial danger to other persons unless kept under control by the court or other institution.

2. The trial court erred in entering an order committing Mr. Widing to Western State Hospital pursuant to Chapter 10.77 RCW subject to further proceedings for conditional or final discharge from Western State Hospital. Clerk's Papers (CP) 80-81; (Order of Commitment, April 10, 2017).

3. A witness who is not a physician is unqualified to give a medical opinion regarding copper toxicity and renal failure as a possible cause of an appellant's temporary psychosis.

4. The trial court erred by entering Finding of Fact 18 in support of the order of commitment:

Dr. Rice's amended report weighed heavily the severity and level of violence of the current charges in concluding that the defendant's risk of future dangerousness to others was high.

CP 77; (Findings of Fact and Conclusion of Law For Finding of Not Guilty By Reason of Insanity, 4/10/17).

5. The trial court erred by entering Finding of Fact 21 in support of the order of commitment:

Dr. Singer's lack of experience undercuts the Court's confidence in his risk assessment and the Court is not convinced by the defendant's behavior at the time of this event was caused solely by copper toxicity.

CP 77.

6. The trial court erred by entering Finding of Fact 24 in support of the order of commitment:

The alternative program proposed by defense appears to lack the necessary structure.

CP 77.

7. The court erred by entering Conclusion of Law 4 in support of the order of commitment:

The defendant does present a substantial danger to other persons unless kept under further control by the Court or other persons or institutions.

CP 78.

8. The court erred in entering Conclusion of Law 5 in support of the order of commitment:

This conclusion about substantial danger is based on the severity of the current offenses as well as the lack of clarity as to the underlying cause of the defendant's insanity at the time of the offense.

CP 78.

9. The court erred in entering Conclusion of Law 6 in support of the order of commitment:

Given the seriousness of this conduct, the finding of dangerousness, and the uncertainty as to the cause or reason for the psychotic episode oversight at Western State Hospital at this time is appropriate.

CP 78.

10. The court erred in entering Conclusion of Law 7 in support of the order of commitment:

It is not in the best interests of the defendant and others that the defendant be placed in treatment that is less restrictive than detention at Western State Hospital.

CP 78.

11. Mr. Widing received constitutionally ineffective assistance of counsel where his attorney failed to object under ER 702 to the State's expert's report and testimony dismissing copper toxicity and renal failure as a probable cause of Mr. Widing's temporary psychosis.

B. ISSUES PERTAINING TO ASSIGNMENTS OF ERROR

1. The Fourteenth Amendment requires that in order for an individual to be confined against his will in a mental institution, he must be proven to be mentally ill and dangerous. Under RCW 10.77.110, if the court finds an insanity acquittee is a substantial danger to other persons or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, the court is to order hospitalization or any appropriate less restrictive alternative treatment. Mr. Widing was acquitted first degree assault and second degree assault after the trial court found him not guilty by reason of insanity. Dr. Patricia Rice, a psychologist, evaluated Mr. Widing and determined that he is a low to medium risk of dangerousness to others using the Historical Clinical Risk Management-20 ("HCR-20"). Dr. Rice filed an amended evaluation one day prior to a

disposition hearing on March 16, 2017, and changed her assessment from a low to medium risk to a high risk of dangerousness to others, stating that her initial evaluation too heavily weighed Mr. Widing's lack of criminal history and undervalued the severity of the assaults. Did the court err when it concluded that Mr. Widing is a substantial danger to others unless controlled and when the court ordered commitment to Western State Hospital? (Assignments of Error 1, 2, 4, 6, 7, 8, 9, and 10)

2. Did the court err when it concluded that Mr. Widing is a substantial danger to others based on the severity of the current offense offenses and "lack of clarity as to the underlying cause" of the psychotic episode where Dr. Raymond Singer, a neurotoxicologist, completed an extensive, detailed evaluation identifying copper toxicity through exposure to copper through Mr. Widing's work as an electrician as the cause of acute renal failure and subsequent psychosis, based on Dr. Rice's testimony dismissing Dr. Singer's conclusion, where Dr. Rice has no credentials or training as a toxicologist? (Assignments of Error 1, 2, 3, 7, and 8)

3. Dr. Rice is a licensed psychologist who primarily conducts competency evaluations and mental state evaluations and is not a physician. Is an expert witness who is not a physician qualified to give an opinion that Mr. Widing's temporary psychosis cannot be attributed to copper toxicity and acute renal failure? (Assignments of Error 3 and 5)

4. Because the trial court's findings do not support its conclusion that Mr. Widing presents a substantial danger to others unless institutionalized and that treatment in a less restrictive setting is inappropriate, did the trial court err in ordering that Mr. Widing be committed to Western State Hospital? (Assignments of Error 6, 7, 8, 9, and 10)

5. Whether trial counsel was ineffective for failing to object to the testimony and report of psychologist Dr. Rice pursuant to ER 702 because her testimony involved a medical and toxicology opinion. (Assignments of Error 3 and 11)

C. STATEMENT OF THE CASE

1. Underlying facts and procedural history:

Rodman Widing and his wife Athena Meisenheimer bought a house at 30214 NE Lewisville Highway in Clark County, Washington in order to pursue a job opportunity. Report of Proceedings¹ (RP) at 3-4. Mr. Widing moved into the house in March, 2105 and Ms. Meisenheimer remained at their house in Puyallup and went to their new house in Battle Ground for weekends until her children finished the school year in Puyallup in June, 2015. When Ms. Meisenheimer arrived at the house on Friday, June 12, 2015, she thought that her husband was acting strangely,

¹The record of proceedings consists of the following transcribed hearings: 1RP - September 1, 2016, October 13, 2016; 2RP - November 21, 2016, December 22, 2016, January 5, 2017, January 27, 2017, and 3RP - March 16, 2017, March 30, 2017, April 10, 2017, and April 13, 2017.

and noted that he was manic, animated, and talking about things that did not make sense. She believed that it was due to his use of marijuana and he agreed to stop smoking it and gave her a jar containing marijuana, which she hid in the laundry room. Later that day, Ms. Meisenheimer found him upstairs crying and watching a YouTube video on Einstein's brain. On Saturday night Ms. Meisenheimer slept in their bed and Mr. Widing slept on the couch downstairs. On Sunday morning he appeared to be "very agitated". Before noon on Sunday, June 14, 2015, she discovered that Mr. Widing was smoking liquid marijuana using a vape pen. He gave her the liquid marijuana and was going to take a nap to sleep it off. Supplemental CP __ (Defendant's Evidentiary Submission, 9/1/2017, Exhibit C), Attachment A at 3-5.

Ms. Meisenheimer went upstairs to check on Mr. Widing about half an hour later and he was out of bed and dressed and acting very strangely. Ms. Meisenheimer had never seen him act that way and he appeared to be hallucinating and was not making sense. Mr. Widing grabbed her and forced her to smoke from the vape pen, which she refused. Mr. Widing then threw her on the bed, and he straddled her and grabbed her throat with both hands and started squeezing, restricting her ability to breathe. Ms. Meisenheimer passed out briefly and then remembers Mr. Widing throwing her on the floor, straddling her again and then putting his hands around her throat and restricting her breathing

a second time. Ms. Meisenheimer started “going along” with Mr. Widing by getting the liquid marijuana she had taken from him earlier, which seemed to calm him down. Mr. Widing let Ms. Meisenheimer go to the bathroom and she called 911. Mr. Widing let her go out to get the children who were out by the pool. She got the children and ran to a neighbor’s house and called 911 a second time, and reported she was being assaulted by her husband and that her husband was running around naked, looking for her and the children. Supplemental CP __ (Defendant’s Evidentiary Submission, 9/1/2017, Exhibit C) Attachment A at 4-5.

When police arrived, Mr. Widing ran toward them saying “kill me, kill me”, and then ran back toward the house, got on the ground, and started eating dirt and grass while still asking deputies to kill him. Mr. Widing was yelling that he was God, and would then lie down on the ground and begin grabbing at the lawn. He managed to grab two handfuls of grass and dirt and began eating it, and then fell on his back and continued to yell for deputies to kill him. He was detained by police and transported to the hospital. Supplemental CP __ (Defendant’s Evidentiary Submission, 9/1/2017, Exhibit C) Attachment A at 4-5.

After being transported to the Legacy Salmon Creek Medical Center, Mr. Widing was intubated due to his extreme agitation and psychosis until June 16, 2015. After admission to the hospital he was treated for acute renal failure. Attachment A at 5. After he was released

from Legacy Salmon Creek Medical Center he was transported to Clark County Jail. Attachment C at 2.

Ms. Meisenheimer's face was mottled and red and purple due to being choked to unconsciousness and she sustained many bruises. Attachment B at 3.

By information filed June 24, 2015, the Clark County Prosecutor charged Mr. Widing with one count of attempted first degree assault and one count of second degree assault. CP 1-2. Mr. Widing filed a written notice of intent to rely on the defense of insanity under RCW 10.77.030. CP 4. Mr. Widing subsequently filed a motion for acquittal by reason of insanity, pursuant to RCW 10.77.080. CP 5.

a. RCW 10.77.080 motion

A motion pursuant to RCW 10.77.080 for a judgment of acquittal by reason of insanity came on for hearing before the Honorable Derek Vanderwood on September 1, November 21, and December 22, 2016. 1RP at 5-102, 2RP at 108-177.

Dr. Raymond Singer, a neuropsychologist and neurotoxicologist who practices in Santé Fe, New Mexico and New York City, New York, evaluates persons suffering from brain injuries and brain disease for neurotoxicity. 1RP at 17. Dr. Singer performed a forensic neuropsychological and neurotoxicological evaluation of Mr. Widing. Supp. CP (SCP) ____ (Defendant's Evidentiary Submission, 9/1/17,

Exhibit C at 1-32). Attachment A. Dr. Singer prepared a detailed case review in which he evaluated possible causes of Mr. Widing's psychosis, including copper toxicity and subsequent acute renal failure. Attachment A at 22. When he was admitted to Legacy Salmon Creek Medical Center on June 14, 2015, suffering from extreme agitation and psychosis, it was determined Mr. Widing had elevated levels of urinary copper.² Attachment A at 12. Mr. Widing works as an electrician and was exposed to copper on a daily basis, including Copper Anti-Seize Lubricant, which covered his hands and clothes all day for months at a time while working. Attachment A at 19.

Dr. Singer noted in his case review that Dr. Gary Larsen, although he attributed the psychosis to renal failure, did not address the possibility of copper toxicity. Attachment A at 21. Dr. Singer wrote: "I agree that renal failure likely contributed to the psychosis, but I also opine that copper toxicity played a significant role[.]" Attachment A at 21.

Regarding the cause of the psychosis, Dr. Singer concluded:

3. Elevated copper levels in the blood can cause psychosis, including delusions, as well as agitation—both of which were the defendant experienced.

4. Copper particularly affects the basal ganglia, which influences or controls emotion and cognition. The defendant exhibited behavior indicating difficulty controlling cognition and emotion. Evidence from

²Mr. Widing's urinary copper level was 208 micrograms per deciliter. 1RP at 26. A normal value is up to 50 micrograms per deciliter. 1RP at 26.

various research methodologies supports the suggestion that basal ganglia disturbance has a role in psychosis.

5. Wilson's disease (WD) also involves excess copper in the bloodstream, such as occurred with the defendant. Wilson's disease has been associated with psychosis, which occurred in the defendant at the time of the offense.

6. Acute renal failure, which the defendant had, can also cause psychosis.

7. The defendant was psychotic at the time of the offense stating that he was at low level of risk and that the psychotic state was due to copper toxicity.

Attachment A at 22.

At the Chap. 10.77 motion hearing, Dr. Singer testified that copper toxicity can cause damage to the kidneys, resulting in renal failure, which can result in psychosis. 1RP at 23, 39, 49. Dr. Singer noted that the issue of copper toxicity is "a rather unusual neurotoxic exposure, but as I studied it more, I came to realize that it actually has widespread ramifications." 1RP at 31-32.

Dr. Patricia Rice, a psychologist at the Office of Forensic Mental Health Services in Vancouver, conducts competency evaluations and mental state of insanity and diminished capacity evaluations. 3RP at 217. Dr. Rice filed a forensic mental health report regarding Mr. Widing on April 11, 2016. SCP ___, (Defendant's Evidentiary Submission, 9/1/17, Appendix B). The report is included as Attachment B.

Dr. Rice testified on September 1, 2016, that she determined that Mr. Widing was suffering from a brief psychotic disorder on June 14,

2015. 1RP at 59. She disagreed with Dr. Singer regarding the causation of the psychosis however, testifying that she believed that it was due to cannabis-induced psychotic disorder and unspecified bipolar disorder or manic episode with psychotic features. 1RP at 59. Dr. Rice stated that she did not “find the copper toxicity hypothesis compelling to bring it to my diagnostic impression.” 1RP at 61. She acknowledged that unlike Dr. Singer, she has no specific training in neurotoxicity and that her post-doctoral work was in clinical epidemiology. 1RP at 61. During *voir dire* by the court, Dr. Rice confirmed that she was not adding copper neurotoxicity as a contributing factor to the psychotic episode, stating she is “not qualified to make that particular diagnosis.” 1RP at 80. She reiterated the contents of her report at page 16 that copper toxicity appears to be possible but improbable as a cause of the psychosis. 1RP at 81. Attachment B at 16.

On November 21, 2016, the court heard testimony from Dr. Loren French (2RP at 111-50), and forensic toxicologist David Predmore (2RP 150-56). Dr. French, a staff physician at Legacy Good Samaritan Medical Center and Tuality Community Hospital in Portland, Oregon, testified that Mr. Widing had elevated copper levels in his blood, which is associated with psychotic diseases, including Wilson’s disease, a genetic disorder where the body cannot handle levels of copper, which leads to “free” levels of copper in the bloodstream. 2RP at 121. Dr. French stated

that although Mr. Widing was not diagnosed with Wilson's disease, it is possible that there is a connection between Mr. Widing's temporary psychotic episode and copper toxicity. 2RP at 122, 136. He also testified that Mr. Widing suffered from kidney damage which could cause metabolic and biochemical derangements due to the buildup of toxins in the blood. 2RP at 125. Dr. French disagreed that the psychotic episode could be caused by undiagnosed bipolar disorder or use of marijuana, stating that there is no evidence that Mr. Widing has had symptoms consistent with bipolar disorder, which is generally diagnosed in a person's late teens or early twenties. 2RP at 127. Dr. French stated that if the condition were present in the case, marijuana may accelerate the age of diagnosis. 2RP at 127. He stated that Mr. Widing had marijuana use earlier in his life, and that if marijuana use was a cause of the psychosis, "this should have happened years earlier[.]" 2RP at 128. Dr. French stated that the episode was not the result of withdrawal from alcohol or triggered by his marijuana use. 2RP at 132.

Mr. Widing was evaluated by Dr. Jerry Larsen, a licensed psychiatrist at Willamette Valley Family Center in Oregon City, Oregon, on July 7, 2015. SCP ___ (Defendant's Evidentiary Submission, 9/1/17, Appendix A). Dr. Larsen prepared a psychiatric evaluation dated September 3, 2015, and concluded that Mr. Widing suffered from psychosis secondary to renal failure. Attachment C at 10. Dr. Larsen

found that Mr. Widing “now displays no evidence of psychosis” when interviewed a second time on September 2, 2015. Attachment C at 11.

The court found Mr. Widing not guilty by reason of insanity under chapter 10.77 RCW. 2RP at 177; CP 75. Findings of Fact, Conclusions of Law for Findings of Not Guilty by Reason of Insanity were entered on April 10, 2017. CP 75. After the finding of not guilty by reason of insanity, Mr. Widing was released on appeal bond and remained on conditional release without violation from the time the case was originally filed in June 2015. 2RP at 178, 189.

b. RCW 10.77.110 disposition hearing

RCW 10.77.110 gives the court three options after granting a defendant's motions for acquittal on the grounds of insanity. The court may find the defendant not dangerous and release. RCW 10.77.110(1). The court may find the defendant dangerous and confine. *Id.* The court may determine that the defendant is not dangerous but in need of supervision and conditionally release. RCW 10.77.110(3). Only if the defendant is found dangerous may the trial court order confinement. *State v. Bao Dinh Dang*, 178 Wash.2d 868, 312 P.3d 30 (2013).

At a 10.77.110 disposition hearing on March 16, 2017, the court heard testimony by Dr. Rice (3RP at 217-54), Jennifer Widing (3RP at 258-63), and Athena Meisenheimer (3RP at 264-66).

Dr. Rice testified regarding the potential cause of the psychotic

episode. In her initial evaluation dated April 11, 2016, Dr. Rice stated that Mr. Widing met the DSM-V³ criteria for Brief Psychotic Disorder, unspecified bipolar or other disorder with manic episode. Attachment B at 24. Dr. Rice initially found that his risk for future dangerousness to others as “medium to low.” Attachment B at 27. The report stated in part:

In general, Mr. Widing’s risk as a result of the above-diagnosed mental conditions is as follows: Use of the HCR-20 suggests Mr. Widing’s risk of offense against persons is low to medium.

Attachment B at 27. Dr. Rice also found that Mr. Widing’s criminal history and clinical assessment suggests that his risk of offense against public safety/security is low. Attachment B at 27. Dr. Rice found that

Positive moderators included self-reported commitment to maintain regular treatment for the instant psychotic disorder and abstinence from substances of abuse; high personal support from extended family; history of stable employment; at least average intelligence and cognitive abilities when symptoms are stabilized; and no prior history of violence.

Attachment B at 27.

The report noted that the “confidence level was regarded as fair certainty.” Attachment B at 27. Dr. Rice’s report stated that due to the mental state of a brief psychotic disorder, his mind and actions were significantly affected and that he was unable to tell right from wrong with

³American Psychiatric Ass’n, Diagnostic and Statistical Manual of Mental Disorders (5th ed.2013).

reference to the assault against his wife. 3RP at 221; Attachment B at 24.

Dr. Rice stated that in her evaluation that the psychotic episode may have been triggered by cannabis-induced psychosis or a bipolar disorder with psychotic features. 3RP at 223, 224; Attachment B at 14. Dr. Rice stated that Mr. Widing suggested that he had a copper toxicity and that she received a “research article type document” from the defense. 3RP at 223.

On March 15, 2017, one day prior to the hearing on the issue of future dangerousness, Dr. Rice filed an amended report in which she changed her assessment from medium to low risk to having a high risk of future dangerousness to others. 3RP at 228-31. State’s Exhibit 2 (Amended Forensic Mental Health Report, 3/15/2017).

During the disposition hearing on March 16, 2017, Dr. Rice acknowledged that she changed the opinion of low to medium risk to others to a high risk in the amended report submitted the previous day. 3RP at 228-29. Dr. Rice stated that she made a mistake, pointed out to her after she consulted with colleagues, that made her “re-think” the “risk assessment part” contained in the HCR-20⁴, a set of professional guidelines for the assessment and management of violence risk. 3RP at 230. She stated that she think[s] she overvalued that Mr. Widing was doing well out of custody.” 3RP at 230. She stated that the offenses of

⁴ Historical Clinical Risk Management-20.

first and second degree assault “pretty much automatically put him in that high risk category,” and that her “error was kind of over thinking.” 3RP at 231. She stated that he is no longer in the population of people who would be able to commit such an offense, given that he performed the action. 3RP at 232. She said that she believed she made an error when she “laid out my process and reasoning to my colleagues,” who “made it very clear” to her that she erred, but stated that she told herself that she made an error in the assessment. 3RP at 242. She acknowledged that none of the people she spoke with had evaluated Mr. Widing and that she had not received any additional information or negative facts since she reached her original risk assessment in April 2016 that would cause her to change her risk assessment. 3RP at 238, 244-45. Dr. Rice testified that she “reviewed with psychiatrists and our doctoral level pharmacologist at Western State Hospital” the issue of copper toxicity. 3RP at 223. She stated that her conclusion was that copper toxicity as the cause of the episode “could be possible, it seemed improbable, particularly compared to either a bipolar disorder that had been sort of masked and untreated prior to the incident offense episodes---or leading up to and during---and then the cannabis use.” 3RP at 223-24.

Dr. Rice’s opinion regarding the second prong of RCW 10.77.110(1), whether an acquittee presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, remained

unchanged, and that the risk was low. 3RP at 250-51.

c. The court's ruling on commitment

Rejecting Mr. Widing's argument that he should be released, the court ordered that Mr. Widing be committed to Western State. 3RP at 309-10; CP 80. The court entered findings of fact and conclusions of law and separate Order of Commitment to Western State Hospital on April 10, 2017. CP 75, 80. Mr. Widing has remained free and in the community on appeal bond. 3RP at 346-49.

Mr. Widing timely appeals the order of commitment and court's dispositional order. CP 92.

D. ARGUMENT

1. THE COURT ERRED BY FINDING THAT MR. WIDING WOULD BE A DANGER TO OTHERS IF GIVEN AN UNCONDITIONAL RELEASE AND BY ORDERING COMMITMENT TO WESTERN STATE HOSPITAL

In her April 11, 2016 evaluation, Dr. Rice concluded that Mr. Widing was a low to medium risk to offend against others in the future. Attachment B at 27. The day before the dispositional hearing on March 15, 2017, Dr. Rice filed an amended evaluation in which she changed her assessment from "low to medium" to "high" risk to offend against others. 3RP at 228-31. State's Exhibit 2.

Based on Dr. Rice's testimony and recommendation in her

amended report, the court ordered that Mr. Widing be committed to Western State Hospital. The challenged findings and conclusions are not supported by substantial evidence. The court therefore erred when it ordered that Mr. Widing be committed to Western State Hospital. CP 75-78, 80.

a. Involuntary commitment of a person acquitted by reason of insanity requires a finding that the acquittee is dangerous to others

A defendant charged with a crime may plead and prove insanity as an affirmative defense. *State v. Platt*, 143 Wash.2d 242, 246, 19 P.3d 412 (2001). See Chapter 10.77 RCW. The would-be insanity acquittee has “the burden of proving by a preponderance of the evidence that he or she was insane at the time of the offense or offenses with which he or she is charged.” RCW 10.77.080. If the defendant carries this burden, an acquittal may be entered and the defendant “escapes” criminal liability. *State v. Reid*, 144 Wash.2d 621, 30 P.3d 465 (2001).

A motion for judgment of acquittal under RCW 10.77.080 has many of the same consequences as a plea of guilty. By filing a motion under RCW 10.77.080, a defendant admits to committing the act charged, and if the court accepts the motion, he waives his constitutional right to a jury trial on that issue. *State v. Jones*, 84 Wash.2d 823, 832-33, 529 P.2d

1040 (1974). He may not later contest the validity of his detention on the ground that he did not commit the acts charged. RCW 10.77.080. Furthermore, if the court accepts the motion, the defendant waives the right to have a jury determine whether he is dangerous to others or likely to commit felonious acts jeopardizing public safety or security, RCW 10.77.040, .080. The defendant subjects himself to the possibility of commitment as criminally insane for as long as the maximum penal sentence for the offense charged. *State v. Brasel*, 28 Wash.App. 303, 623 P.2d 696 (1981).

b. Following acquittal by reason of insanity, the State must prove confinement in a state mental Institution is appropriate

The Washington Supreme Court recognizes an insanity acquittee may be committed to a mental institution "so long as he is both mentally ill and dangerous as a result of that mental illness, but no longer." *Reid*, 144 Wn.2d at 631. Therefore, "in order to confine an insanity acquittee to institutionalization against his or her will, the trial court must make two determinations: first, that the acquittee suffers from a mental illness and second, that the acquittee is a danger to others." *State v. Bao Dinh Dang*, 178 Wn.2d 868, 876, 312 P.3d 30 (2013).

"Freedom from bodily restraint has always been at the core of the

liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992). "[C]ommitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Jones v. United States*, 463 U.S. 354, 361, 103 S. Ct. 3043, 77 L. Ed. 2d 694 (1983) (quoting *Addington v. Texas*, 441 U.S. 418, 425, 99 S. Ct. 1804, 60 L. Ed. 2d 323 (1979)). U.S. Const. amend XIV; Wash. Const. art. I, § 3.

Both mental illness and dangerousness must be present to justify continued commitment of an insanity acquittee. *Foucha*, 504 U.S. at 80, 85-86. In *Foucha*, the U.S. Supreme Court stressed the substantive component of the due process clause, which "bars certain arbitrary, wrongful government actions 'regardless of the fairness of the procedures used to implement them.'" *Foucha*, 504 U.S. at 80 (quoting *Zinerman v. Burch*, 494 U.S. 113, 125, 110 S. Ct. 975, 983, 108 L. Ed. 2d 100 (1990)). Substantive due process "requires that the nature of commitment bear some reasonable relation to the purpose for which the individual is committed." *Foucha*, 504 U.S. at 79.

The reasonable relation between the nature and purpose of commitment disappears when a person is committed to a mental hospital

without an accompanying mental illness that makes him dangerous.

A finding of mental illness alone is not enough to restrict an individual's liberty interest in remaining free of government confinement. The individual must also be a danger to others or present a threat to public safety. As the United States Supreme Court has stated,

A finding of "mental illness" alone cannot justify a State's locking a person up against his will and keeping him indefinitely in simple custodial confinement. Assuming that that term can be given a reasonably precise content and that the "mentally ill" can be identified with reasonable accuracy, there is still no constitutional basis for confining such persons *876 involuntarily if they are dangerous to no one and can live safely in freedom.

O'Connor v. Donaldson, 422 U.S. 563, 575, 95 S.Ct. 2486, 45 L.Ed.2d 396 (1975).

c. RCW 10.77.110 requires a specific finding of dangerousness as a predicate for commitment of an insanity acquittee

RCW 10.77.110 defines the procedure following acquittal by reason of insanity. Under RCW 10.77.110 a defendant acquitted by reason of insanity may be committed to a hospital, conditionally released, or released without condition. RCW 10.77.110(1) provides for the civil commitment of insanity acquittees who present a substantial danger to others or a substantial likelihood of committing future criminal acts

which would jeopardize public safety or security. The court must commit the defendant to the state mental hospital if it finds any of these questions answered in the alternative. Absent a finding of dangerousness, the court must order an insanity acquittee's release from custody. The statute provides:

If a defendant is acquitted of a crime by reason of insanity, and it is found that he or she is not a substantial danger to other persons, and does not present a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, the court shall direct the defendant's release. If it is found that such defendant is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions, the court shall order his or her hospitalization, or any appropriate alternative treatment less restrictive than detention in a state mental hospital, pursuant to the terms of this chapter.

RCW 10.77.110(1).

Thus, under RCW 10.77.110, following acquittal, the court may release the person acquitted without conditions, release her with conditions, hospitalize him, or, if appropriate, place her in a less restrictive alternative treatment.

The State bears the burden of justifying hospitalization by a preponderance of the evidence. *State v. Wilcox*, 92 Wn.2d 610, 613-14,

600 P.2d 561 (1979); *State v. Hicks*, 41 Wn.App. 303, 311, 704 P.2d 1206 (1985).

d. *Mr. Widing's involuntary commitment violates due process because it is premised on an HCR-20 evaluation unsupported by the record*

The state and federal constitutions guarantee the right to due process of law. U.S. Const. amend XIV; Const. art. I, § 3. A person's right to be free from physical restraint "has always been at the core of the liberty protected by the Due Process Clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80, 112 S. Ct. 1780, 118 L. Ed.2d 437 (1992).

In this case, Dr. Rice's opinion is based on insufficient facts to establish that Mr. Widing presents a high risk to others to reoffend if not confined in an institution.

Dr. Rice used only a single risk prediction tool in assessing Mr. Widing's risk of dangerousness to others. The instrument used is the Historical Clinical Risk Management-20 ("HCR-20"). The HCR-20 is a "structured professional judgment" instrument consisting of a checklist of risk factors for violent behavior, involving consideration of historical, clinical, and "risk management" factors, such as "exposure to destabilizers" and "stress." Erica Beecher-Monas & Edgar Garcia-Rill,

Danger at the Edge of Chaos: Predicting Violent Behavior in a Post-Daubert World, 24 Cardozo Law Review, 1876, 1876–77 (2003). The HCR–20 is a twenty-item risk assessment guide that attempts to measure risk for future violence by dividing risk factors in three categories, historical, clinical and future risk management, that have been empirically linked to violence, the relative weight of which the evaluator sets based on the subject's individual case history. *United States v. Hinckley*, 40 F.Supp.3d 8, 28 (2013). The HCR–20 does not provide a numerical score, and instead allows for an individual to be adjudged as a low, moderate, or high risk of future violence. A higher HCR–20 scale score is associated with a higher risk of violence. *Hawkes v. State*, 433 Md. 105, 112, n. 9 (2013), See also, Douglass Mossman, Violence Risk, Is Clinical Judgment Enough?, *Current Psychiatry*, June 2008.

Dr. Rice initially found that Mr. Widing scored in the “low to medium” risk category using the HCR-20. Attachment A at 27. Dr. Rice testified, however, that after she “consulted with my colleagues”, she amended the result to a “high” risk in her amended report. 3RP at 230. Exhibit 2. Dr. Rice stated that she “overvalued that Mr. Widing was doing well out of custody. He was taking medications. I think I kind of overvalued that aspect of it.” 3RP at 230. Upon further questioning, Dr.

Rice seemed contradicting, when stating that the reasons for changing her assessment of the HCR-20 risk score was the severity of the offense. 3RP at 231, 232, 246.

This Court's role, of course, is not to reweigh the evidence in the record to determine if the HCR-20 was correctly evaluated, but rather to determine whether substantial evidence in the record supports the court's conclusion of dangerousness and resulting order of commitment. Here, the record is devoid of the methodology used by Dr. Rice, or even the HCR-20 scores that Mr. Widing received in her application of the test, and instead merely contains her conclusion regarding his level of risk. As such, the record supporting Dr. Rice's reason for changing the risk of dangerousness to others is vague. Dr. Rice stated that she did not receive new information that she did not have when he initially assessed him and that she used the same information she had at the time of her initial HCR-20 assessment prior to April 2016. In addition, her assertion that she "overvalued" some elements is belied by the fact that every factor was known to Dr. Rice at the time she prepared her assessment and did not change. 3RP at 230. The historical factors used in the assessment are immutable and not amenable to significant change. Dr. Rice cites the severity of the underlying offense, but does not explain why this was not

taken into consideration in the initial assessment; an extensive recitation of the facts of the incident are contained her report and were certainly known to her when she applied the HCR-20.

As noted, the historical factors are immutable and not subject to change. Dr. Rice does not cite any of the HCR-20 “clinical” factors of the test, which are subject to change, such as “lack of insight; negative attitudes; active symptoms of major mental illness; impulsivity; and unresponsive to treatment,”⁵ as the basis for amending her opinion.

Compared with actuarial tools for assessing future dangerousness such as the Violence Risk Appraisal Guide (“VRAG”), the HCR-20 relies on the professional judgment of the evaluator in weighing the risk factor. *Hinckley*, 40 F.Supp.3d at 28 n. 9. Dr. Rice did not use any actuarial instrument, and instead relied solely on the HCR-20 in deriving her assessment of a high risk of dangerousness. Even more concerning, the amended assessment appears to have been influenced by Dr. Rice’s colleagues, none of whom met Mr. Widing or evaluated him.

Consequently, the record does not support finding of fact 18, 21, and 24 and does not support the court’s conclusions of law 4, 5, 6, and 7 that Mr. Widing presents a substantial danger to others unless confined in

⁵Danger at the Edge of Chaos: Predicting Violent Behavior in a Post-Daubert World, 24 Cardozo Law Review at 1876 n. 215 (2003).

an institution, based on the severity of the offenses and lack of clarity as to underlying cause of Mr. Widing's temporary psychosis.

- e. *The trial court erred by admitting Dr. Rice's opinion dismissing copper toxicity and renal failure as a likely cause of Mr. Widing's temporary psychosis, in violation of ER 702*

The Court of Appeals reviews the trial court's admission or exclusion of expert testimony for an abuse of discretion. *State v. Willis*, 151 Wn.2d 255, 262, 87 P.3d 1164 (2004). The trial court's decision is reviewed for an abuse of discretion. *State v. Rafay*, 168 Wn. App. 734, 783–84, 285 P.3d 83 (2012), review denied, 176 Wn.2d 1023 (2013).

Here, the trial court acted unreasonably in considering Dr. Rice's testimony regarding medical and toxicological conclusions when she dismissed the probability that the psychosis was caused by copper toxicity resulting in renal failure.

Under ER 702, expert testimony is admissible when the witness qualifies as an expert, the opinion is based on an explanatory theory generally recognized in the scientific community, and the testimony would help the trier of fact better understand the evidence presented at trial. *State v. Greene*, 139 Wn.2d 64, 984 P.2d 1024 (1999). ER 702 provides:

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert

by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise.

ER 702

The opinion of a witness without sufficient training or experience to satisfy the requirements of ER 702 is mere speculation and should not be admitted into evidence. *Safeco Ins. Co. v. McGrath*, 63 Wn.App. 170, 177, 817 P.2d 861 (1991). While appellate court's review a trial court's decision to admit or exclude expert testimony on an abuse of discretion standard, a court that admits expert testimony unsupported by an adequate foundation automatically abuses its discretion. *State v. Atsbeha*, 142 Wn.2d 904, 16 P.3d 626 (2001).

Prior to the admission of expert evidence under this rule, the court is required to go through a two-step process. The first is determining whether or not the proposed expert is qualified to render an opinion on the proposed subject. The second is determining whether or not the evidence will assist the trier of fact to understand the evidence or determine a fact at issue. *In re Det. of Pouncy*, 144 Wn.App. 609, 624, 184 P.3d 651 (2008), *aff'd*, 168 Wn.2d 382, 229 P.3d 678 (2010). Expert testimony is helpful to the trier of fact "if it concerns matters beyond the common knowledge of the average layperson and does not mislead the jury." *State v. Thomas*, 123 Wn.App. 771, 778, 98 P.3d 1258 (2004).

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise. ER 702. The rule involves a two-step inquiry--whether the witness qualifies as an expert and whether the expert testimony would be helpful to the trier of fact. *Reese v. Stroh*, 128 Wn.2d 300, 907 P.2d 282 (1995).

“Qualifications of expert witnesses are to be determined by the trial court within its sound discretion, and rulings on such matters will not be disturbed unless there is a manifest abuse of discretion.” *State v. A.S.*, 138 Wn.2d 898, 917, 982 P.2d 1156 (1999) quoting *Oliver v. Pacific Northwest Bell Tel. Co.*, 106 Wn.2d 675, 683, 724 P.2d 1003 (1986). Here, Dr. Rice’s testimony departed from the field of psychology and veered deeply into the realm of toxicology and medical opinion. The licensing statute for psychologists specifies the scope of practice of a psychologist:

(1) The “practice of psychology” means the observation, evaluation, interpretation, and modification of human behavior by the application of psychological principles, methods, and procedures for the purposes of preventing or eliminating symptomatic or maladaptive behavior and promoting mental and behavioral health. It includes, but is not limited to, providing the following services to individuals, families, groups, organizations,

and the public, whether or not payment is received for services rendered:

(a) Psychological measurement, assessment, and evaluation by means of psychological, neuropsychological, and psycho educational testing;

(b) Diagnosis and treatment of mental, emotional, and behavioral disorders, and psychological aspects of illness, injury, and disability; . . .

RCW 18.83.010.

The licensing statute for physicians, on the other hand, specifies the scope of practice of a physician:

A person is practicing medicine if he or she does one or more of the following:

(1) Offers or undertakes to diagnose, cure, advise, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, by any means or instrumentality;

(2) Administers or prescribes drugs or medicinal preparations to be used by any other person[.]

RCW 18.71.011.

RCW 18.71.021 provides that “[n]o person may practice or represent himself or herself as practicing medicine without first having a valid license to do so.”

Here, Dr. Rice’s testimony dismissing the possibility of toxicity and renal failure was outside her area of practice and instead was clearly medical in scope. The court erred in relying on Dr. Rice’s opinion in light of her lack of minimum qualifications to render a neurological or medical

opinion regarding possible causes of the temporary psychosis.

2. MR. WIDING RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL

A criminal defendant's right to effective assistance of counsel is guaranteed by both the Washington State and United States Constitutions. Washington Constitution, Article I, §22; United States Constitution, Amendments 6 and 14. Even after acquittal by reason of insanity, the right to appointment of counsel to assist a detainee is guaranteed "at any and all stages of the proceedings pursuant to this chapter, . . .". RCW 10.77.020(1). RCW 10.77.020(1) provides "[a]t any and all stages of the proceedings pursuant to this chapter, any person subject to the provisions of this chapter shall be entitled to the assistance of counsel[.]"

The test for ineffective assistance of counsel has two parts. One, it must be shown that the defense counsel's conduct was deficient, i.e., that it fell below an objective standard of reasonableness. Two, it must be shown that such conduct prejudiced the defendant, i.e., that there is a reasonable possibility that, but for the deficient conduct, the outcome of the proceeding would have been different.

State v. McFarland, 73 Wn. App. 57, 71, 867 P.2d 660 (1994) affirmed 127 Wn.2d 322, 899 P.2d 1251 (1995); *State v. Thomas*, 109 Wn.2d 222, 743 P.2d 816 (1987).

Trial counsel's performance is presumed to be competent, and decisions to omit questions or arguments at a hearing will normally be presumed to be "legitimate trial strategy". *State v. Mak*, 105 Wn.2d 692, 731, 718 P.2d 407 (1986). When no tactical reason would justify the omission, however, the failure to present valid objections to the court will be deemed to be deficient performance. *State v. Carter*, 56 Wn. App. 217, 783 P.2d 589 (1989); *State v Aho*, 137 Wn.2d 736, 975 P.2d 512 (1999). Such a failure can be grounds for reversal, if trial counsel knew or reasonably should have known of the omitted favorable material or position. *State v. Byrd*, 30 Wn. App. 794, 800, 638 P.2d 601 (1981).

Here, counsel was ineffective for failing to challenge Dr. Rice's testimony and report regarding her belief that copper toxicity and resulting renal failure were not the genesis of the psychotic episode.

Expert testimony is admissible under ER 702 only if it is helpful to the trier of fact under the particular facts of the case. *State v. Greene*, 139 Wash.2d 64, 73, 984 P.2d 1024 (1999). Under ER 702, expert testimony will be deemed helpful to the trier of fact only if its relevance can be established. *Id.* at 73. Scientific evidence that does not help the trier of fact resolve any issue of fact is irrelevant and does not meet the

requirements of ER 702. *Id.*

Here, the relevant question to be resolved by the trier of fact was whether Mr. Widing is a substantial danger to other persons, and does not present a substantial likelihood of committing criminal acts RCW 10.77.110(1). As discussed *supra*, Dr. Rice, by her own admission, is not trained in the discipline of neurotoxicity, yet gave an opinion regarding the validity of Dr. Singer's opinion that the psychosis was caused by copper toxicity and renal failure. Dr. Rice testified after Dr. Singer's testimony on September 1, 2016 about the possibility that the psychotic episode was fomented by copper toxicity, she "reviewed with psychiatrists and our doctoral-level pharmacologist at Western State Hospital" and that her "ultimate conclusion" after those consultations was that while it was possible that the psychosis was caused by the high copper levels, it "it seemed improbable" and that it was more likely a bipolar disorder that "had been sort of masked and untreated prior to the incident[.]" 3RP at 223. Dr. Rice acknowledged that she had no specialized training in toxicology, stating that she "certainly got an education from this particular case and that's sort of the nature of this particular job. Neurotoxins are rather rare for us to run across." 1RP at 69.

Defense counsel was ineffective for failing to challenge Dr. Rice's testimony rejecting neuro toxicologist Dr. Singer's conclusion of copper toxicity. Counsel should have objected to the testimony and report under ER 702 as unhelpful to the trier of fact.

Had counsel objected to the expert's testimony about the probable cause of the psychosis under ER 702, the trial court would have concluded the testimony was not helpful to the trier of fact and was therefore inadmissible. Thus, Mr. Widing has established a reasonable probability that, but for counsel's failure to raise his due process claim under ER 702, the result of his RCW 10.77.110 commitment motion would have been different. See also, *Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984). Accordingly, reversal is required.

E. CONCLUSION

Because Mr. Widing's commitment rests on a finding of risk of dangerousness that is not supported by the record, his commitment violates due process. Further, trial counsel was ineffective for failing to challenge the admission of Dr. Rice's opinion regarding renal failure and copper toxicity as potential causes of the psychosis as objectionable under ER 702. For these reasons, the court's order of commitment to Western

State Hospital must be reversed and the matter remanded for a new hearing.

DATED: November 15, 2017.

Respectfully submitted,
THE TILLER LAW FIRM



PETER B. TILLER-WSBA 20835

ptiller@tillerlaw.com

Of Attorneys for Rodman Widing

CERTIFICATE OF SERVICE

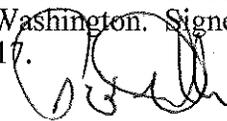
The undersigned certifies that on November 15, 2017, that this Appellant's Corrected Opening Brief was sent by the JIS link to Mr. Derek M. Byrne, Clerk of the Court, Court of Appeals, and Rachael Rogers Probstfeld, Clark County Prosecuting Attorney's Office, and a copy was mailed by U.S. mail, postage prepaid, to the following appellate:

Rachael Rogers Probstfeld
Clark County Prosecuting Attorney's
Office
PO Box 5000
Vancouver, WA 98666-5000
rachael.probstfeld@clark.wa.gov

Mr. Derek M. Byrne
Clerk of the Court
Court of Appeals
950 Broadway, Ste.300
Tacoma, WA 98402-4454

Rodman Widing III
927 114 Ave E.
Edgewood, WA 98372

This statement is certified to be true and correct under penalty of perjury of the laws of the State of Washington. Signed at Centralia, Washington on November 15, 2017.



PETER B. TILLER

ATTACHMENT A

RAYMOND SINGER, PH.D.

A Professional Association

Main office. 36 Alondra Road / Santa Fe, New Mexico / 87508
Manhattan office 180 E. 79th Street / Suite 1-C / New York, N.Y. / 10021
Telephone (505) 466-1100 / Fax: 877-201-3456
Website www.neurotox.com/ E-mail ray.singer@gmail.com

**Forensic Neuropsychological and Neurotoxicological Case Review:
Rodman Widing¹**

Executive Summary..... 3

State charges. 3

Washington Criminal Jury Instructions..... 3

Police report..... 3

Medical record review..... 8
 Legacy Salmon Creek Medical Center.. 8
 Kaiser Permanente..... 9

Summary, Medical records. 11
 Lab records re copper..... 11

Summary, copper testing results. 13

Copper's role in the brain. 14

Copper and the Nervous System. 15

Basal ganglia, copper and psychosis. 15
 Copper, Wilson's Disease and psychosis..... 16

Summary: Basal ganglia, copper, Wilson's Disease and psychosis..... 17
 Copper and brain degeneration. 18

Copper and acute kidney failure. 18

Analysis of the defendant's exposure to copper. 19

Product analysis..... 20

Acute renal failure (kidney disease) with rhabdomyolysis and psychosis..... 20

Analysis of other mental health expert reports. 21

¹August 12, 2016

Conclusions.	22
Appendix 1: Products MSDS.....	24
Appendix 2: Rhabdomyolysis.	25
Appendix 3: Skin (dermal) absorption of copper.	27
Appendix 4: Patricia Gribble, Ph.D. Forensic Mental Health Report.	29
Appendix 5: Jerry K. Larsen, M.D., psychiatrist.	31

Executive Summary

See conclusions section, below.

State charges

Clark County Superior Court

COUNT 01 - ASSAULT IN THE FIRST DEGREE (DOMESTIC VIOLENCE) That he, RODMAN ALFRED WIDING, in the County of Clark, State of Washington, on or about June 14, 2015, with intent to inflict great bodily harm, did assault another person and did inflict great bodily harm;

COUNT 02 - ASSAULT IN THE SECOND DEGREE (DOMESTIC VIOLENCE) That he, RODMAN ALFRED WIDING, in the County of Clark, State of Washington, on or about June 14, 2015, did intentionally assault another person... by strangulation or suffocation.

Further, the State of Washington notifies the Defendant that it is seeking a sentence above the standard sentencing range based upon the following aggravating circumstance(s): The victim's injuries substantially exceeded the level of bodily harm necessary to satisfy the elements of the offense.

Washington Criminal Jury Instructions

Insanity existing at the time of the commission of the act charged is a defense

For a defendant to be found not guilty by reason of insanity you must find that as a result of mental disease or defect, the defendant's mind was affected to such an extent that the defendant was unable to perceive the nature and quality of the acts with which the defendant is charged - or was unable to tell right from wrong, with reference to the particular acts with which the defendant is charged.

Police report

Arresting Officer's Declaration of Probable Cause: Investigation Summary:

Athena Meisenheimer and Rodman Widing have been married for three years. They are in the process of re-locating from Puyallup, Washington to Clark County, Washington for a job opportunity. They purchased a home at 30214 NE Lewisville Highway located in Clark County, Washington. Rodman moved into the residence in March and Athena had been coming for the weekends with plans to move down in June after her children finish school in Puyallup.

On 06/14/2015 at approximately 1227 hours and again at 1229 hours, Athena had called 911 and hung up. 911 called her back, Athena asked for help, she was whispering and hard to understand. The call notes stated the call taker could hear a male and female voice being verbal before the phone line disconnected.

Approximately 1247 hours, Athena called from the neighbor's house, 30400 NE Lewisville

Highway. Athena reported being assaulted by her husband Rodman. Athena also reported Rodman was running around naked and looking for her and the kids.

Deputies arrived at the residence. Rodman wasn't cooperating and appeared to be high on some type of drug. When Rodman observed Deputy Marler arrive he started running toward him saying, "Kill Me, Kill Me." Rodman then ran back toward the house got on the ground and started eating dirt and grass. Rodman continued to ask deputies to Kill Him.

Rodman was detained and transported to the hospital. Rodman had to be given medication at the hospital due to his aggressive behavior.

Athena was transported to Peace Health Hospital due to her injuries. I spoke to Athena in ER Room 33 at approximately 1450 hours. Athena stated Rodman had been acting kind of strange since she arrived on Friday. Athena described Rodman as acting very manic. He was very animated and rambled about things that didn't make sense. She thought it was due to him smoking marijuana. She told him he needed to stop and he agreed. Rodman gave her a mason type jar with marijuana in it on Saturday. On Sunday Morning she found out Rodman was smoking liquid marijuana from his Vape Pen. Rodman gave her the liquid marijuana and was going to take a nap to sleep it off at Athena's request. Athena stated this was just before noon.

Athena went to check on Rodman about a half hour later. Rodman was out of bed and dressed. He was smoking what he said was liquid marijuana out of his vape pen. Rodman was acting very strange and telling Athena she needs [to] smoke with him so she could feel what he does. She needed to smoke it to understand him.

Rodman even said he was God.

Athena stated she had never seen him this way and he appeared to be hallucinating or something He wasn't making sense. Rodman grabbed her and tried to force her to smoke from his Vape Pen. She refused. He held the back of her head and forced the Vape Pen into her mouth. Athena continued to refuse by trying to push away.

Rodman threw her on the bed. She was on her back with her head hanging off the edge of the bed. Rodman straddled her and grabbed her throat with both hands. He then started squeezing restricting her ability to breath or talk. Rodman wanted the liquid marijuana she had taken earlier. She was unable to answer him due to him strangling her. Athena stated she blacked out. She then remembers Rodman throwing her on the floor from the bed where he straddled her and put both hands around her throat restricting her breathing again.

Athena wasn't sure if she blacked out twice but did remember blacking out on the bed and then being thrown to the floor. Athena stated she thought Rodman was going to kill her.

Athena then started going along with Rodman by getting the liquid marijuana she had taken earlier and agreed to smoke it with him. This seemed to calm him down.

Athena stated she pretended to smoke but didn't inhale. She was just trying to survive at this point and was concerned about children. Athena was scared Rodman was going to kill her. She decided to go along with what Rodman wanted.

Athena stated Rodman vomited in the toilet and pulled the blinds off the bathroom window during this incident. She also remembered at some point when she was on the bed, Rodman had tied some type of clothe [sic] to her wrist. She thought he was going to try and tie her to the bed. The clothe looked like some type of ribbon. She thinks Rodman took it off her when she was unconscious.

Rodman let Athena go into the bathroom to clean up This is when she called 911 the first time. Rodman then let her go out to get the kids who were out by the pool. Athena got the kids and ran to the neighbor's house. Athena then called 911 again.

I observed Athena had scratches, red marks, and bruising on her neck. I observed petechiae² on her face and eyes. Athena told me all her injuries are from the incident and they appeared to have happened recently. I observed blood in her hair. Athena told me the blood was from her nose and mouth Athena's injuries are consistent with strangled [sic].

Arresting officer Craig Marler, 6/15/2015 0839

He was yelling that he was God. He then lie down on the ground and began grabbing at the lawn. He grabbed 2 handfuls of grass and dirt began eating it. He then stopped and lied on his back continuing to yell for deputies to kill him.

While waiting for paramedics, he was ranting the entire time. None of his rants made any sense and he often stated he was God and/or Jesus Christ. He would tell us to kill him, then he would calm down momentarily.

Mr. Widing would be calm but it would be brief. He would tense up and begin ranting at a fast pace.

Supplemental report: Glenn Smyth 7/11/2015: Subject: Rodman – Medical Records

Rodman Widing was in the hospital from 6/14/2015 until 6/19/2015. He was intubated due to his extreme agitation and psychosis until 6/16/2015; after extubation, he was cooperative. Rodman admitted to smoking marijuana in the bud or liquid (including synthetic) form on a daily basis. He continued to talk about how his brain is functioning at a much higher and advanced level. He attributes this higher level of brain function to discontinuing his alcohol usage 3 months ago and stimulation from synthetic cannabinoids. He feels alcohol dulled his advance brain capacity.

Analysis of blood and urine samples detected the presence of cannabinoid and benzodiazepine. Other illicit drugs including Bath Salts and Synthetic Marijuana were not detected.

Rodman sister, Katie, sent a letter to the hospital to assist the hospital staff on some background on how Rodman was acting. Katie states Rod was talking a mile a minute and went on about how his brain is working differently. Rodman talked about how his brain was processing so much data and he is so creative.

Defendant's statements

²Petechiae are pinpoint, round spots that appear on the skin as a result of bleeding. The bleeding causes the petechiae to appear red, brown or purple www.mayoclinic.org/symptoms/petechiae/basics/ /sym-20050724

Defendant's date of birth: 3/8/1978

The defendant was puzzled by his medical problems and erratic behavior at the time of the offense. Note that the defendant was probably fairly intelligent and analytical, having graduated Brigham Young University in political science, then going into and apparently excelling in a different field, as an electrician. He read his medical records, and discovered that he had significantly elevated copper levels in his body. He noted that copper is found in his workplace, including in a product that he had regularly used. It seemed likely that the copper burden stemmed from his workplace exposure. With a little research, he found that copper poisoning can result in severe mental problems. He therefore sought my expert opinion concerning the possibility that copper exposure contributed to his mental state at the time of the offense

Background, per the defendant:³

Mr. Widing, age 38, is the defendant in this criminal case. He believes that he had an incident of psychosis due to toxic levels of copper in his system that lead to the offense.

He does not have a history of mental illness or violence. While in a psychotic state he attacked his wife, whom he had always had a good relationship. Even throughout this processes, she has remained supportive - even though they are not permitted to communicate or see each other.

He analyzed and approached this health issue and his medical records with the same approach he uses at work. "I analyze extremely complicated electrical and cooling systems to find root cause failures. I've worked with some of the largest companies in the world doing this work on their data centers (Microsoft, Dell, AT&T, etc.). Examining numerical values and how they relate to mechanisms and functions in complicated systems is where I excel."

The defendant wrote: "The week prior to becoming fully psychotic, my mind started to race and I was extremely manic. I felt like I was extremely smart. I could not fathom what was going on with me, as this was something completely foreign. I could not sleep well, only a few hours a night and I would get nauseous and throw up. What I had always known as reality was changing completely.

When I was hospitalized there were two main problems 1) psychosis and 2) renal failure I had a lot of CK⁴ in my blood, the two weeks prior I had lost a lot of weight - unsure if that would cause a rise in CK if I was losing muscle. The attending doctors thought I had ingested some kind of toxic drug to cause all the issues I was having. An extensive panel of tests came back negative. The only drug I had used that week was marijuana 3 or 4 times that week, having smoked on and off for years without any strange effects. Hospital records indicate that they supposed I ingested

³Email, 2/29/16

⁴Creatine phosphokinase, CK, CPK This test measures the amount of an enzyme called creatine kinase (CK) in your blood. CK is a type of protein. The muscle cells in your body need CK to function. Levels of CK can rise after a heart attack, skeletal muscle injury, strenuous exercise, or drinking too much alcohol, and from taking certain medicines or supplements. If this test shows that your CK levels are high, you may have muscle or heart damage. CK is made up of three enzyme forms. These are CK-MB, CK-MM, and CK-BB. CK-MB is the substance that rises if your heart muscle is damaged. CK-MM rises with other muscle damage. CK-BB is found mostly in the brain.
https://www.umc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=167&ContentID=creatinine_kinase_blood

something toxic to cause this state. I was also tested for Wilson disease⁵, but no Kayser-Fleisher rings were found.⁶

After pouring through my medical records to try and figure out what happened to me a very high 24hr Urine Copper Value stuck out to me. Normal is 3-50 ug/dl, and mine was 208 ug/dl the last 24 hrs in the hospital. Next, I looked at my blood values for copper. My Total Copper level was 102 ug/dl and my Copper ceruloplasmin⁷ level low at 13 ug/dl⁸.

The main problem with Copper Toxicity as a heavy metal poisoning is the amount of biounavailable copper. This biounavailable copper ends up finding a home in the brain, liver, and kidneys. A small portion of biounavailable copper is picked up in the Kidneys by the protein albumin, an overload causes kidney dysfunction, failure, and damage.

The formula for finding biounavailable copper is: total copper – ceruloplasmin x 3 = biounavailable (free) copper. My values: 102 - 13 x 3 = 63ug/dl, with a reference range of 5-15ug/dl. Both biounavailable copper in my blood and 24 hour urine copper was over 4 times the high limit of the reference ranges. It also appears that my body may not properly metabolize copper.

Chronic (long-term) effects of copper exposure can damage the brain, liver, and kidneys. It has

⁵Wilson's disease is a rare inherited disorder that causes too much copper to accumulate in your liver, brain and other vital organs. Symptoms typically begin between the ages of 12 and 23.
<http://www.mayoclinic.org/diseases-conditions/wilsons-disease/basics/definition/con-20043499>

⁶The Kayser-Fleischer ring is the single most important diagnostic sign in Wilson's disease; it is found in 95% of patients. Virtually all patients with Kayser-Fleischer rings have neurological manifestations. Pseudo rings have been described in other conditions. The density of a Kayser-Fleischer ring correlates with the severity of Wilson's disease. Sullivan, C. A., Chopdar, A., & Shun-Shin, G. A. (2002). Dense Kayser-Fleischer ring in asymptomatic Wilson's disease (hepatolenticular degeneration). *The British Journal of Ophthalmology*, 86(1), 114.

⁷This test is used to measure how much of a copper-containing protein is in your blood. This test is used to diagnose problems related to copper. These include Wilson disease. Wilson disease is a rare inherited disease that can't be cured.

Ceruloplasmin is a protein made in your liver. Ceruloplasmin stores and carries the mineral copper around your body. Ceruloplasmin carries 65% to 90% of the copper found in blood. Copper is vital to many processes in your body. These include building strong bones and making melanin. But having too much copper in your body can be toxic.

Your liver normally takes copper from your bloodstream and puts it into ceruloplasmin proteins. The ceruloplasmin is then released into blood plasma. Ceruloplasmin carries copper around your body to the tissues that need it.

In Wilson disease, copper is not put in ceruloplasmin. The disease also keeps your liver from sending extra copper to be eliminated in your bowel movements. Instead, copper builds up in your liver until it overflows into the bloodstream. From there, copper builds up in your brain, corneas, kidneys, liver, bones, and small glands near the thyroid. If not treated, the liver and brain damage from copper poisoning in Wilson disease is fatal.
https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=167&ContentID=ceruloplasmin_blood

⁸Lower-than-normal ceruloplasmin levels may be due to: Long-term liver disease; Problem absorbing nutrients from food (intestinal malabsorption); Malnutrition; Disorder in which cells in the body can absorb copper, but are unable to release it (Menkes syndrome); Group of disorders that damage the kidneys (nephrotic syndrome); Inherited disorder in which there is too much copper in the body's tissues (Wilson disease)
<https://www.nlm.nih.gov/medlineplus/ency/article/003662.htm>

been well documented inorganic copper is a neurotoxin that causes Copper Toxicity which presents psychiatric symptoms such as racing thoughts, mania, and psychosis, etc. It also negatively impacts liver and kidney function. It negatively impacts adrenal function which causes a whole host of other problems I believe I've lived with for years. I've also read that copper diminishes zinc levels which can further cause health and neurological issues.

I have worked for years as an electrician, and working with copper wires is part of the daily job. I have been exposed to it on a daily basis for a long time. I also have worked with other copper compounds which are colloidal in nature and never have used gloves. I am sure the absorption level is quite high with those compounds. If you look at the material safety data sheet for copper wire it states Chronic Exposure causes skin sensitization; neurological damage; respiratory disease; and kidney dysfunction. Also to note, that renal failure has been known to cause organic psychosis which given the high levels of free copper seem to me very suspect.

My recent copper blood tests show my total copper level at 79 ug/dl and Ceruloplasmin still low at 15ug/dl. My bioavailable (free) copper is still very elevated at 34 ug/dl. I'm waiting on results of 24 hr copper urine test. From everything I have read and given the lab results and my chronic exposure the indication in my mind points to heavy metal poisoning from copper which has caused my neurological and mental issues. Given the pathology of copper in the body, if I have high amount bio-unavailable copper in my blood there probably would be a toxic level stored in the effected [sic] organs."

Medical record review

Legacy Salmon Creek Medical Center: Dr. Christopher Burke

Admitted 6/14/2015, discharge 6/19/2015

[Psychiatric] Episode duration: Monday. Timing: Constant. Progression: Unchanged. Severity at worse: Moderate. Severity now: Moderate. Character of episode: Paranoia, bizarre behavior and injured another person.

Treatment prior to arrival: Police custody

Physical exam: Restrained on 4 points, spit hood in place.

Neurological: Has an acute delirium.

Psychiatric: His affect is angry. His speech is rapid and/or pressure. He is agitated. Thought content is delusional. Cognition and memory are impaired. He expresses impulsivity.⁹ He has

⁹Impulsivity has been variously defined as behavior without adequate thought, the tendency to act with less forethought than do most individuals of equal ability and knowledge, or a predisposition toward rapid, unplanned reactions to internal or external stimuli without regard to the negative consequences of these reactions.

Impulsivity is implicated in a number of psychiatric disorders including Mania, Personality Disorders, and Substance Use Disorders; yet, there is significant disagreement among researchers and clinicians regarding the exact definition of impulsivity and how it should be measured.

The International Society for Research on Impulsivity is a nonprofit scientific society founded to promote research collaboration on impulsivity and impulse control disorders by scientists around the world

extremely pressured speech, is very delusional, is not quite sure where he is, reports seeing God and his father.

Clinical impression: Agitation, acute renal failure with rhabdomyolysis¹⁰ [see Appendix 2 for a discussion of rhabdomyolysis], delusions. Critical condition.

Per the patient's wife, he apparently has been talking about God and acting strangely in the last several weeks. This raises a higher suspicion for an acute psychiatric disorder.

Legacy Salmon Creek Medical Center: Dr. Christopher Mand

Patient presents with psychosis. According to the sheriff who was present at the wife's interview, he has had bizarre thoughts for several weeks. He has stated that he thought he needed a "brain scan" because he was becoming so smart. Today he accused one of the children of stealing his marijuana. His wife stated that this was not true. She told him to rest. When she returned to the room, he attacked her and choked her. She woke, escaped and called 911. When police arrived he was walking in the backyard wearing only shorts. He was restrained. During the struggle he stated he was God, he ate dirt. He was sedated with Versed and Ativan, but this didn't control him. He was very agitated in the ER. He was swinging at staff. He was sedated and intubated so an evaluation could be completed safely.

Principal final diagnosis, date of discharge, 6/19/2015: Unspecified psychosis. Secondary diagnoses: Hematuria, hypertension, anxiety disorder, rhabdomyolysis [Rhabdomyolysis is the breakdown of muscle tissue that leads to the release of muscle fiber contents into the blood. These substances are harmful to the kidney and often cause kidney damage - see Appendix 2]¹¹, acute renal failure. Acute renal injury with mild rhabdomyolysis gradually improving. He has no memory of the events when arrested.

Neuro: Persistent delirium/psychosis. Mildly low Ceruloplasmin raises the question of Wilson's disease. [6/15/15: ceruloplasmin 13 mg/dl - Low]. Low likelihood of Wilson's disease as a source for the situation but will check serum copper concentration and 24 hour urinary copper level and he will need ophthalmologic evaluation in the future as an out patient to evaluate for Kaiser Fleischer rings to further evaluate. He denies any family history of Wilson's disease. Brain MRI 6/17/15 unremarkable.

Kaiser Permanente psych visit, 7/21/2015

Patient reports in March he decided to stop drinking. Patient had been drinking nightly for more than 10 years. He would drink the equivalent of approximately 9 drinks. He decided to use marijuana instead to help and relax in the evening. He was using marijuana on a regular basis to the middle of last month.

<http://www.impulsivity.org/about-us>

¹⁰Rhabdomyolysis is the breakdown of muscle tissue that leads to the release of muscle fiber contents into the blood. These substances are harmful to the kidney and often cause kidney damage
<https://medlineplus.gov/ency/article/000473.htm>

¹¹<https://www.nlm.nih.gov/medlineplus/ency/article/000473.htm>

Patient reports that in approximately March or April that he started to have thoughts that his brain was becoming more powerful and showing him insights into how everything is connected in the world. He started exhibiting other manic symptoms including pressured speech, hyperactivity, grandiosity and ideas of reference that he was on a special mission and was getting coded messages from Google searches. Just before June 14, symptoms markedly escalated. He thought that he was God, and that his son was Jesus. He reports engaging in a ritual involving water and lotion in the bathroom which was a rebirthing and cleansing process that he had to go through to demonstrate that he was God. He wanted his wife to do the same thing. He thought that if she were to become unconscious and waking up would be the rebirth and cleansing process that she needed to go through to confirm her status as a guide. Patient attacked his wife and choked her with the idea of choking her into unconsciousness. Patient does not recall her becoming unconscious. At least one chart note indicates that she was choked into unconsciousness and then sought help after she awoke. She was able to get away from him and went to a neighbors house. The police were called. He reports that when the police arrived that he wasn't wearing any clothing and is eating dirt. He reports being belligerent and angry towards the police because they didn't understand that he was God.

After stabilization, patient posted bail, and has not been able to talk or see his wife or children. He returned to work. He is getting good support from his supervisor.

In the time leading up to patient psychotic break there were multiple psychosocial stressors including moving to the local area from Puyallup, Washington to take a new job to become a manager of a data center. Other stressors.

In late 2003, he was acquitted of charges that he molested a child of his wife's relatives after reporting to the police illicit business dealings of his in-laws. This report resulted in jail time for one of his wife's family members.

It appears that his alcohol use may have been masking posttraumatic stress disorder symptoms. Stopping alcohol use may have unmasked the symptoms.

Prior to the events of the past few months, patient reports that he had no mental health issues.

Tested positive for generalized anxiety disorder and moderate depression.

Marriage/relationship status: Married for the 3rd time. They have been together for 5 years, and married for 4. Has an 8-year-old son with his 1st wife, and one son with his 2nd wife.

Work/education: Graduated from Brigham Young University. Electrician by trade. Manages a large data center Started this new position 3 months ago.

No psychiatric history. Two ancestors with long-term psychiatric hospitalization in the early 1900's.

7/12/2015: Diagnosis: Proteinuria, dysuria, flank pain, microscopic hematuria. Urgent symptoms of urinary urgency

7/13/2015: Urgent symptoms of shortness of breath, difficulty concentrating and urine concentrated. Sudden onset, 4 days duration, character worsening. Diagnoses: Hematuria, shortness of breath, dizziness, dehydration

Ceruloplasmin plays an essential role for human iron metabolism. Low levels can cause basal ganglia symptoms¹⁴. See below, Basal ganglia, copper and psychosis.

Lower-than-normal ceruloplasmin levels may be due to:¹⁵

Long-term liver disease

Problem absorbing nutrients from food (intestinal malabsorption)

Malnutrition

Disorder in which cells in the body can absorb copper, but are unable to release it (Menkes syndrome)

Group of disorders that damage the kidneys (nephrotic syndrome)

Inherited disorder in which there is too much copper in the body's tissues (Wilson disease)

6/18/2015 Favour, Kenneth D, MD, Legacy Central Laboratory

Copper (total-serum)¹⁶: 102 mcg/dL (not flagged; normal is 70-140 mcg/dL, per the laboratory)

Interpretation: Since the total is within normal limits, and the bioavailable is low, this suggests that the non-bioavailable is high.

Favour, Kenneth D, MD 6/19/15 LEGACY CENTRAL LABORATORY
Urine Copper Abnormal

Urinary copper/volume	3.8 mcg/dL
Urinary copper/day	208 mcg/dL, flagged high (normal value 3-50 [The normal range is 10 to 30 micrograms per 24 hours.] ¹⁷)
Urinary creatinine ¹⁸ per volume	52 mg/dL, flagged high
Urinary copper ratio CRT	73.1 µg/gram CRT
Urinary collection time	24 hours
Urinary collection volume	5480 mL

Interpretation: High levels of urinary copper. High levels of urinary creatinine means kidney function is compromised.

February, 2016: Lab Results - OrClinic

Copper, blood 0.79 ug/mL completed 02/11/2016 [79 ug/dL, Within normal limits]

¹⁴Pediatric Research (1998) 44, 271-276; doi 10.1203/00006450-199809000-00001, Aceruloplasminemia

¹⁵<https://medlineplus.gov/ency/article/003662.htm>

¹⁶Hannah of Legacy Lab Services informed me that this is total copper August 11, 2016 (6 25pm)

¹⁷<https://www.nlm.nih.gov/medlineplus/ency/article/003604.htm>

¹⁸Creatinine is a waste product from the normal breakdown of muscle tissue. As creatinine is produced, it's filtered through the kidneys and excreted in urine. Doctors measure the blood creatinine level as a test of kidney function. The kidneys' ability to handle creatinine is called the creatinine clearance rate, which helps to estimate the glomerular filtration rate (GFR) -- the rate of blood flow through the kidneys.
<http://www.webmd.com/a-to-z-guides/creatinine-and-creatinine-clearance-blood-tests>

7/21/2015: Diagnosis: Substance use and abuse counseling, bipolar disorder. Reviewed history. Patient gives history of onset of mood swings in his teens. It appears alcohol use covered up mood swings to some degree.

Continue to be positive for anxiety and moderately severe depression.

7/29/2015: He has racing thoughts, his mind wants to take everything apart, and then goes back together. It is similar to mood prior to medications. He wakes up in the morning like he had been working all night. Plan to increase in Seroquel

7/30/2015: He has been having low-grade headaches and being followed in nephrology.

8/26/2015: Diagnosis: Bipolar disorder, primary. Substance use and abuse counseling. Family stress. Anxiety is reduced. Not depressed.

Summary, Medical records

The defendant was admitted to the hospital on 6/14/2015 with acute delirium, including paranoia and bizarre behavior. He was very delusional, and reported seeing God. He was diagnosed with acute renal failure. The principal final diagnosis on the date of discharge, 6/19/2015 was "Unspecified psychosis", with secondary diagnoses of hematuria, hypertension, anxiety disorder, rhabdomyolysis, and acute renal failure. Mildly low Ceruloplasmin raised the question of Wilson's disease [6/15/15: ceruloplasmin 13 mg/dl - Low].

He was diagnosed with bipolar disorder at Kaiser Permanente on 8/26/2015.

Lab records re copper

Published copper reference ranges are noted as follows:¹²

Free serum copper: 1.6-2.4 $\mu\text{mol/L}$ or 10-15 $\mu\text{g/dL}$
Total copper¹³: 10-22 $\mu\text{mol/L}$ or 63.7-140.12 $\mu\text{g/dL}$
Serum ceruloplasmin: 2.83-5.50 $\mu\text{mol/L}$ or 18-35 $\mu\text{g/dL}$
24-hour urine copper 0.3-0.8 μmol or 20-50 μg
Liver copper 0.3-0.8 $\mu\text{mol/g}$ of tissue or 20-50 $\mu\text{g/g}$ of tissue

Defendant's records:

6/17/15. Graham, Richard P, MD: Legacy Central Laboratory
Ceruloplasmin 13 mg/dL, flagged low

Interpretation: Low levels of bioavailable copper. Ceruloplasmin carries copper to needed areas in the body. Because the body needs copper in the form of Ceruloplasmin, low levels of Ceruloplasmin results in the body's need for bio-available copper - or a copper deficiency.

¹²<http://emedicine.medscape.com/article/2087780-overview>

¹³Total Copper (Blood), aka Total copper serum test. This test measures the total amount of copper in your blood. Normally most of the copper in your blood is carried by a protein called ceruloplasmin.
https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=167&ContentID=total_copper_blood

Ceruloplasmin, serum 15 mg/dL 17-54 completed 02/11/2016, flagged low

Copper, blood 0.8 ug/mL 02/25/2016 [Within normal limits]

Ceruloplasmin, serum 16 mg/dL 17-54 completed 02/25/2016, flagged low

Legacy Laboratory Services, 1255 NE Second Ave, Portland, OR. Order Note: Copy to
Providers: Yahn-kun Chiou Signed 3/1/2016

U Copper -per volume	2.3 ug/dL	0.2-8.0
U Copper -per day Flagged high	62 ug/d	3-50
U Creatinine -per volume	105 mg/dL	
U Creatinine -per day Flagged high	2809 mg/d	1000-2500
U Copper ratio to CRT	21.9 ug/g CRT	
Collection Hours	24 hours	
U Collection Volume	2675 mls	

Interpretation: Elevated urinary copper per 24 hours, elevated creatinine

LabCorp

Date collected: 5/26/2016

TESTS	RESULT	FLAG UNITS	REFERENCE INTERVAL	LAB
Ceruloplasmin	20.4	mg/dL	16.0 — 31.0	01
Copper, Serum	96	ug/dL	72 - 166	01
			Detection Limit - 5	
Zinc, Plasma or Serum 124		ug/dL	56 — 134	01
			Detection Limit - 5	

Interpretation: All results within the normal range

Summary, copper testing results:

Copper is an essential cofactor for many enzymes, including cytochromes, but it is toxic in its unbound form. The vast majority of serum copper is transported bound to ceruloplasmin; the rest is bound to albumin, transcuprein, and copper–amino acid complexes. Wilson disease is caused by mutations that prevent the incorporation of copper into ceruloplasmin. Copper deposition occurs in hepatic parenchymal cells, the brain, the periphery of the iris, and the kidney. The age of onset and form of presentation of Wilson disease are very variable. Initially, copper accumulates in the liver, and accordingly, hepatic presentations are common.¹⁹

Ceruloplasmin is the protein that binds with copper to remove it from the body. It is the unbound (to ceruloplasmin) copper that is free to roam around the body and accumulate in organs causing Wilson disease damage.²⁰

¹⁹Relationship between Serum Copper, Ceruloplasmin, and Non-Ceruloplasmin-Bound Copper in Routine Clinical Practice. Clinical Chemistry 2005 vol. 51 (8) pp: 1558-1559

²⁰<http://www.wilsonsdisease.org/wilson-disease/wilsonsdisease-faqs.php>

6/17/15	Ceruloplasmin:	13 mg/dL, flagged low
6/18/2015	Copper (total-serum):	Within normal limits
6/19/15	Urine Copper	High
02/25/2016	Copper, blood:	Within normal limits
	Ceruloplasmin:	low
3/1/2016	Urinary copper:	High
5/26/2016	Copper, blood:	Within normal limits
	Ceruloplasmin:	Within normal limits

Serum free copper: The amount of serum free copper is the amount of copper circulating in the blood which is unbound by ceruloplasmin. This is the copper which is "free" to accumulate in the liver and other organs. Most reference labs do not automatically calculate the amount of serum free copper in a Wilson's disease patient's lab report. To calculate serum free copper, the following formula is used:

$(\text{Total Serum Copper in } \mu\text{g/dl}) - (\text{Ceruloplasmin in mg/dl} \times 3) = \text{Free Copper}$
 (Normal range is 5 - 15 $\mu\text{g/dl}$)²¹

In the instant case, immediately after the offense:

6/19/15	Urinary copper/day	208 mcg/dL,
6/17/15	Ceruloplasmin	13 mg/dL

$208 - (13 \times 3) = \text{Free copper} = 169$ (normal limit 15 - Highly Elevated)

Interpretation: Significantly elevated free copper

Copper's role in the brain

Copper (Cu) is an integral part of many important enzymes involved in a number of vital biological processes. Even though Cu is essential to life, it can become toxic to cells, at elevated tissue concentrations. Oxidative damage due to Cu has been reported in recent studies in various tissues.²²

Copper regulates neurotransmission by a novel biphasic mechanism.²³

²¹<http://www.wilsonsdisease.org/wilson-disease/wilsonsdisease-faqs.php>

²²Biol Trace Elem Res 2009 Jan,127(1):45-52. doi: 10.1007/s12011-008-8219-3. Epub 2008 Sep 12. Copper intoxication; antioxidant defenses and oxidative damage in rat brain

²³Copper: from neurotransmission to neuroproteostasis Opazo C Greenough M Bush A Frontiers in Aging Neuroscience. 2014 vol: 6 pp: 143

Copper is critical for the Central Nervous System (CNS) development and function. Copper has a role in different pathways within the CNS. It is essential for brain function since its deficiency lead to brain abnormalities and defects in brain development.

Different studies have shown the effect of copper at brain synapses, where it inhibits Long Term Potentiation (LTP) [required for learning and memory] and receptor pharmacology. Paradoxically, according to recent studies, copper is required for a normal LTP response. Copper is released at the synaptic cleft, where it blocks glutamate receptors, which explain its blocking effects on excitatory neurotransmission.

Until a few years ago, copper was considered as a negative modulator of neurotransmission. However, the effect of copper on synaptic activity has been recently evaluated in more detail. Copper regulates neurotransmission by a novel biphasic mechanism, which have implications for the neurophysiology and neuropathology of the CNS.

Copper and the Nervous System

Some researchers report that copper imbalances can cause many psychiatric disease.²⁴

Wilson's disease and copper

Wilson's disease is a lethal defect in copper metabolism causing a continual increase in tissue copper concentrations that become toxic to the liver, brain, kidney, eye, skeletal system, and several other tissues and organs. The liver is unique among these in being both the site of the etiologic biochemical abnormality and the organ that is always affected by copper toxicosis. Although myocardial muscle involvement has been reported in association with Wilson's disease, copper deposits in peripheral muscle tissue is described.²⁵

Basal ganglia, copper and psychosis

Generally, the brain is affected symmetrically with excess copper deposition, although symptoms can be worse on one side of the body than another. This may have to do with factors of asymmetric neurologic development, such as being right or left-handed. The copper is often seen most prominently in the basal ganglia, the area deep within the brain that coordinates movements and other brain functions.²⁶

Basal ganglia nuclei are strongly interconnected with the cerebral cortex, thalamus, and brainstem, as well as several other brain areas. The basal ganglia are associated with a variety of functions including: control of voluntary motor movements, procedural learning, routine behaviors or "habits", eye movements, cognition and emotion.

Basal ganglia (aka basal nucleus) describe a group of nuclei (clusters of neurons) in the brain

²⁴Research Journal of Recent Sciences ISSN 2277-2502 Vol. 2 (ISC-2012), 58-67 (2013) Res.J.Recent.Sci. International Science Congress Association. Review Paper. Copper Toxicity: A Comprehensive Study

²⁵Gastroenterology. 1995 Mar;108(3):885-7 Copper-induced acute rhabdomyolysis in Wilson's disease Propst AI, Propst T, Feichtinger H, Judmaier G, Wilcitz J, Vogel W.

²⁶<http://www.wilsonsdisease.org/wilson-disease/wilsonsdisease-faqs.php>

that are located deep beneath the cerebral cortex (the highly convoluted outer layer of the brain). The basal ganglia specialize in processing information on movement and in fine-tuning the activity of brain circuits that determine the best possible response in a given situation (e.g., using the hands to catch a ball or using the feet to run). Thus, they play an important role in planning actions that are required to achieve a particular goal, in executing well-practiced habitual actions, and in learning new actions in novel situations.²⁷

The basal ganglia play a central role in cognition and are involved in such general functions as action selection and reinforcement learning.²⁸

The basal ganglia (BG) have been functionally linked to emotional processing²⁹.

Basal ganglia disorders are characterised by the presence of abnormal movements, psychiatric signs and symptoms, and varying degrees of cognitive impairment. Traditionally, more attention has been paid to the motor abnormalities in these conditions than to the mental state and cognitive disturbances, despite the fact that these can be as disabling and distressing for both the patients and their carers as the abnormal movements. However, in recent years there has been increasing recognition of the non-motor consequences of disease of the basal ganglia.³⁰

Some authorities also include the amygdala within a consideration of the basal ganglia as it occupies an important position between the basal ganglia and the limbic system and may play a part in integrating activity between these structures.

There is evidence of basal ganglia dysfunction from imaging studies of obsessive-compulsive disorder (OCD), with both reduced and increased volumes of caudate nuclei reported. Evidence from various research methodologies supports the suggestion that basal ganglia disturbance has a role in schizophrenia³¹ and psychosis³².

Copper, Wilson's Disease and psychosis

As discussed above, Wilson's disease (WD) involves excess copper in the bloodstream. Wilson's disease has been associated with psychosis.³³ Psychiatric disorders in WD include

²⁷<https://www.britannica.com/science/basal-ganglion>

²⁸Stocco, A., Lebiere, C., & Anderson, J. R. (2010) Conditional Routing of Information to the Cortex: A Model of the Basal Ganglia's Role in Cognitive Coordination. *Psychological Review*, 117(2), 541-574. <http://doi.org/10.1037/a0019077>

²⁹Bram Research 2008 vol. 1217 pp. 171-178

³⁰Advances in neuropsychiatry. *Neuropsychiatry of the basal ganglia* H A Ring, J Serra-Mestres *J Neurol Neurosurg Psychiatry* 2002;72:112-21 doi:10.1136/jnnp.72.1.12

³¹Advances in neuropsychiatry. *Neuropsychiatry of the basal ganglia* H A Ring, J Serra-Mestres *J Neurol Neurosurg Psychiatry* 2002;72:112-21 doi:10.1136/jnnp.72.1.12

³²SCHIZOPHRENIA, PSYCHOSIS, AND THE BASAL GANGLIA Busatto, Geraldo F. et al. *Psychiatric Clinics*, Volume 20, Issue 4, 897 - 910

³³Adv Biomed Res. 2012; 1: 61. Published online 2012 Aug 28 doi: 10.4103/2277-9175.100182
PMCID: PMC3544121. Mismanagement of Wilson's disease as psychotic disorder

dementia, characterized by mental slowness, poor concentration, and memory impairment.

In a study of Wilson's disease associated with delusional disorder³⁴, researchers reported a case of WD in a young man presenting persistent delusional disorder of organic etiology, demonstrating the importance of considering the occurrence of psychotic symptoms in WD patients.

To review the current evidence about psychiatric symptoms in Wilson's disease (WD), researchers searched medical databases from May 1946 to May 2012 using the key words Wilson(s) disease in combination with psychiatry, psychiatric, psychosis, schizophrenia, depression, mania, bipolar, mood, anxiety, personality and behavior for psychiatric symptoms occurring before, concurrent with or after the diagnosis and treatment for WD. Thirty to forty percent of patients have psychiatric manifestations at the time of diagnosis, and 20% had seen a psychiatrist prior to their WD diagnosis. When psychiatric symptoms preceded neurological or hepatic involvement, the average time between the psychiatric symptoms and the diagnosis of WD was 864.3 days. The prevalence of psychiatric disorders in WD patients varies wildly (major depressive disorder, 4-47%; psychosis, 1.4-11.3%). They concluded that psychiatric manifestations represent a significant part of the clinical presentation of WD and can present at any point in the course of the illness. Psychiatric manifestations occurring without overt hepatic or neurologic involvement may lead to misdiagnosis³⁵.

The topic of early environmental exposure to metals including copper causing psychosis occurring later in life was explored and found to be plausible.³⁶

Summary: Basal ganglia, copper, Wilson's Disease and psychosis

The defendant had highly elevated free copper in his blood stream at the time of the offense. See above "Summary, copper testing results". Even though copper is essential to life, it can become toxic to cells, at elevated tissue concentrations.

The copper is often seen most prominently in the basal ganglia, an area deep within the brain.

Basal ganglia nuclei are strongly interconnected with the cerebral cortex, thalamus, and brainstem, as well as several other brain areas. The basal ganglia are associated with a variety of functions including: control of voluntary motor movements, procedural learning, routine behaviors or "habits", eye movements, cognition and emotion. They play an important role in planning actions that are required to achieve a particular goal, in executing well-practiced habitual actions, and in learning new actions in novel situations. The basal ganglia play a central role in cognition and are involved in such general functions as action selection and reinforcement learning. They have been functionally linked to emotional processing. There is evidence of basal ganglia dysfunction from imaging studies of obsessive-compulsive

³⁴Psychiatry Clin Neurosci. 2006 Dec;60(6):758-60. Wilson's disease associated with delusional disorder. Wichowicz HM1, Cubala WJ, Slawek J.

³⁵Gen Hosp Psychiatry 2014 Jan-Feb;36(1):53-62. doi: 10.1016/j.genhosppsy.2013.08.007. Epub 2013 Oct 9. Psychiatric aspects of Wilson disease. a review. Zimbrea PC, Schilsky ML

³⁶Curr Opin Pediatr. 2016 Apr;28(2):243-9. doi: 10.1097/MOP.0000000000000332. Environmental exposure to metals, neurodevelopment, and psychosis. Modabbernia A, Arora M, Reichenberg A.

disorder (OCD), with both reduced and increased volumes of caudate nuclei reported. Evidence from various research methodologies supports the suggestion that basal ganglia disturbance has a role in schizophrenia and psychosis.

As discussed above, Wilson's disease (WD) involves excess copper in the bloodstream. Wilson's disease has been associated with psychosis. Psychiatric disorders in WD include dementia, characterized by mental slowness, poor concentration, and memory impairment. Symptoms may progress rapidly, especially in younger patients. Delusional disorder and schizophrenia-like psychosis can be found with this condition. Thirty to forty percent of patients have psychiatric manifestations at the time of diagnosis, and 20% had seen a psychiatrist prior to their WD diagnosis. Psychosis is found in 1.4-11.3% of WD patients. Psychiatric manifestations represent a significant part of the clinical presentation of WD and can present at any point in the course of the illness.

Conclusion: It is likely that the excess copper in the defendants bloodstream resulted in psychosis. Other factors have been ruled out.

Copper and brain degeneration

Evidence from recent decades indicates that copper is emerging as a causative factors in neurodegeneration. Though copper is essential to human health, copper overload has been associated with mental decline and particularly with Alzheimer's Disease development. Free copper is elevated in the blood of dementia patients, negatively correlates with cognition, and predicts the rate of loss of cognition. Trace amounts of copper activate the apoptotic cascade and exacerbate beta amyloid-induced neurotoxicity in an inflammatory pathway. Recently, Brewer has reviewed the theory of inorganic copper toxicity in Alzheimer disease as a causative factor in cognitive loss. He cites a number of findings:³⁷

1. AD is currently occurring at epidemic proportions.
2. The AD epidemic is a new disease phenomenon. AD did not occur, or was very rare, before 1900.
3. The epidemic of AD is occurring in developed countries with one exception (Japan). It is not occurring at the same high prevalence in developing countries.
4. Animal studies: Feeding small amounts of inorganic copper to rabbits caused Alzheimer's like brain pathology and cognitive loss in rabbits.
5. The use of copper plumbing in developed countries coincides with the AD epidemic in those countries
6. Significant amounts of copper are leached into water from copper plumbing.
7. People with AD have more free copper in their blood than controls.
8. In people, high copper intake from supplements was correlated with more cognitive loss in two studies of nutrient intake over time

Copper and acute kidney failure

There is limited information on the renal toxicity of copper in humans. Acute renal failure was reported in some individuals ingesting large doses of copper sulfate. A number of animal studies

³⁷Int J Alzheimers Dis. 2013;2013:414817. doi: 10.1155/2013/414817 Epub 2013 Oct 29. Role of copper and cholesterol association in the neurodegenerative process. Amal N1, Morel GR, de Alaniz MJ, Castillo O, Marra CA.

confirm that the kidney is a target of copper toxicity renal toxicity as a result of copper loading follows a specific time course.³⁸

Copper can injure the kidney.³⁹ Acute renal failure developed in 20-40% of patients with acute copper sulphate poisoning.⁴⁰ Symptoms of long-term copper exposure include kidney failure.⁴¹ Wilson's disease (analogous to the defendants's condition) can result in kidney disease and failure^{42, 43}

Analysis of the defendant's exposure to copper

Work history, per the defendant:

"For over a decade I have worked as an electrician. Working as an electrician you are exposed to copper on a daily basis all day every day. Dermal exposure with hands on wires all day every day. Exposure to copper dust from cutting and grinding copper conductors and circuit parts. This has the tendency to find its way orally because hands seem to find their way to peoples mouths. It's the medium [in which] we work.

I believe I was exposed to [the] highest amount of [my exposure to copper when] working with Copper Anti-Seize Lubricant... This substance is used on every electrical pipe fitting when working with rigid conduit. As a result, your hands are covered in this all day and turned red in color until you scrub them off. You are and your clothes are covered in it and cutting oil (filthy work). The copper found in this anti-seize is colloidal in nature. This exposure was everyday for months at a time. So your hands are covered in this stuff while you are manually screwing together and tightening down fittings all day. Part of being an electrician is having constant cuts and abrasions on your hands which could provide a pretty direct pathway. This same substance is used in battery terminations. I also worked as an electrician subject matter expert on large battery back up systems, again being exposed to the same substance in a like manner...

I started working as an electrician in 2004. I'm still working as an electrician but to a lesser extent starting in March 2015 because I became a manager of a data center, however I still perform electrical work. Up until March 2015, I regularly worked with the anti-seize. Incident was in June 2015. The exposure to the anti-seize was heavy some weeks, less others for about a 3 year duration. It was task dependent. Before that timeframe, it was months of constant exposure every day at a time."

Additional information regarding usage of Copper Anti-Seize Lubricant: 2004 - March 2015

³⁸Toxicological profile for copper, Syracuse Research Corporation, United States Public Health Service, September 2004

³⁹Clinical Toxicology of Commercial Products, Gosselin

⁴⁰Research Journal of Recent Sciences ISSN 2277-2502 Vol 2 (ISC-2012), 58-67 (2013)

⁴¹<https://medlineplus.gov/ency/article/002496.htm>

⁴²<http://www.mayoclinic.org/diseases-conditions/wilsons-disease/basics/complications/con-20043499>

⁴³AASLD PRACTICE GUIDELINES Diagnosis and Treatment of Wilson Disease: An Update

"Worked with it on daily basis for months, then go 1-3 months without using it; sometimes a week using it, then a week not - then stints in employment using it for 6 months, 8 hours a day."

Regarding Usage of Copper Anti-Seize Lubricant between March 2015 and June 2015:

"Maybe on average twice a week, some weeks heavier use. Working on an active construction job site, obviously copper dust, various construction materials. Also starting beginning of June 2015, we took occupancy of a new data center work building. I was drinking water at work from newly installed copper pipes. The water at home was later tested, and it was normal."

Product analysis:

See Appendix 1 for the MSDS information.

The defendant reported heavy dermal exposure to Copper Anti-seize Lubricant. This product contains 30 to 60% "Distillates (Petroleum), Hydrotreated, Heavy Naphthenic".⁴⁴

Hydrotreated heavy naphtha (petroleum) is also known as Naphtha, (petroleum), hydrotreated heavy; Mineral Spirits, Isoparaffin hydrocarbon; Synthetic isoparaffinic hydrocarbon solvent; Treated Naphtha. It's toxicity profile is similar to kerosene and jet fuel. It can be used as a fuel, intermediate, lubricant additive, cleaning/washing agent, disinfectant, and solvent.⁴⁵

Naphthenic acids can be absorbed into the body through the skin and by ingestion.⁴⁶

Skin absorption of chemicals including copper

Copper from the product can enter the bloodstream through the skin. See Appendix 3 for details.

Acute renal failure (kidney disease) with rhabdomyolysis and psychosis

The defendant was diagnosed immediately after the offense with acute renal failure with rhabdomyolysis.⁴⁷ This condition alone can cause psychosis.

The psychiatric disorders associated with kidney disease take many forms. Symptoms such as delirium and psychomotor agitation may be present among the clinical signs of acute kidney injury. Delirium is an acute behavioral disorder caused by impaired brain activity, leading to cognitive impairment usually secondary to a systemic disorder. It is a condition of abrupt onset, characterized mainly by decreases in the affected subject's level of consciousness, attention disorders, temporal/spatial disorientation, disorganized thinking, and fluctuation of symptoms

⁴⁴https://iaspub.epa.gov/sor_internet/registry/substreg/searchandretrieve/advancedsearch/externalSearch.do?p_type=CASNO&p_value=64742-48-9#HealthAndOther, <http://chem.sis.nlm.nih.gov/chemidplus/rn/64742-48-9>

⁴⁵<https://hazmap.nlm.nih.gov/category-details?id=10723&table=copytblagents>

⁴⁶ National Center for Biotechnology Information NLM | NIH | HHS
https://pubchem.ncbi.nlm.nih.gov/compound/Naphthenic_acids#section=Exposure-Routes&fullscreen=true

⁴⁷Rhabdomyolysis is the breakdown of muscle tissue that leads to the release of muscle fiber contents into the blood. These substances are harmful to the kidney and often cause kidney damage
<https://medlineplus.gov/ency/article/000473.htm>

throughout the day. Agitation, delusion, visual hallucinations, and mood swings may also occur.⁴⁸

Paranoid delusions and psychosis have been linked with kidney disease⁴⁹ Depression, anxiety, suicide and delirium are common complications observed in patients with renal failure.⁵⁰

Analysis of other mental health expert reports

April 11, 2016: Community Forensic Evaluation Service Forensic Mental Health Report, Patricia Gribble, Ph.D. Forensic Mental Health Report

Page 24: "Consequently, it was my opinion that due to Brief Psychotic Disorder Mr. Widing's mind was affected to such an extent he was unable to tell right from wrong with reference to the particular acts charged - Assault and First-Degree and Assault in the 2nd ° - due to delusional beliefs that his assaultive actions would bestow everlasting life to the alleged victim, his wife."

I agree with this statement. Dr. Gribble made further statements regarding the defendant's capacity to form the mental state of intent, however, I am uncertain that this aspect of her opinion pertains to the jury instructions in this type of case, and will not be reviewed here, although I do offer some comments concerning this in Appendix 4, where I provide more details.

September 3, 2015: Jerry K. Larsen, M.D., psychiatrist

Dr. Larsen reviewed the legal records, medical records, statements from the defendant's family regarding his functioning prior to the offense, family history, development of history, adult history, past medical history, mental status examination, psychological testing, interviewed the defendant's wife, Athena, and provided an opinion.

In general, I agree with his opinions that the defendant Mr. Widing was suffering from a mental disease when he committed the offense (psychosis secondary to renal failure) and as a result was unable to distinguish right from wrong. Dr. Larsen further opined that marijuana was unlikely to have caused this psychotic break, stating "It is therefore obvious that THC in and of itself, would not be responsible for Rod Widing's psychotic state which lasted for days nor did it account, by itself, of his manic, bazaar [sic] behavior for the days prior to the alleged event."

However, Dr. Larsen did not address the possibility of copper toxicity, not did he indicate that he has a background in neurotoxicology regarding copper neurotoxicity. He attributed the psychosis to renal failure; I agree that renal failure likely contributed to the psychosis, but I also opine that copper toxicity played a significant role

I did note that although the defendant "completed community college with a "3.8 GPA", and

⁴⁸J. Bras Nefrol vol 36 no 3 São Paulo July/Sept 2014 <http://dx.doi.org/10.5935/0101-2800.20140056>
Neuropsychiatric disorders and renal diseases: an update

⁴⁹Menninger KA. Paranoid psychosis with uremia J Nerv Ment Disord 1924;60:26-34 DOI:
<http://dx.doi.org/10.1097/00005053-192407000-00003>

⁵⁰Indian J Nephrol. 2008 Apr; 18(2): 47-50. doi: 10.4103/0971-4065.42337 PMID: PMC2813124
Psychiatric issues in renal failure and dialysis

that he was admitted to Brigham Young University (BYU). Dr. Gribble reported that the defendant graduated BYU with a BA majoring in Political Science.

However, Dr. Larsen tested the defendant finding an IQ at 98, placing the defendant at the 45% percentile compared with the general population.

Note that BYU is an exclusive university. In 2016, the average GPA of incoming freshman was 3.85. The average SAT score was 1280, and the average ACT score was 29.⁵¹

An SAT score of 1280 suggest an IQ at the 99th percentile.⁵²

An ACT score of 29 is at above the 90 percentile⁵³ for high school graduates, suggesting an IQ above the 90th percentile.

The Slossen IQ test is designed for use as a "quick estimate of general verbal cognitive ability", and it correlates with more complete IQ test results.⁵⁴

Therefore, it appears likely that the defendant has a diminution of IQ since his admission to BYU, suggesting that chronic copper intoxication may have played a role in the estimated reduced IQ findings, supporting the conclusion of copper neurotoxicity.

Conclusions

1. The defendant had elevated copper in his blood and urine at the time of the offense.
2. He worked with copper products, and was subject to an overexposure to copper products, particularly from using the anti-seize lubricant containing copper.
3. Elevated copper levels in the blood can cause psychosis, including delusions, as well as agitation - both of which the defendant experienced.
4. Copper particularly affects the basal ganglia, which influences or controls emotion and cognition. The defendant exhibited behavior indicating difficulty controlling cognition and emotion. Evidence from various research methodologies supports the suggestion that basal ganglia disturbance has a role in psychosis.
5. Wilson's disease (WD) also involves excess copper in the bloodstream, such as occurred with the defendant. Wilson's disease has been associated with psychosis, which occurred in the defendant at the time of the offense.
6. Acute renal failure, which the defendant had, can also cause psychosis.
7. The defendant was psychotic at the time of the offense.
8. Psychosis is a mental disorder characterized by symptoms, such as delusions or hallucinations, that indicate impaired contact with reality.⁵⁵
9. Because of his impaired contact with reality, the defendant's mind was affected to such

⁵¹<https://admissions.byu.edu/entrance-averages>

⁵²<http://www.iqcomparisonsite.com/greiq.aspx>

⁵³<http://www.act.org/content/dam/act/unsecured/documents/NormsChartMCandComposite-Web2015-16.pdf>

⁵⁴<http://cps.nova.edu/~cpphelp/SIT.html>

⁵⁵<http://www.dictionary.com/browse/psychosis>

an extent that the defendant was unable to perceive the nature and quality of the acts with which the defendant is charged - or was unable to tell right from wrong.

Raymond Singer

Raymond Singer, Ph.D., FACP, FNAN, FAPS
Board-certified Neuropsychologist,
American Board of Professional Neuropsychology,
with Added Qualifications in Forensic Neuropsychology
Fellow: American College of Professional Neuropsychology
National Academy of Neuropsychology
Association for Psychological Science
American Psychological Association
Member: Society of Toxicology
Roundtable of Toxicology Consultants

Appendix 1: Products MSDS

1. Product Name Copper Anti-seize Lubricant 8oz

Composition/information on Ingredients

Distillates (Petroleum), Hydrotreated, Heavy Naphthenic, Cas: 64742-52-5: 30 - 60%
Copper: 10 - 30%

2. Bare Copper Wire

Effects of Overexposure. Chronic Exposure: Skin sensitization; neurological damage; respiratory disease; and kidney dysfunction.

Appendix 2: Rhabdomyolysis⁵⁶

Rhabdomyolysis constitutes a common cause of acute renal failure. A large variety of causes with different pathogenetic mechanisms can involve skeletal muscles resulting in rhabdomyolysis with or without acute renal failure. Crush syndrome is one of the most common causes of rhabdomyolysis. Drug abusers are another sensitive group of young patients prone to rhabdomyolysis.

Rhabdomyolysis is a rupture (lysis) of skeletal muscles due to drugs, toxins, inherited disorders, infections, trauma and compression³. Lysis of muscle cells releases toxic intracellular components in the systemic circulation which leads to electrolyte disturbances, hypovolemia, metabolic acidosis, coagulation defects and acute renal failure due to myoglobin⁴.

Causes of rhabdomyolysis and pathogenetic mechanisms: Rhabdomyolysis can be induced by many different causes, but it is usually the result of multiple contributing factors (Table 1). Although it had been initially associated almost exclusively with traumatic conditions, now the non-traumatic causes appear to be at least 5 times more frequent⁷. Alcohol and drug abuse, the crush syndrome, seizures and some metabolic derangements are considered to be the commonest factors that lead to rhabdomyolysis¹.

From Table 1: Causes include: Physical exertion – including severe agitation and intense physical activity. [Note that marijuana is not mentioned as a drug-induced cause of rhabdomyolysis].

It seems that the intense physical exertion leads to the exhaustion of cellular ATP supplies and to pump dysfunction in muscle cell membranes, which results in their disruption, producing rhabdomyolysis⁴. Moreover, rhabdomyolysis can be the result of muscle ischemia, due to tissue compression in cases of prolonged immobilization, such as comatose situations after illicit drug overdose⁴, elderly immobilization after a hip fracture¹⁴, immobilization during prolonged operations, especially at the lithotomy position¹⁵, physical restraint of psychiatric patients¹⁶.

The most common mechanism through which [cocaine, heroin etc.] drugs induce rhabdomyolysis is the muscle compression and ischemia, due to prolonged immobilization on a rigid ground, after an acute intoxication and subsequent unconsciousness or coma⁴ [this did not occur in the defendant's case - suggesting that agitation and possibly physical restraint caused his rhabdomyolysis]. Rhabdomyolysis [from drugs] occurs through multiple mechanisms, including direct myotoxicity, metabolic and electrolyte derangements, muscle compression and ischemia due to prolonged immobility, agitation and physical exertion.

Pathophysiology: The cell membrane can be injured by mechanical pressure, burn, chemicals, toxins and poisons. The lysis of cell membrane releases organic and inorganic intracellular components, such as myoglobin, potassium, lactic acid, purines, and phosphate which entering the circulation, after the restoration of blood flow, can be toxic and life threatening. When reperfusion starts, leukocytes migrate into the damaged area, cytokines and prostaglandins increase whereas free radicals are produced in the presence of oxygen².

In rhabdomyolysis the amount of myoglobin delivered to the [kidney] proximal tubule cells overwhelms their ability to convert iron to ferritin, resulting in intracellular ferrihemate

⁵⁶Hippokratia. 2007 Jul-Sep; 11(3): 129–137. Rhabdomyolysis updated

accumulation. Iron as a metal has the ability to donate and accept electron as well as the capability to generate oxygen free radicals. This leads to oxidative stress and injury of the renal cell. The decreased acidic pH of the urine because of the metabolic acidosis (damaged muscle cells release acids) has an important role in iron release³⁷.

Myoglobin can not be reabsorbed when in excessive amounts in the tubules. Systemic vasoconstriction and hypovolemia result in water reabsorption in renal tubules which in turn increases further myoglobin concentration in urine³⁸. The later causes formation of casts that obstruct renal tubules. Apoptosis of epithelial cells contributes in casts formation. Besides iron toxic effect, the heme center of myoglobin initiates lipid peroxidation and renal injury³⁹.

Therefore, the obstruction of renal tubules by the myoglobin casts, the formation of free radicals from iron, the vasoconstriction and hypoxia due to hypovolemia are the main causes of acute renal failure in rhabdomyolysis (Figure 3).

CK levels are the most sensitive indicators of myocyte injury. Under normal condition, CK levels are 45- 260 U/L. After rhabdomyolysis, the levels of CK can be raised to 10,000-200,000 U/L or even to 3,000,000.000 U/L. No other condition except rhabdomyolysis can cause such extreme CK elevation^{4, 37}. [The defendant had a CK level at 904 U/L].

Appendix 3: Skin (dermal) absorption of copper

Dermal absorption is the transport of a chemical from the outer surface of the skin both into the skin and into the body. Studies show that absorption of chemicals through the skin can occur without being noticed by the worker, and in some cases, may represent the most significant exposure pathway. Many commonly used chemicals in the workplace could potentially result in systemic toxicity if they penetrate through the skin (i.e. pesticides, organic solvents). These chemicals enter the blood stream and cause health problems away from the site of entry.

The rate of dermal absorption depends largely on the outer layer of the skin called the stratum corneum (SC). The SC serves an important barrier function by keeping molecules from passing into and out of the skin, thus protecting the lower layers of skin. The extent of absorption is dependent on the following factors:

Skin integrity (damaged vs. intact)

Location of exposure (thickness and water content of stratum corneum; skin temperature)

Physical and chemical properties of the hazardous substance

Concentration of a chemical on the skin surface

Duration of exposure

The surface area of skin exposed to a hazardous substance

Research has revealed that skin absorption occurs via diffusion, the process whereby molecules spread from areas of high concentration to areas of low concentration. Three mechanisms by which chemicals diffuse into the skin have been proposed:

The stratum corneum consists of cells known as corneocytes. The spaces between the corneocytes are filled with substances such as fats, oils, or waxes known as lipids. Some chemicals can penetrate through these lipid-filled intercellular spaces through diffusion.

Another pathway for chemicals to be absorbed into and through the skin is transcellular, or cell-to-cell, permeation whereby molecules diffuse directly through the corneocytes.

The third pathway for diffusion of chemicals into and through the skin is skin appendages (i.e., hair follicles and glands). This pathway is usually insignificant because the surface area of the appendages is very small compared to the total skin area. However, very slowly permeating chemicals may employ this pathway during the initial stage of absorption.⁵⁷

Evidence suggests that reduced integrity or barrier dysfunction of the skin, through factors such as physical or chemical damage, may increase dermal absorption of chemicals leading to the entrance of larger molecules such as proteins,⁸ inorganic metal compounds,⁹ or nanoparticles.¹⁰ For example, dermal exposure to solvents has been shown to reduce barrier function of skin by altering lipid and protein structures of the stratum corneum, thus promoting the systemic uptake of the solvent itself or other chemicals.⁵⁸ Organic solvents which defat the skin and

⁵¹<https://www.cdc.gov/nrosh/topics/skin/>

⁵⁸Environ Health Insights. 2014, 8(Suppl 1): 51–62. Published online 2014 Dec 17. doi: 10.4137/EHI.S15258 PMID: PMC4270264 Potential Health Effects Associated with Dermal Exposure to Occupational Chemicals

damage the stratum corneum may result in an enhanced rate of chemical absorption.⁵⁹

⁵⁹https://www.osha.gov/dts/osta/otm/otm_ii/pdfs/otmii_chpt2_basicsofskin.pdf

Appendix 4: Patricia Gribble, Ph.D. Forensic Mental Health Report 4/11/2016

Excerpts and my comments below.

"Diagnostic impressions: Mr. Widing does meet DSM-5 diagnostic criteria for Brief Psychotic Disorder leading up to and following the instant offense events. Diagnostic criteria require acute onset of at least one of the following psychotic symptoms - delusions, hallucinations and/or disorganized speech for at least one day and no longer than one month - after which psychotic symptoms must fully resolve. However, cannabis induce psychosis and/or bipolar disorder with psychotic features cannot be differentiated or ruled out based on the current available information...

[According to Dr. Gribble] per consultation with WSH psychiatrist, Daniel Ruiz Paredes, MD, the course and symptoms of Mr. Widing's presentation does not match those expected with such toxicity - e.g. gradual, insidious onset of symptoms, along with similarly slow resolution; and expected systemic neurological symptoms such as motor changes (ataxia, speech apraxia) in addition to changes in cognition and thought process. While possible, copper toxicity appears highly improbable.

[While what Dr. Paredes suggests is generally true,

1. He does not address the significantly elevated blood copper levels.
2. I doubt that he could point to any peer-reviewed, double blinded studies that support his opinion
3. Generally speaking, there's a lot that we do not know about copper neurotoxicity and its neurobehavioral effects. For example, we are only beginning to explore copper's role in neurodegeneration (see above).
4. It is also possible that in some individuals, such as those with bipolar disorder, the manic phase can coincide with an elevated copper level that could produce increased and violent manic symptoms.
5. Also according to Dr. Gribble, symptoms began in March 2015 and continued to June 9, 2015].

"...Physiologically, abruptly stopping alcohol use, in combination with starting cannabis use to mitigate alcohol withdrawal, particularly in the context of a premorbid bipolar disorder would have a "tripled" effect to attenuate [sic] acute psychosis...

My diagnostic impressions included: Brief Psychotic Disorder, Cannabis Induce Psychotic Disorder, Unspecified Bipolar or Other Related Disorder, Manic episode, with mood congruent psychotic features..."

Page 24: "Consequently, it was my opinion that due to Brief Psychotic Disorder Mr. Widing's mind was affected to such an extent he was unable to tell right from wrong with reference to the particular acts charged - Assault and First-Degree and Assault in the 2nd° - due to delusional beliefs that his assaultive actions would bestow everlasting life to the alleged victim, his wife."

Page 26: "Even within the context of a severe Brief Psychotic Disorder episode with mania, Mr. Widing showed capacity for purposeful and knowledgeable behavior including ability to contain and direct his actions to achieve the outcomes he intended. He showed similar capacity for purposeful and knowledgeable behavior but leading up to and following the instant offense.

While, cannabis use, in addition to possibly contributing to his psychosis may have further reduced Mr. Widing's judgment; and increased thought disorganization and impulsive action; he also consistently demonstrated capacity for purposeful and intentional actions as outlined above.

Consequently, it was my opinion that Mr. Widing did have the capacity to form the mental state of intent for the charges of Assault 1 and Assault 2."

[My comments: Psychosis is a symptom or feature of mental illness typically characterized by radical changes in personality, impaired functioning, and a distorted or nonexistent sense of objective reality.⁶⁰

Psychosis refers to an abnormal condition of the mind described as involving a "loss of contact with reality". People with psychosis are described as psychotic. People experiencing psychosis may exhibit some personality changes and thought disorder. Depending on its severity, this may be accompanied by unusual or bizarre behavior, as well as difficulty with social interaction and impairment in carrying out daily life activities.⁶¹

Therefore, as the term is generally used, the condition of psychosis involves a "loss of contact with reality". That surely is a mental disease or defect that would cause the person to be unable to perceive the nature and quality of the act with which he is charged or unable to tell right from wrong with reference to the particular act charged. In this case, Mr. Widing had a distorted or nonexistent sense of objective reality when he committed the offense. I believe the only question pertaining to Dr. Gribble's opinion is whether the psychosis was due to cannabis or copper toxicity. In my opinion, copper toxicity was definitely present, whereas cannabis was often used in the past by the defendant without any apparent violent problems.

Note, according to Dr. Gribble, the defendant is charged with Assault in the 1st ° and Assault and Second-Degree for an incident which allegedly occurred on or about 6/14/2015. She indicated that Assault-1 indicated "intent to kill", while Assault-2 indicated "intent to cause significant bodily harm". However, according to Mr. Widing, he was not intending to harm his wife, he intended to bestow everlasting life - which is hardly a harm.

While I agree with Dr. Gribble that Mr. Widing did have a type of capacity to form the mental state of intent, but that his intent was psychotic, and out of touch with reality. He was suffering from a mental illness or defect that enabled him to form some types of intent, but impaired his ability to place his intentions within the context of reality.]

⁶⁰<http://medical-dictionary.thefreedictionary.com/Psychotic+episodes>

⁶¹<https://en.wikipedia.org/wiki/Psychosis>

Appendix 5: Jerry K. Larsen, M.D., psychiatrist

September 3, 2015: Jerry K. Larsen, M.D., psychiatrist

Dr. Larsen reviewed the legal records, medical records, statements from the defendant's family regarding his functioning prior to the offense, family history, development of history, adult history, past medical history, mental status examination, psychological testing, interviewed the defendant's wife, Athena, and provided an opinion.

Adult History: He completed community college with a "3.8cGPA." He transferred to BYU after a two- year Mormon mission in Ukraine, from 97 to 99, and described "it was hard times." He returned, entered BYU, and studied political science intending to become an attorney.

PSYCHOLOGICAL TESTING

A Slossen IQ score of 98 +/- 4 places him in the normal range of intelligence.

"Rod Widing remained actively psychotic in the hospital for an extended period of time, much longer than one would expect from the direct effects of Cannabis alone and we must assume that he obviously was not ingesting any Cannabis substances while hospitalized."

"Rod Widing remembers choking Athena and believing he was god in some totally illogical manner, he believed that by choking her, she would be rebirthed as a goddess so she could have immortality and live with him forever.

Rod Alfred Widing is a 37-year-old, married, Caucasian male who displays no evidence of mental defect and no current evidence of a psychotic illness.

It is obvious, based on the patient report, on Athena's report, the records from the hospital and police records that Rod Widing was suffering from a mental disease (psychosis secondary to renal failure) and as a result was unable to distinguish right from wrong, believing he was rebirthing Athena to become a goddess so she could achieve immortality and she could live with him forever. As a result, he did not see himself as committing a crime but instead as bestowing a gift of everlasting life on his wife. In his psychotic state, it is evidence that Rod Widing did not intend to kill his wife but instead intended to bestow upon her everlasting life. As such the psychosis rendered him incapable of realizing he was actually committing a crime when he strangled Athena as his ability to appreciate the criminality of his conduct was obliterated by his delusional psychosis.

Rod Widing was admitted to the hospital late 06/14 or early in the morning 06/15. He was delusional, pressured, manic, agitated, and could not be controlled. He was sedated with Versed and tells me that they kept him sedated. He does remember seeing the psychiatrist but had no understanding as to what had happened or why he was in the hospital. He was kept there until the following Friday, during which time, he had racing thoughts, agitation, confusion as to why he was there. He remembered at that time only bits and pieces of what had happened. He was at one point treated with Seroquel which is an atypical antipsychotic. Upon discharged from the hospital, he was transported to jail where he was continued on Seroquel. Once released from jail, he followed up with a

psychiatric nurse practitioner at Kaiser who continued the Seroquel. He, shortly thereafter, noted that his mind was racing but he was not behaving in any bazaar fashion. He called the nurse practitioner and the Seroquel was increased to 150mg at bedtime which he now continues to take on a daily basis. In the jail, again he could not understand why he was there. It was only over a period of time that he learned about the alleged event.

One might incorrectly assume that his psychotic symptoms were caused by Cannabis.... [But] THC is... rapidly metabolized and excreted through the urine. The drug, after inhalation or ingestion, is rapidly absorbed and the peak blood concentration is obtained in 3 to 10 minutes, maximum drug concentration has been observed at 8 minutes and the concentration rapidly decreases... within a 3-4 hour period, essentially becoming inactive after 4 hours as reported by (Huestis and Cone in the Journal of Analytic Toxicology, 1992, 6276-282 and Lemberger and Kopin, Metabolism and Disposition of Delta-9 Tetrahydrocannabinol. Pharmacological Review, 1971; 23:371-380).

...It is therefore obvious that THC in and of itself, would not be responsible for Rod Widing's psychotic state which lasted for days nor did it account, by itself, of his manic, bazaar [sic] behavior for the days prior to the alleged event.

In my medical psychiatric opinion and in the opinion of the nephrologist and psychiatrist, his psychotic state was secondary to Renal Failure and as such, due to the described serious mental problem, he was unable to distinguish right from wrong, believing he was rebirthing Athena to become a goddess so she could achieve immortality and live with him forever. As a result, he did not perceive that he was engaging in any illegal activity but instead was bestowing the gift of ever-lasting life on his wife. (Obviously a bazaar [sic] psychotic thought.)

It's also my opinion that Rod Widing never intended to kill his wife but in his delusional state was going to bestow upon her ever-lasting life. Therefore he was unable to realize that his behavior was illegal and he could not appreciate the criminality of his conduct which was obviously obliterated by his delusional psychosis.

He now displays no evidence of psychosis. I again interviewed on 09/02/2015. He is continuing to take Seroquel, 150mg at bedtime. an atypical antipsychotic/mood stabilizing agent, which he will continue indefinitely."

ATTACHMENT B



STATE OF WASHINGTON
DEPARTMENT OF SOCIAL AND HEALTH SERVICES
WESTERN STATE HOSPITAL
W27-19 * 9601 Steilacoom Blvd. S.W. * Tacoma Wa 98498-7213 * (253) 582-8900

April 11, 2016

COMMUNITY FORENSIC EVALUATION SERVICE
FORENSIC MENTAL HEALTH REPORT

RE: STATE OF WASHINGTON

CAUSE NO: 15-1-01156-1

Vs.
Rodman Widing

WSH NO: 441213

DOB: 3/8/1978

This forensic mental health evaluation and report were completed by The Community Forensic Evaluation Service (CFES) of Western State Hospital (WSH) 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 it is intended for their use only. Any other use of this report is not authorized by the undersigned. The opinions herein are based upon information available within the timeframes allotted by statute, court procedure, and/or administrative guidelines.

REASON FOR REFERRAL:

Mr. Widing was ordered by the Clark County Superior Court on 11/18/2015, to undergo an evaluation in the community on the legal issues of insanity and diminished capacity (i.e. intent) at the time of the offense; risk for future dangerousness; and need for an evaluation by a DMHP under RCW 71.05.

Mr. Widing was charged with Assault in the First Degree and Assault in the Second Degree for an incident which allegedly occurred on or about 6/14/2015. Mr. Widing's wife and alleged victim, Athena Meisenheimer, called 911 after noon on 6/14/15.

Police responded to Mr. Widing's home address in Battle Ground, WA following three 911 incomplete calls associated with that address at around 12:30 p.m. When the operator called back, only a "soft voice stating 'help me'" could be heard - along with a cartoon show in the background and then a male and female yelling. While in route, a call from 911 was made from a neighbor's home from "the female who had called 911 earlier. She stated that her husband was out of control and choked her to unconsciousness. When she regained consciousness, she grabbed up her children and fled to the neighbor's for safety."

Ms. Meisenheimer later reported at 14:50, to police at Peace Health Medical Center the following events. They were in process of relocating from Puyallup, WA to Clark County, WA for Mr. Widing's new job. She was coming down on weekends. Prior to coming down Friday 6/12/16, Mr. Widing's mother called Ms. Meisenheimer concerned that Mr. Widing, "Had been rambling and didn't appear to be doing very well." On Friday, Mr. Widing was "acting strange" and "very manic". She thought it was due to the stress of



Forensic Mental Health Report
Rodman Widing

04/11/16
Page 2

work and moving, and smoking marijuana. She advised him to stop smoking marijuana and get rest over the weekend. On Saturday, Mr. Widing "handed over" a jar with marijuana to his wife, which she hid in the laundry room. They had company over for barbecue and he "seemed to be doing better". He went upstairs to their bedroom saying his stomach hurt. Ms. Meisenheimer found him there crying and watching YouTube Video on Einstein's brain - which was strange as she'd only seen him cry once prior "at a very emotional time". She was upset thinking her husband had "smoked more marijuana".

Saturday night, Ms. Meisenheimer slept in their bed and her husband was on the couch downstairs. Around 06:00 Mr. Widing came in to put up curtains. She thought the time was strange, as well as her husband being "very agitated" and having a hard time getting the curtains up. Her husband was usually good at putting things up and "rarely gets agitated". Over that day Mr. Widing seemed to be "getting worse" - "he was becoming manic (rambling, very animated, not making sense) again. He was smoking his silver colored Vape Pen (E-Cig Vaporizer) - she said he used the vaporizer for nicotine replacement to wean off chew tobacco. When she asked what he was smoking he said, "liquid marijuana". She told him he needed to stop smoking marijuana and hid the vaporizer in the closet. She began thinking of getting her husband into a "Rehabilitation Center" as she felt his manic behavior was due to marijuana usage.

After lunch, his wife told Mr. Widing to nap to "sleep some of the marijuana off". She checked on him just before noon while the children were swimming in the pool. Her husband was awake, dressed, and told her they "needed to go buy some more marijuana" - so she could smoke the liquid marijuana and "feel what he feels and see what he sees". "He was rambling about how his brain is working. He even told her he was God. Athena stated it appeared Rodman was hallucinating or in some type of psychosis. He wasn't himself." When told they weren't going to buy more, her husband wanted the vaporizer she took from him earlier. Her attempts to redirect him from wanting marijuana appeared to agitate him further.

"He grabbed Athena and threw her on the bed. She was laying on her back with her head hanging over the edge of the foot of the bed and her feet toward the head of the bed. Rodman got on top of her in a straddle position over her abdominal/chest area. Rodman had some type of cloth, like a ribbon, and tied it to her left wrist. She thought he was going to tie her to the bed but she wasn't sure. Rodman at first held her down by her arms he then grabbed her by the throat with two hands. Athena demonstrated by holding her two hands out with her thumbs together at the front of her throat and fingers running along the side of the neck toward the back. Athena tried to get out of the hold but Rodman was just too strong. At first he didn't squeeze very hard. Rodman then started squeezing hard restricting her breathing and she was unable to talk. Athena stated she 'blacked out'. Athena then remembers Rodman pushing her off the bed onto the floor at the foot of the bed. Rodman again straddled her. He held her down by her arms. Rodman then strangled her again with both hands. Athena thinks she 'blacked out' again. She stated she wasn't sure if she 'blacked out' once or twice. ... Athena stated she was scared Rodman was

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 3

going to kill her and then possibly hurt or kill the children. When looking at his eyes you could tell he wasn't there. After she came to on the floor, Athena told Rodman she would give him the Vaporizer back and smoke marijuana with him. Athena stated she knew she wouldn't be able to overpower Rodman so she went along with him."

She gave him the vaporizer – which seemed to calm him/stop him from assaulting her. She had blood all over her face from her nose and tongue bleeding. Mr. Widing told her "she looked pretty bad" – she agreed and told him she was going to the bathroom to clean up. She dialed 911 from her phone, was shaky, and was disconnected somehow. 911 called back [her phone was on silent] and she answered – she whispered "she needed help and her address" and that "there were kids". Mr. Widing came in, noticed the number on her phone – and she told him it was a call from a job application. He said, "It wasn't a good time and shut her phone off."

Mr. Widing forced her to smoke more "liquid marijuana". She stated it smelled similar to marijuana. She went along but "wouldn't inhale". While cleaning her face her husband forced water from his palm into her mouth several times "in a very aggressive manner" making it hard for her to breathe. She still played along telling him "she is feeling what he is feeling now that she has smoked the marijuana". Mr. Widing vomited in the toilet, noticed blood on his clothes, took his clothes off, and started the bath water. Ms. Meisenheimer feared he would drown her if he got the tub full – and reminded him they hadn't checked all the pipes yet – he agreed and shut off the water. Her husband was "still rambling and acting very paranoid. He started accusing the kids of stealing his marijuana. He told Athena you can't trust the kids." He then decided he wanted the kids to come inside to smoke marijuana. He agreed for Ms. Meisenheimer to leave to get the kids from the pool. She then gathered the children and they ran to the neighbor's home.

At 19:20, Athena Meisenheimer returned to their home with her parents, after treatment at Peace Health Medical Center, to collect her personal belongings. Detectives were searching the residence for evidence. Ms. Meisenheimer reported damage to their master bedroom bathroom door occurred prior to her husband attacking her. That morning she was showering with the door locked for privacy from the children. "Rod thought he was locking her out and kicked the door open." She was not worried for her safety at that time. When asked about a makeup bag on the sink counter, "She said that after he attacked her, Rod made her put makeup on her face. He stood next to her in the bathroom while she began applying foundation with a brush. ... when she started applying it Rod threw up in the toilet."

Ms. Meisenheimer's red/purple mottled face due to being choked to unconsciousness was noted by police officers as remarkable in their experience and indicated a severe choking event. She also had many bruises. Police also noted that Ms. Meisenheimer, Mr. Widing's former wife, Jennifer Widing; and Mr. Widing's extended family members consistently reported Mr. Widing was "never violent" and the alleged crimes were "totally out of character". On 6/14/15, Ms. Meisenheimer stated, "Being assaulted was the last thing on

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 4

her mind when she went to check on Rodman - ... she has never even been concerned Rodman would hit her" [in their five years together].

On 6/14/15 Mr. Widing's eight year old son, whose mother was Jennifer Widing, reported to police, he was swimming in the pool and did not witness the instant offense. He reported, "My dad was acting weird for like three hours and then Athena came outside with a red face because my dad was acting crazy."

NATURE OF THE EVALUATION:

For the purpose of this evaluation, the following information sources were utilized:

1. Prosecutor's discovery information included Legacy Health Salmon Creek Medical Center, Vancouver, WA medical records for Rodman Widing 6/14/15 to 6/23/15.
2. The National Crime Information Center (NCIC) record.
3. Mental Health Division Database (RSN, DOC, Community Hospital) - no records found.
4. WSH records (civil and forensic) - no prior records found.
5. Interview of the defendant at Barrar Law Office on 2/2/16 for approximately 110 minutes (with 35 minute break). Defense counsel Legal Assistant, Bill Kittleson, was also present and audio recorded the interview.
6. Folstein Mini-Mental State Examination
7. Letter dated 9/3/15 by Jerry K. Larsen, M.D., Psychiatrist, Oregon City, OR regarding Mr. Widing's mental state at the time of the instant offense(s).
8. Kaiser Permanente Central Medical Records, Sunnyside, OR records requested 2/5/16, denial received 2/17/16; second request including court's order on 3/11/16, with Kaiser Salmon Creek Medical Office outpatient records received via email on 4/6/16.
9. Oregon Health Sciences and University, Portland, OR medical records requested 2/5/16, not yet received.
10. Defense counsel, Steven W. Thayer, emailed the following scanned documents on 3/16/16:
 - Kaiser Permanente medical records for outpatient Psychiatric Visits from 7/1/15 to 8/26/15 received in defense counsel's office 9/8/15.
 - Neuropsychiatric Disorders and Renal Diseases: An Update
 - Two pages excerpted from the Legacy Salmon Creek chart showing urine copper highly elevated
 - Calculations showing that the toxic copper in Rod's system was similarly elevated - - over four times normal - - five days after admission after he'd been flushing on IVs for five days
 - An email from Rod dated March 1 showing he is continuing to have elevated copper in his system
 - Principle and Practice of Forensic Psychiatry 2nd Edition excerpt describing neuropsychiatric effects of toxic exposure
 - Excess Copper as a Factor in Human Diseases
 - Copper toxicity: A Comprehensive Study

Forensic Mental Health Report
Ródmán Widing

04/11/16
Page 5

- Clinical Laboratory Medicine 2nd Edition excerpt on copper toxicity
 - An email from Rod Widing dated January 29, 2016, describing his history of exposure to copper as an electrician
 - An email from Rod Widing dated February 17, 2016, describing what happened and the medical follow-up focusing on the copper toxicity issue
11. Defense counsel, Steven W. Thayer, emailed the following scanned documents on 3/17/16 - Providence Medical Group, Battle Ground, WA medical records for outpatient visits from 9/22/15 to 12/5/15 received in defense counsel's office 2/22/16.
 12. Consultation with Daniel Ruiz Paredes, M.D., Western State Hospital Staff Psychiatrist on 3/17/16 for 15 minutes and 3/22/16 for 35 minutes regarding copper toxicity or copper metabolism disorder in relation to Mr. Widing's symptom presentation and available medical records.

Mr. Widing was notified of the purpose and authority for the evaluation, the receivers of the report, the limits of confidentiality, the choice not to answer questions, the right to an attorney, and the lack of a treatment relationship. Mr. Widing indicated understanding of the notifications and was agreeable to continue with the evaluation.

BASIS AND REASONING FOR OPINIONS:

Personal Interview: *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.*

Education and Employment:

Mr. Widing said he was born in Tacoma, WA on 3/8/78. He was now 37. Current employment was with "T-5 Data Centers since March 2015" in Hillsboro, OR. He was the full time manager of the data center with six people "working for me". He was an "electrician by trade" and his current job was to ensure that the data servers "never turn off". He said since returning to work after the instant offense, his work was, "Good - I love my job." Mr. Widing said his employer was not aware of the instant charges.

He currently resided in Battle Ground, WA with his son (Mason), age 8, residing with Mr. Widing for "greater than 50%". Mason's mother, Mr. Widing's second wife, also lived in Battle Ground. He remained married to his third wife, Athena [the alleged instant offense victim], though they had not lived together since the instant offense. Since then, Athena resided in Puyallup, WA. He said they lived apart, "Because of the assault and no contact/restraining order." When asked when the no contact order would end, Mr. Widing said, "If this ever gets resolved." He didn't know the order expiration date. He reported they were following the terms of the order which included not being within 500 feet and "can't talk to her". He said not having contact was "very hard".

Forensic Mental Health Report
 Rodman Widing

04/11/16
 Page 6

Mr. Widing said his education included after high school graduation earning a BA in political science from Brigham Young University. His plans to become a lawyer "didn't pan out". He finished an electrical apprenticeship in Renton, WA eight years prior. He worked as an electrician since.

Medical History:

When asked about medical concerns since July 2015, Mr. Widing said, "No not really." He then added, "When in the hospital June 14 or 15 until next Friday the 19th or so - copper levels showed up high - nobody there seemed concerned." There was copper in his urine and "ceruloplasmin level low. Copper settles in the liver, brain, kidney - the three organs I was having issues with when hospitalized. [I'm] concerned about level of toxic copper in my system due to my profession. Recently [I] put two and two together. Every one ignored four times the copper in my system - three to 50 is normal. Mine was 208 - effects somebody's mental condition and health."

When asked about his current symptoms, Mr. Widing said he felt run down for years - "just beat, tired most of the time"; and he had a metallic taste in his mouth which he first noticed years prior, and ignored it. His recent research indicated copper was a "Toxin on par with other heavy metals - mercury, lead; I want to check it out." When asked about medical follow-up, he reported after discharge from the hospital and release from jail - he followed up about "Wilson's disease - copper stores in body - no copper deposits in my eyes." There was no other medical follow up about why there so much copper in his body - "I first realized last week, four times the amount." He planned to pursue this with his normal doctor - Dr. Chau at Providence in Battle Ground." Since three to four months prior he changed his health insurance from "Kaiser to United Health".

Current prescription medication was Seroquel [an antipsychotic and mood stabilizer] he'd taken since hospitalized in June 2015. When asked how Seroquel was helpful he said, "I guess with psychosis, mania." When asked if he believed he needed it, Mr. Widing reported, "Never thought it before this whole thing. I'd be curious to see if I needed it depending on toxicity - what's going on. It doesn't affect me one way or another that I've noticed." He reported no noticeable side effects from Seroquel and added, "Obviously I haven't gone nuts." He said if toxicity was the issue, than in time "Seroquel could go away - under care of a doctor, of course. Conjecture on my part." He said, "Seroquel helps - makes me sleep good at night." For years he had trouble falling asleep. In early July 2015 he went back to a "Kaiser hospital in Hillsboro" because he was feeling "horrific physically". He spent a few hours in the ER - "couldn't find anything wrong".

Substance Abuse History:

Mr. Widing said he first drank alcohol at age 15 or 16, and last drank in March 2015 when he "cut off drinking". He added in May 2015 he drank once with people from work. Prior to March 2015 he regularly drank "a couple of drinks a night". From 2003 to 2009 he drank, "fairly regular, sometimes heavier than others". For a year and a half prior to March 2015, he was a "functioning alcoholic to some extent" - he drank "a few stiff

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 7

drinks" nightly. He reported having "High tolerance- took a lot to get drunk. Never out of control." When asked why he quit, Mr. Widing reported, "Feeling fatigued, not helping my health. No problems with family, work, anything like that." When asked if he had a problem with alcohol use, he said, "Not a big one - relied on it more than I should - looked forward too much to the un-wind of drinks at night." He reported feeling fatigued for about a year prior to quitting alcohol use.

He smoked marijuana first at age 16, and last used the day of the instant offense. When asked about his heaviest period of marijuana use, Mr. Widing said his use was "never too heavy" as drinking was his substance of choice, in part because employers don't test for it. Marijuana use was "Here and there - if a job drug tested not going to smoke." When not being drug tested, he smoked marijuana "four to five times a week each evening after work" for a few weeks to "a couple of months when no job drug testing - never that regular of a thing". His current employer did drug testing "at hire", with no subsequent random testing. When asked after the instant offense charges if his employer still did not drug test, Mr. Widing stated, "They don't know what happened - just know admitted to hospital with kidney failures." His employer was not aware he's been charged. "Would lose my job if convicted - data center is a pricey asset." Mr. Widing then volunteered, "I've always been reliable and analytical." He quit chewing tobacco when he was hospitalized in June 2015. He first chewed at age 16. He was "addicted at age 25" when he chewed regularly. Prior to that he was a "good Mormon boy - then went wild at age 25." He chewed daily, three cans Kodiak chew a week use until June 2015. Mr. Widing denied any illegal drug use or prescription drug misuse; adding, "Hadn't gone to a doctor in 10 years."

Psychiatric History:

Mr. Widing denied prior mental health treatment history, "No. This whole thing is very far from my normal - it's shocking." His primary care physician, Dr. Chau, continued the same Seroquel prescription from the hospitalization in June 2015. He is adherent taking Seroquel. When asked his diagnosis, he said, "Nobody put a finger on it. Kidneys were in failure, buildup of toxicity; potential being bipolar - first time manifested; acute stress induced psychosis - OHSU psychology department wanted to find out what happened to me." At OHSU Avel Gordly Center for Healing in down town Portland, OR, he received outpatient counseling for a few months including wanting "to know a diagnosis". When asked if he got any answers, Mr. Widing reported, "Possibilities, I'm leaning toward the science behind this copper thing." His counselor's hypotheses included, "Acute stress induced psychosis - haven't talked about the copper thing. Could be bi-polar. Nothing concrete."

Criminal history:

Mr. Widing reported no prior arrests.

Collateral Records

Prior to the instant offense(s) on 6/14/15, Mr. Widing had no known history of psychiatric symptoms, evaluation, treatment or hospitalization.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 8

Legacy Health Salmon Creek Medical Center, Vancouver, WA medical records for inpatient treatment of Rodman Widing from 6/14/15 to 6/23/15 included he was admitted to the ED on 6/14/15 following the instant offense. His wife, the alleged victim who was being treated at Peace Health Southwest Hospital, reported her husband "has had bizarre thoughts for several weeks" – e.g. "He has stated that he felt he needed a 'brain scan' because he was becoming so smart." He had to be restrained by police and in the struggle stated "he was god" and ate dirt. Ambulance attendants sedated him with versed and Ativan, "but this didn't control him." He was agitated in the ER, swinging at staff, with "delirium/psychosis", and Mr. Widing was "sedated and intubated so his evaluation could be completed safely." While sedated and intubated imaging procedures included on 6/14/15 "Ct Head without Contrast due to "altered level of consciousness"; Us Retroperitoneal Complete due to "acute renal failure"; and Chest X-Ray due to "gray sputum" and low oxygen saturation while sleeping – all of which showed "normal/no acute process". Blood and urine labs were done 6/14, 6/15, and 6/16. He was extubated the morning of 6/16 after attempting to self-extubate – and remained calm the rest of his admission. MRI Brain/head without Contrast on 6/17/15 showed no abnormalities. Chest X-ray on 6/18/15 showed no acute cardiopulmonary disease.

His wife and Mr. Widing reported only drug use was marijuana. "Bath salts" or other "toxic ingestion" was suspected. All blood / urine screens for substances of abuse including "synthetic cannabinoid" were negative – except for "cannabinoids" i.e. marijuana. Psychiatric/neurological consults noted his acute presentation and persistent grandiose delusions could not be explained by typical marijuana use alone. Mr. Widing had improved with scheduled lorazepam (for agitation) and Seroquel (antipsychotic/mood stabilizer) "though he continues to have grandiose thoughts about his intellect and brain capacity". Mildly low ceruloplasmin raised a question of Wilson's disease [a rare copper metabolism disorder]. Discharge summary on 6/19/15, by Kenneth Favour, MD included:

"Cardiac – hemodynamically stable since admission with sinus tachycardia and recurrent accelerated hypertension suggesting ongoing effect of toxic ingestion – continue to monitor – added amlodipine [antihypertension medication]"

"Renal – acute kidney injury with mild rhabdomyolysis gradually improving – BUN/creatinine 13/1.34 on 6/19 with good urine output – persistent mild hematuria noted, he did have foley catheter initially which may be source. He has ecchymosis [internal bleeding or bruising] over his right flank region and he wonders if he had trauma when he was being arrested – he has no memory of events when arrested. –he will need recheck UA in 1-2 weeks and further evaluation if hematuria persists. Renal ultrasound on 6/14/15 showed no hydronephrosis and no abnormality."

"Neuro – persistent delirium/psychosis. Unclear if toxic ingestion (? Bath salts-results pending. Synthetic marijuana test negative) versus psychiatric disorder with mania and psychosis – lab tests pending to assess for toxic ingestion. – Mildly low ceruloplasmin

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 9

raises the question of Wilson's disease. Low likelihood of Wilson's disease as a source for this situation but will check serum copper concentration and 24 hour urinary copper level and he will need ophthalmology evaluation in the future as an outpatient to evaluate for Kayser-Fleischer rings to further evaluate. He denies any family history of Wilson's disease. [Ceruloplasmin on 6/15/15 - 13 (17-54 mg/dL normal range) - MRI brain 6/17/15 was unremarkable. - continue scheduled lorazepam [benzodiazepine anxiolytic] 1 mg PO QID and quetiapine [antipsychotic/mood stabilizer] 150 mg nightly per Psychiatry recommendation. - May use PRN benzodiazepine if increased agitation to try to blunt effects of potential amphetamine-like ingestion."

"ID - one set of blood cultures positive from 6/15, no Staph aureus by PCR with no clear source of infection - appears to be contaminant. Await results of repeat blood culture - NGTD [negative to date]."

"Assault - Sheriff present at bedside. Patient to transfer to jail once medically cleared. - he appears medically stable today and can transfer once his 24 hour urine collection is completed later today."

Psychiatric consultation and interviews with Mr. Widing occurred 6/17, 6/18, and 6/19/15 with final diagnoses of Unspecified Psychotic Disorder, Cannabis Use Disorder; and Unspecified Anxiety Disorder - the later related to expressed concerns for family and employment tied to "upcoming legal implications".

Mr. Widing was discharged to Clark County Jail on 6/19/15. He had follow-up appointments scheduled at Kaiser Salmon Creek Medical Office, Vancouver, WA with Ophthalmology Dept. on 6/22/15 and general follow-up on 6/29/15.

Post-discharge lab results included: 24-hour Urine Copper from 6/19/15 was resulted 6/23/15 - 208 (3-50 ug/d normal range) was high. Legacy Central Laboratory "Interpretive Information: Individuals with symptomatic Wilson disease usually excrete more than 100 ug copper per day. Other conditions associated with elevated urine copper include cholestatic liver disease, proteinuria, some medications, and contaminated specimens." Serum copper collected 6/18/15 was resulted 6/23/15 - 102 (70-140 ug/dl normal range). Blood cultures for pathogens were negative. Bath salts screen was negative.

Kaiser Salmon Creek Medical Office outpatient records included:

6/26/15 Mr. Widing's first follow-up appointment after release from jail. He was in jail 6/19 to 6/24/15. The hypertension medication from the hospital was discontinued while in jail. His blood pressure was good with no need to restart that medication. He was given referrals for blood and urine labs to monitor renal function; and ophthalmology and psychiatry appointments. Lorazepam and Seroquel were continued.

7/2/15 Ophthalmology exam showed no symptoms of Wilson's disease.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 10

Four urgent care/ED visits 7/12/15-7/13/15

7/12/15 Urgent care visit complaining of flank pain and frothy, soupy urine. He was referred to Nephrology for proteinuria-nondiabetic.

7/13/15 Mr. Widing was triaged for urgent symptoms of shortness of breath, difficulty concentrating, and concentrated urine. Mr. Widing reported, "In ICU ... for kidney failure 6/14 to 6/19/15;" with symptoms worsening since in urgent care the night prior. He was diagnosed with urinary tract infection, and needed antibiotics, but that prescription was deferred to the ED because Mr. Widing reported allergy to unknown antibiotic.

7/13/15 Emergency Department EKG was normal and renal ultrasound unremarkable. Discharge diagnoses were hematuria, shortness of breath, dizziness, and dehydration. He was discharged to home with urology follow up the next week.

7/15/15 Nephrology consultation regarding continued microscopic hematuria [blood in urine]. Dr. Nelson informed Mr. Widing most likely cause was IgA nephropathy [a common kidney disorder that occurs when IgA—a protein that helps the body fight infections—settles in the kidneys] or "thin basement membrane" – with no unifying diagnosis for the psychosis and microscopic hematuria.

8/14/15 Nephrology telephone follow up. Dr. Nelson discussed follow-up labs and found "low risk for progressive chronic kidney disease (CKD)" and due to persistent microscopic hematuria – referred Mr. Widing to urology. Given only traces of blood and protein in urine he did not recommend at this time the kidney biopsy required to diagnose CKD. Dr. Nelson also noted, "wants me to discuss his case with his attorneys",

8/26/15 Urology exam yielded normal renal ultrasound and cystoscopy. Given kidney stone family history, renal colic CT scan was ordered. Dr. Mershon advised the persistent microscopic hematuria and proteinuria was "likely nephrologic" in origin; and for Mr. Widing to return for another renal cystoscopy if gross hematuria developed – to identify the source of blood.

9/16/15 In Nephrology telephone follow-up, Dr. Herbert was informed Mr. Widing was "no longer Kaiser Permanente" patient. His new nephrologist was a Dr. Reznick. [Google search 4/8/16 located an Andrew Reznick, MD, in nephrology at The Vancouver Clinic].

There were three Psychiatric Visits with Paul de Baldo, PMHNP:

7/1/15 Mr. Widing reported in March 2015 he quit drinking, which he'd been doing nightly, approximately nine drinks, for 10 years. He used marijuana instead "to help him relax in the evening" and was using marijuana "on a regular basis through the middle of last month". Approximately March or April 2015, "He started to have thoughts that his brain was becoming more powerful and showing him insights into how everything is connected in the world" – which Mr. Widing found "odd" and "fascinating". Frequency and intensity of these thoughts slowly increased, and started exhibiting other manic

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 11

symptoms – “pressured speech, hyperactivity, grandiosity and ideas of reference that he was on a special mission and was getting coded messages from Google searches.”

Just before 6/14/15, symptoms “markedly escalated” including “thinking he was God” so his son was Jesus; and because his wife was named Athena that confirmed he was God. On 6/14/15 these thoughts “made total sense” and described a “rebirthing and cleansing” ritual he performed in the bathroom “to demonstrate that he was God”. He wanted his wife to do the same, and believed if she became unconscious “then waking up would be the rebirthing and cleansing process” she needed to confirm her status as a God. “Patient attacked his wife and choked her with the idea of choking her into unconsciousness. Patient does not recall her becoming unconscious.”

Mr. de Baldo reviewed Legacy Salmon Creek hospital records for Mr. Widing 6/14/15 to 6/19/15. He noted the numerous psychosocial stressors since March 2015 leading up to the hospitalization. Mr. Widing also reported significant prior stress in 2003 of being falsely accused (he was acquitted at a trial) of molesting a grandchild in his first wife’s family after separating from his first wife. During that stressful period Mr. Widing began drinking. Mr. Widing reported no prior episodes of psychosis/mania. “No medical contributors as yet identified.” Mr. de Baldo opined possible contributors to the instant manic and psychotic symptoms included abrupt discontinuation of alcohol “unmasking of PTSD symptoms” related to the 2003 molestation accusations; using marijuana in place of alcohol in March 2015 along with multiple psychosocial stressors; alcohol no longer masking a cycling mood disorder; unidentified medical issue(s); some combination of these and/or other things.

Given his positive response to Seroquel this was continued, but he changed 100 mg to 25 mg tablets to allow Mr. Widing “flexibility” to take low dose during the day and increase the dose at night if needed [e.g. ¼ to 1 tablet each morning as needed for anxiety/irritability and 4 to 5 tablets at night]. Lorazepam was discontinued as Mr. Widing reported no benefit. Mr. Widing was “Back at work. Has regular schedule” – his supervisor was supportive. His mental status was stable with mildly pressured speech, no evidence of delusions or other psychosis. Insight was good and judgment intact. Initial treatment diagnoses included: Psychotic Disorder (primary); Mood Disorder; Screening for Lipid Disorder; History of alcohol abuse; Substance Use and Abuse Counseling.

7/21/15 Mr. Widing reported Seroquel continued helpful – but had “some mood swings” – a few days of depression with no interest doing things and decreased concentration; the past few days more talkative with thought speed increased. He denied delusions. Mr. Widing reported “onset of mood swings in his teens” and alcohol use “covered up mood swings to some degree”. During periods of decreased alcohol use he experienced “(hypo)manic” symptoms – e.g. increased spending, starting to date someone in Texas and nearly moving there, increased sex drive, increased thought speed, pressured speech, but no grandiosity as occurred recently. “He also didn’t smoke marijuana at those times. Marijuana appears to have contributed to recent manic episode with psychoses.” Mental

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 12

state continued stable with no evidence of psychotic processes. Mr. de Baldo's updated diagnosis included "Bipolar Disorder – bipolar 2 versus bipolar 1; Substance Use and Abuse Counseling – not drinking or smoking marijuana".

7/30/15 Via telephone contacts R.N. Meyer, MD, ordered increased Seroquel to eight 25 mg. tablets at night – not to exceed 200 mg. daily – based on Mr. Widing's complaints of increased "racing thoughts, his mind wants to take everything apart, and then goes back together. It is similar to mood prior to medications. But not a roar, rather a low rumble. He wakes up in the a.m. like he has been working all night. At first with Seroquel he felt more rested."

8/26/15 Mental state continued stable with no evidence of psychotic processes. "Varies dose of Seroquel at hs [night] if thoughts speed up, then decreases when starts to feel tired in the morning. Rarely takes daytime Seroquel due to sedation concerns. Helpful when he needs it." Stressors included no contact with his wife due to restraining order and pending court date. Mr. Widing reported "good support" from his mother, brother-in-law who is a psychiatrist, other family". Mr. de Baldo's updated diagnosis included "Bipolar Disorder – bipolar 2 versus bipolar 1: "patient with clear depressive episodes and (hypo)mania at times even when drinking heavily; most recent episode likely due to multiple factors: d/c etoh, smoke cannabis in place of etoh, period of significant stress over theyear prior to the episode, mood d/o per se, some combination of these and/or other things; no history of DV. Choking of his wife appears in the context of mood d/o and not reflective on patient's character (based on patient's self-report). Substance Use and Abuse Counseling – no drug or etoh use." [Mr. Widing was to follow up with Mr. de Baldo in four weeks – but by that time had changed his insurance and his primary care provider, Dr. Chau began prescribing his Seroquel.]

Letter dated 9/3/15 regarding Mr. Widing's mental state at the time of the instant offense(s) by Jerry K. Larsen, M.D., Psychiatrist, Oregon City, OR included that in interview on 7/7/15, Mr. Widing "displays no evidence of mental defect and no current evidence of psychotic illness." He also reviewed Legacy Hospital medical records for treatment after the instant offense [6/14/15 to 6/19/15] and police records. Dr. Larsen diagnosed that at the time of the instant offense, "Rod Widing was suffering from a mental disease (psychosis secondary to renal failure)." Dr. Larsen lists numerous medical conditions that can be related to renal failure and rhabdomyolysis which "due to escalating toxins in the bloodstream, may cause psychosis". Also, the "extended period of time" he remained psychotic at Legacy Hospital was "much longer than one would expect from the direct effects of Cannabis alone."

Dr. Larsen opined at the time of the instant offense, Mr. Widing's "psychotic state was secondary to Renal Failure and as such, due to the described serious mental problem, he was unable to distinguish right from wrong, believing he was rebirthing Athena to become a goddess so she could achieve immortality and live with him forever. As a result, he did not perceive that he was engaging in any illegal activity but instead was bestowing the gift

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 13

of ever-lasting life on his wife. (Obviously a bizarre psychotic thought.) It's also my opinion that Rod Widing never intended to kill his wife but in his delusional state was going to bestow upon her ever-lasting life. Therefore he was unable to realize that his behavior was illegal and he could not appreciate the criminality of his conduct which was obviously obliterated by his delusional psychosis."

Dr. Larsen again interviewed Mr. Widing on 9/2/15 who continued to display "no evidence of psychosis". "He is continuing to take Seroquel, 150 mg at bedtime, an atypical antipsychotic mood stabilizing agent, which he will continue indefinitely."

Providence Medical Group, Battle Ground, WA medical records for outpatient visits from 9/22/15 to 12/10/15 included continuation of Seroquel at a lower dose (100 mg, nightly) now prescribed by Dr. Chiou during three sessions. Mr. Widing maintained stable mood and mental state with no significant new adverse physical ailments. Referral to "OHSE Psy" was noted. Dr. Chan's treatment diagnoses were Bipolar-I Disorder; and Renal Failure (continue to see nephrologist). Labs for Copper blood levels appeared on the 12/10/15 encounter note - with no explanation included in the note. Specimen was collected 2/1/16 and Serum Copper - 80 (normal range 70-140 ug/dL) was resulted 2/3/16.

Mental Status Examination

Observations: Mr. Widing arrived on time, was alert, and overtly cooperative with interview. He appeared to give good effort. Reliability of his self-report may have been limited in specific areas such as possible underreporting frequency of marijuana use and premonitory mood disorder symptoms. Instead he repeatedly volunteered vaguely described ideas about copper toxicity impacting his mental state.

Appearance / hygiene: He presented as a Caucasian male who appeared his stated age of 37 years. Grooming and hygiene were excellent, Movements were fluid and purposeful.

Orientation: He was fully oriented to person, time, place, and situation.

Memory and concentration: His memory functions were grossly intact as screened. He provided this account when asked if he had trouble with memory. Prior to the period of "foggy brain", he had a "hard time recalling things - word finding was slow. It flipped opposite - everything real fast." Since hospital discharge in June 2015 he had not had similar experiences.

Attention and concentration appeared intact.

Cognitive/ Intellectual Functioning: On the Folstein MMSE he scored correctly on 29 of 30 items, suggesting grossly intact cognitive and verbal abilities for clinical interview. He said his mind was "still quicker than before - not out of control like before". His word and concept development suggested at least average current intellectual functioning.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 14

Speech / ability to communicate: Speech was largely normal, with intermittent mildly rapid speech rate. He generally communicated his meaning clearly and provided clarification when asked.

Thought process /content: No evidence of disorganized thought processes, delusions, or hallucinations typically associated with psychosis.

Mood/Affect: Mood appeared euthymic, with normal affective range consistent with context.

Suicidal/Homicidal (or Assaultive) Ideation: He denied current danger to self or other ideation. He denied prior danger to self or other actions (other than the instant offense).

Insight/Judgment: He expressed inconsistent insight into the nature of the mental disorder for which he was currently taking Seroquel – stating firm diagnosis had not yet been made clear. He endorsed terms such as “mania” and “psychosis” associated with his mental state leading up to and including the instant offense. He expressed desire to discontinue Seroquel under physician supervision.

Verbalized problem-solving abilities and judgment were grossly intact.

Psychological Testing:

On 7/7/15, Dr. Larsen reported administering the following tests to Mr. Widing “A Slossen IQ score of 98 +/- 4 places his in the normal range of intelligence. The DAST Drug Abuse Assessment is consistent with past history of Cannabis abuse. The MAST Alcohol Abuse Assessment was essentially unremarkable.” The REY 12-Item Test, expanded to 15 items, showed three errors; and the M-FAST a score of “0” – both did not suggest feigning a mental defect or mental illness. On the PAI (Personality Assessment Inventory) Mr. Widing produced a valid profile “entirely within normal limits”.

Diagnostic Impression

Based on my observations and collateral records, Mr. Widing does meet DSM-5 diagnostic criteria for Brief Psychotic Disorder leading up to and following the instant offense events. I.e., diagnostic criteria require acute onset of at least one of the following psychotic symptoms -- delusions, hallucinations and/or disorganized speech for at least one day and no longer than one month – after which psychotic symptoms must fully resolve. However, cannabis induced psychosis and/or bipolar disorder with psychotic features cannot be differentiated or ruled-out based on the current available information. :

Diagnosis of Bipolar-I Disorder can be made on the basis of having at least one episode of mania, i.e. a period of time lasting at least five days with at least one of these three core symptoms of mania: 1) elated and/or irritable mood; 2) increased energy or activity; 3) excessive involvement in activities with high potential for painful consequences. Mr. Widing reported to his Kaiser psychiatric provider on 7/1/15 that within a month of

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 15

beginning his new job, starting sometime in March or April 2015, he believed "his brain was becoming more powerful" with "insights into how everything is connected in the world" – which he found "odd" and "fascinating". These beliefs slowly grew stronger and more pervasive over time – including "other manic symptoms – 'pressured speech, hyperactivity, grandiosity and ideas of reference that he was on a special mission and was getting coded messages from Google searches.' (per Mr. de Baldo, 7/1/15)". Mr. Widing also consistently reported to several collaterals in March 2015 he abruptly stopped daily alcohol use and substituted smoked plant marijuana and vaped "liquid" cannabis. His reported frequency of these two forms of cannabis use varied across different interviews from daily to two to three times weekly up until 6/14/15 – with no cannabis or other substance use after that. In the current interview, to Mr. de Baldo on 7/1/15 and 8/26/15, and to Dr. Larsen on 7/7/15 Mr. Widing consistently reported increasingly bizarre delusional beliefs reaching psychotic proportions one to a few days prior to 6/14/15 – including themes of his "powerful brain" having godlike powers, receiving revelations from God, and being God. Upon discharge from Legacy Hospital, Mr. Widing continued to report his brain as extremely powerful, with at times pressured speech and disorganized thought process; though he denied now believing in being God or having godlike powers. Hospital treatment providers concluded Mr. Widing had initial positive response to Seroquel, an antipsychotic and mood stabilizer; and was medically stable enough for discharge to jail on 6/19/15 until 6/24/15. While in jail, Mr. Widing continued on Seroquel and reported to Dr. Larsen continued racing thoughts and confusion about why he was there. By 7/1/15, Mr. de Baldo noted Mr. Widing's mental state was stable with mildly pressured speech, no evidence of delusions or other psychosis. Thus, while apparent mania began in March or April 2015; acute psychosis lasted less than one month.

However, to diagnose bipolar disorder with psychotic features, per DSM-5, the period(s) of mania cannot be due to substance use or a general medical condition. Cannabis Induced Psychosis typically does not meet the standard for "major mental illness or defect". Frequent, regular cannabis use has been associated with younger age and greater frequency of developing major psychotic disorders in the schizophrenia spectrum; and increased acuity of psychosis when schizophrenia spectrum or bipolar disorder has already been diagnosed. Also, THC from cannabis stores in the body's fat cells and can release slowly over time, thereby continuing to impact brain function including psychiatric symptoms for about 30 days, after the relatively short period of intoxication has passed. This impact is greater with increased cannabis use.

Medical conditions triggering Mr. Widing's prodromal mania and psychosis have been offered:

- 1) Acute renal failure was treated at admission to Legacy Hospital on 6/14/15. However, discharge summary on 6/19/15 of "acute kidney injury with mild rhabdomyolysis gradually improving"; along with 7/15/15 outpatient follow-up Nephrology consultation regarding continued microscopic hematuria [blood in urine] – "no unifying diagnosis for the psychosis and microscopic hematuria;" indicates low probability as a causal factor.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 16

2) Copper toxicity and copper metabolic disorder (i.e. Wilson's disease) were also explored, with copper toxicity an explanation favored by Mr. Widing and defense counsel; but are not clearly substantiated in Mr. Widing's medical records. Per consultation with WSH Psychiatrist, Daniel Ruiz Paredes, M.D., the course and symptoms of Mr. Widing's presentation does not match those expected with such toxicity – e.g. gradual, insidious onset of symptoms, along with similarly slow resolution; and expected systemic neurological symptoms such as motor changes (ataxia, speech apraxia) in addition to changes in cognition and thought process. While possible, copper toxicity appears highly improbable.

Physiologically, abruptly stopping alcohol use, in combination with starting cannabis use to mitigate alcohol withdrawal; particularly in the context of a premorbid bipolar disorder would have a “tripled” effect to attenuate acute psychosis.

Prior to discontinuing Kaiser Permanente medical services, Mr. Widing appeared particularly forthcoming with Mr. de Baldo regarding his psychiatric symptom history. While Mr. Widing received no mental health treatment prior to 6/14/15 – he did report prior symptoms consistent with Bipolar Disorder-I. He reported onset of “mood swings” as a teenager. Alcohol use starting in 2003 helped to “cover up” mood swings. During times when he decreased alcohol use, he experienced “(hypo)manic” symptoms – e.g. increased spending, starting to date someone in Texas and nearly moving there, increased sex drive, increased thought speed, pressured speech, but no grandiosity. “He also didn't smoke marijuana at those times. Marijuana appears to have contributed to recent manic episode with psychoses.”

Based on available collateral information and Mr. Widing's presentation, I can support Mr. Widing experienced a period of severe and acute psychosis for less than one month including the time of the instant offense.

RCW 9A.12.010 states, “To establish the defense of insanity, it must be shown that:
(1) At the time of the commission of the offense, as a result of mental disease or defect, the mind of the actor was affected to such an extent that:
a) He or she was unable to perceive the nature and quality of the act with which he or she is charged; or
b) He or she was unable to tell right from wrong with reference to the particular act charged.”

Based on available information, it is not possible to differentiate diagnostically whether the prodromal period of mania and psychotic episode was due to undiagnosed bipolar disorder (which would meet the insanity defense requirement of “mental disease or defect”); or whether the prodromal period of mania and psychotic episode was due to cannabis use; or some combination of both. My diagnostic impression included:

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 17

Brief Psychotic Disorder
Cannabis Induced Psychotic Disorder
Unspecified Bipolar or Other Related Disorder, Manic episode, with mood congruent
psychotic features

Competence to Stand Trial:

Following initial notifications, I assessed Mr. Widing's understanding of and desire to consider a mental state defense. It was explained the mental state interview required he disclose potentially incriminating information about his actions and internal mental state at the time of the instant offenses. When asked if he wished to proceed with not guilty by reason of insanity (NGRI) or diminished mental capacity defense he replied "yes". He then provided this understanding of NGRI defense - "At time of incident I was legally insane and did not understand consequences of actions that I did." He provided this understanding of the charges against him, "Domestic Violence. Assault -1 Domestic Violence - if convicted, spending good amount of time in prison." He didn't know the sentencing guidelines for that charge and he guessed "10 years". He also knew he was charged with Assault-2 Domestic Violence. Other than "one is worse than two" he didn't know the difference between the two charges. I provided brief education that Assault-1 indicated 'intent to kill'; while Assault-2 indicated 'intent to cause significant bodily harm'. If an NGRI defense was successful, he said potential consequence was "Possible hospitalization" if "mental disease or defect ... some type of mental illness" were found to have caused his actions at the instant offense. I provided education that the NGRI treatment time at Western State Hospital could last up to the maximum sentence of the charge. Mr. Widman said he was aware of that.

When asked about a diminished capacity defense, Mr. Widing said, "I don't know much about what that entails - means that my judgment wasn't sound. Something wrong - I wouldn't fully appreciate consequences of my actions." I provided education it specifically focused on the capacity to form the mental states of intent tied to the charges of Assault-1 and Assault-2. When asked again if he still wished to proceed with the mental state defense interview, Mr. Widman said, "yes".

Mr. Widing presented as cooperative with interview and desired to proceed with his case. He displayed average intelligence, a stable mood and mental state, calm behavior, good communications skills, ability to make reasoned and rational decisions, and desired to work with his attorney to pursue mental state defense strategy. Therefore, it was my opinion that Mr. Widman did have the capacity to understand the nature of the proceedings and the capacity to assist in the defense; and we proceeded with mental state at the time of the offense interview.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 18

Mental State at Time of Offense:

Mr. Widing's Version of Offense:

Mr. Widing was asked to relate life events starting March 2015, about three months prior to the instant offense on 6/14/15. Mr. Widing reported in February 2015 he was living and working in Puyallup, WA. His prior job, required "lots of travel" and his duties were similar to his current data center job. "[That's] why I took this new opportunity." In Puyallup at that time "life was fairly normal". "Mentally I think I was fine. I was fatigued and other health issues I should have taken account of. Life, relationships, family life was good." He drank alcohol "most nights some drinks". When asked about marijuana use, he said, "Maybe a little bit, depending on if I'd done drug test for the new job - not smoking a couple of months prior to new job drug test." He said the new job drug test was in January or February. He was offered the job some months prior to February 2015, and quit using marijuana in preparation for anticipated drug testing.

After starting the new job in Hillsboro, OR, since March 2015, he smoked three to four times weekly after work - either marijuana "vape oil" he bought from a recreational marijuana store, or "true weed". When asked if he vaped or smoked marijuana as a substitute for alcohol, Mr. Widing said, "Instead of kicking back and drinking - kick back and smoke a little instead of hammering my liver." He added the, "Draw to alcohol was stronger than pot ever was. Alcohol my drug of choice - that's what I craved more than marijuana." He reported with vape oil from marijuana - THC is heated and inhaled - rather than smoked which is "easier" than inhaling the burning "weed smoke". "Physical impact feels the same between the two." He estimated his daily use as one pipe bowl - i.e. "four tokes"; or of vape oil "two to three tokes" from a pen. He said pen reservoir amounts varied; and he was, "Not a real expert in how much I use." He estimated using one pen reservoir "in a week or two".

March, April, and May 2015 were "Really stressful, staying here by myself" - his family was still in Puyallup. Other stressors included: 1) a new job which was a "big responsibility" including hiring a new team and managing the data center under construction - on June 5th they "took over the building". 2) The end of May and early June he was finding and buying a house for his family, and also moving his ex-wife down from Arlington, WA - all in the same two week time frame. He said his ex-wife was willing to make the move, "if I pay for it."

When asked more specifics about his activities in May 2015, Mr. Widing reported the first week he was with realtors "quite a bit" after work hours and weekends, plus doing "all the shopping". Later in the month he returned home to Puyallup "more often on weekends" - leaving after work Friday, and coming back Sunday night. His normal work hours Monday to Friday were 6:00 a.m. to 2:30 p.m. - sometimes longer. In May he averaged "50 hours a week plus commute time". [He now averaged 45 hours a week, plus at home additional time with emails; "calls at night for alarms that go off"; etc.] Work was, "Busy, stressful - hiring team, lots of interviews. Entertain corporate people."

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 19

In mid-May he was looking for his ex-wife "a home that's acceptable too". There was tension dealing with her. "She likes to use my son - 'I'm not going to come'." Her willingness to move so their son could be close was, "Why I was willing to take the job." He said, "She pulls that card, freaking out constantly. Every other time I talked with her [she was] swearing at me, going crazy." He kept, "Putting up with more garbage - [I] could see the end game." When asked how he coped with all the stress, Mr. Widing said, "I was busy. No time to stress out. Kick back a few times a week." When asked if he smoked marijuana daily he said, "No" because he often met with out-of-town business connections.

On June 5th his wife had changed their plans to "Coming down the week prior - moved our house down." His wife did the packing; he loaded the U-Haul truck with friends; and he drove the truck down with his son, Mason from Puyallup to Battle Ground, WA. He said, "No problems." At the new house, they had "Just signed off on everything - door wouldn't open. At my wits end, so my wife talked to the realtor; [because] I'll chew it [the realtor] out." When asked the date, he checked his phone and said, "7th or 6th", the Saturday prior to the instant offense [which was 6/6/15]. "Lock smith ended up coming," to unlock their new home.

That Saturday they unloaded everything into the house. He took the truck back to U-Haul in Battle Ground, came back home and "collapsed". When asked if he smoked or vaped marijuana, Mr. Widing, said "Can't recall. Well I might have - fifty percent chance - probably. Slept fine, can't recall anything remarkable." He woke up Sunday at 8:00 or 9:00 and had "something easy" for breakfast - he guessed cereal. He was "unloading boxes, tinkering around the house" until he went to bed at 9:00 or 10:00. He "probably did [smoked or vaped marijuana] after everyone gone" - His wife and kids left Sunday afternoon, to stay with her parents while the children finished school in Puyallup. He slept, "OK that night probably - nothing remarkable yet."

He was up Monday morning at 4:00 a.m., his usual time - got dressed, and left at 4:45 - though leaving at 4:30 was "typical". He reported "never smoking" marijuana or THC vape oil in the morning. During that commute he said, "Maybe, mind started to speed up." He was "Usually listening to a podcast; driving in like normal."

His mind started to get "sharper" Monday to Tuesday - his mind "started to move". By this he meant he could put information together, and see cause-effect relationships - "I could see. [It] would expand out very quickly. Data I could process seemed a lot faster - mind very agile and quick." On Monday, these mental processes "Did pick up with work - I could see causality and synchronicity with information sets at work." His thoughts included, "Information used at work that gives our data center value - a software program to use this data. I know how to build this. I was writing it down, calling friends of mine. [Thinking] I'll be a billionaire. Parlay into more and bigger money, huge business opportunity." He had a CEO friend and was "ringing him off the hook" which was "not

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 20

normal for me to do". He did not pay attention to his other work duties, thinking "I could quit my job because it's such a good idea." Starting Monday and Tuesday he slept only two to three hours a night - "Working on this idea until one or two and get up at four." He had, "tons of energy". "Monday I smoked [marijuana or THC vape oil]; don't think I smoked Tuesday or Wednesday because I was feeling so awesome, on fire. Never felt this way before. Don't need to enhance."

He said, "I wasn't eating much" the week prior to 6/14/15 and he lost 15 pounds. He recalled "only eating dinner" since Monday 6/8/15 which included frozen burritos, Wendy's fast food on the way home from work. In the morning he had coffee, and "water at work probably". He reported "no real appetite - so jittery threw up - just watery stuff."

On Wednesday or Thursday morning he didn't go to work. He threw up twice and didn't go to work. At home he worked on the "software idea". E.g., "Typing, drawing, - what data gives valuable information and competitive advantage; organize labor to operate a data center; best UPS; best component." His focus was "getting smaller and smaller, mind very bizarre, down to an atom. Shot through roof to the universe ... [I could] comprehend on molecular level. Consciousness broke apart into huge amount of love form - mystical, bizarre experience, strong love based." This was about 2:00 p.m. on Wednesday. He reported, "I hadn't smoked anything that day." He was also paranoid and making "people sign non-disclosure agreements". He had grandiose beliefs about comprehending, "Everything in universe; reality is consciousness, circular reincarnation. Dimension of love [was] everything in my life. Wife was biggest one, my mom, my son - all took on a form. When it happened I had to walk around, lay on my bed, drank water, ate food, mind [came] back more to reality - still going extremely fast." He could keep his thoughts "wrangled to a certain point, if I let it go, aimed it".

Mr. Widing said he "Conked out at midnight or one; got up at four" - with much energy to go to work. During the commute on Friday, "[I] let my mind wander to entertain myself." He also recalled, "Reaching out to my family - [telling them] 'I don't know what's going on with my mind'." He contacted his brother-in-law who was a psychiatrist - "Tuesday, Wednesday, Thursday" who suggested he might have mania. Mr. Widing's reaction to the "manic suggestion" was - "I wanted functional MRI. From hippocampus, shooting to frontal lobes, could feel electrical flow of thoughts. Top of [my] head then hurt."

"On Saturday, woke up, my mind was racing about software trying to keep my mind normal, but talked nonstop to kids." They went to the new Jurassic park movie, a matinee. He couldn't concentrate on the movie because "I thought I knew what would happen." Before the movie, they had a barbeque at their home with the four kids, his wife, his wife's cousin, and the cousin's girlfriend. Mr. Widing did some of the cooking - telling the cousin about "my mind working better now - maybe because I quit drinking." I was "grandiose" and his stomach was upset. He went upstairs and was, "Trying to figure out my mind - watching video about Einstein's brain." He thought "My mind was like Einstein's" and he was crying to his wife. Everyone in his family thought, "naively

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 21

because they're Mormon", 'Don't smoke pot'." Mr. Widing said, "I hadn't smoked pot since Thursday." When asked about seeking medical treatment, he said his wife "Was reluctant to take me in because her prior husband had mental health issues." This was about 9:00 or 10:00 p.m.

Prior, at 8:00 or 9:00, "I went to corner store to get ice cream - got sodas instead and went back." He thought this was similar to an inexplicable decision when going to the movie at the mall. "I thought I was getting god-like vision and bought \$300 sunglasses." This was 2:00 or 3:00 p.m. - before the movie. "One minute I could seem OK." When asked about marijuana use that day, Mr. Widing said he, "Smoked before the Jurassic Park movie thinking it would slow me down - but it wasn't slowing me down, calm me down. [Marijuana had] no effect calming me down at this point." He smoked or vaped nothing more until Sunday.

Saturday night he was acting "super happy" and "talking extremely quick" - he'd "run people over" in conversation "unless trying to dial it back - which took effort". "We went to bed. I couldn't sleep - looking up stuff on my phone - didn't want to keep her up - went downstairs to the couch." His thoughts got more bizarre. He wondered "If aliens were putting thoughts into my head or maybe God giving me ideas or impressions." He was questioning - is this real? He was typing into his phone - "Googling every idea into my head - getting revelatory answers." Finally he fell asleep at 1:00 or 2:00 a.m. At 6:00 a.m. he woke up. His thinking was "more bizarre". He noticed that, "Everything had underlying deeper secondary meanings - which I was becoming cognizant of." He went up to their bedroom. "She [his wife] was sleeping, I wanted to put curtains up." He was "getting confused". He had his wife, "Look up word meanings on the IKEA set - translated words had symbolic meanings to us. Curtain message from God - have a baby named the translation of IKEA item - never wanted kids before. Everything was very happy in my mind - getting messages from God sent to me."

Then he experienced what "Seemed like memory from past lives - Athena and I together for a long time." They were "smaller conscious forms before - existed before as gods - communicated telepathically - she was a healer in a past life. Kids are gods too." His wife "wanted me to straighten up" and he took a shower. The shower became a "weird bathing ritual" involving "life giving water"; "puking" was "purging your sins". He used hand soap to wash his eyes and body. His eyes got red "symbolic of Horus the eyed god". "I was reincarnated as Jesus - birthmark on my side a symbol of dying on the cross. I remembered living as Jesus." His description became harder for me to follow. He thought of "baptism", then someone unconscious and coming out would "cut off circulation, mixed martial arts - don't have to baptize. If this happens she'll be a goddess and we'll both live and be immortal. I tried choking her and did choke her to the point of passing out - wasn't trying to hurt her. In my right mind - never hurt her or raised a finger at her. After that was done, apocalypse [was] happening. She ran next door to the neighbors - people will suffer. Have to sacrifice myself to not have end of world happen - tried to kill myself by shoving dirt down my throat."

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 22

I asked about his wife reporting that he choked her twice. Mr. Widing replied, "Part of the process. No marijuana yet that day. I wanted to share with her - I take some, you take some." He started choking her on the bed, and she fell on ground. The second occasion was on the ground "Because I lost my grip" when she fell. When asked if she woke up in between the two choking events. Mr. Widing said, "I don't know. What I saw, she was put to sleep once - that was on the floor - just cut off once - then boom you're reborn and we live together as immortal." I asked him to explain his earlier reference to mixed martial arts. He said, "It doesn't take much to have someone black out and come to. I don't know anything about mixed martial arts - I thought it didn't take much for martial arts - just cut off consciousness through this other means. Before I was trying to take her to the tub I had running."

I asked him to say more about "eating dirt next". Mr. Widing said, "Cops come at this point. I didn't put up a fight - called for Athena to come rescue me as she's a goddess. Took me off, from that point remember being held down on ground. After that black out - until I woke up days later in hospital. Also tried to will myself to death and saying "kill me" before this bad thing happens to the earth - I could die and talk to God to prevent it."

I asked his initial thoughts when he woke up in the hospital. Mr. Widing said, "I couldn't believe it - didn't seem real - more a dream memory than a real memory. Police woke me - intubated for three days. They brought me out of that. Woke up extremely confused - How I got there? What's going on? My mind felt "mush" - dazed. Hospital staff started to say stuff. Police ask - 'Do you know why you're here?' I remember some of the stuff. Mind still not working - terrified this is going on." He recalled asking about Athena - "Is she doing OK?" - after police told me I assaulted her. How is it even possible? [I was] completely confused. Psychotic memories still heavily imprinted in my mind - lots of strong, positive emotions. Nothing [of a] hateful nature - how could something bad happen out of that? Last thing I'd do - hurt the one I loved the most in the world."

When told the police report included he asked for his attorney, Mr. Widing said, "At this first interaction, I'm chained to hospital bed, telling me I assaulted my wife, know my mind isn't right - don't want to talk." He reported, "Didn't see one [attorney] until after I get out of jail." In the hospital he was told to talk to my friend "Corbin". "I remember talking to him once or twice while at hospital on the phone." He said, "[My] memory is more 'dazey' maybe medicated pretty good too."

When asked if there was anything else important to tell, Mr. Widing responded, "Something went horribly wrong with my mind - never think I'm God, hurt my wife, even close to losing touch with reality. See about heavy metal, copper part of this equation - because it fits. [I was] discharged about three days after waking up - to jail. In the hospital some of those ideas still made sense - not all of them. In jail maybe [for] a special mission in life - maybe god-type person - higher mission - five days. Back home to Battle Ground, wife children back to Puyallup." Towards the end of jail, he wondered a lot "What is going

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 23

on?" His thinking was back to normal other than being confused and "completely emotionally devastated because of this horrible spot my life is in, and that continues with so far no good answer."

Insanity Analysis:

Leading up to, during, and after the instant offense, Mr. Widing's self-report of mania and a brief psychotic episode affecting his mental state and behaviors was largely consistent with reports from multiple sources observing his behaviors including his wife, reports from family members he contacted via phone and email, Legacy Hospital staff, and police reports. Also consistent from those who knew him, including his ex-wife, was that his mental state leading up to the instant offense was unusual for him; and his assaultive behavior was out of character for him. Mr. Widing reported to his Kaiser psychiatric nurse practitioner on 7/1/15 he was initially self-aware of a change in the "power" and form of his thought processes in March or April, which while "odd", he also viewed as a positive result of quitting alcohol and as "fascinating". Other symptoms of mania gradually increased – as he continued to function at a demanding job, handle finding and purchasing two homes, planning moves with his wife and ex-wife – and continued regular cannabis use in the evenings as an outlet to relax. Following the actual move of his wife and family from Puyallup, which his wife appeared to move forward a week due to her own and reported concerns from Mr. Widing's mother; Mr. Widing's psychotic symptoms are clearly present, along with escalating mania – which began interfering with his daily functioning starting Monday 6/8/15. Manic and psychotic symptoms escalated over that week – requiring Mr. Widing to exert greater effort to appear normal to others – and causing him to miss work as his behaviors were increasingly influenced by psychotic, grandiose, delusions – which were congruent with his "happy", expansive, and elated mood further reducing his insight and judgment. The elevated nature of his mood also factored into his self-reported "missing" some days of smoking/vaping marijuana – as he did not require "mood enhancement". His wife also reported on 6/13/15 hiding his plant-based marijuana.

On 6/14/15, Mr. Widman awoke at 6:00 a.m. with new delusions of comprehending and experiencing love from a molecular to universal level – and in that context receiving messages directly from God. These messages were initially confusing to him [likely in large part to disorganized thought process from now a fully psychotic acute episode]. But he tried his best to understand because he'd been chosen. He believed the messages from God included that he, Athena, and his children were also God or gods in a prior life. After engaging in ritualistic cleansing – he achieved a "god" status; which he then wished to confer to his wife. He came to believe a ritual of choking her to unconsciousness would satisfy a "baptism" or death requirement – so that she could be reborn as God or a goddess with immortal life. He acted on this psychotic belief with the instant offense – and quit choking her when he saw her go unconscious. After the instant offense, his observed behaviors continued consistent with his psychotic belief system. His wife reported his focus was on her now sharing vaped marijuana, so she could experience the mind expanding changes; and he wished to include the children in vaping as well. He also was

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 24

suspicious of the children. After his wife left with the children; and when the police found Mr. Widing in the yard with only a swimsuit on; he recognized the police but showed no alarm about possible legal repercussions from them for choking his wife. Rather, in his psychotic state his mood and delusional focus had turned to impending Armageddon. His eating dirt and repeated requests to police to "kill me" were intended to allow him to die in order to directly speak with God to avoid the end of the earth.

Legacy Hospital staff noted delusional references to God within his agitated state upon arrival. After extubation, he was seen as responding positively to Seroquel as references to messages from God and being God went away; while grandiose references to his brain functioning continued with decreasing frequency. By 7/1/15, Kaiser Psychiatric Nurse Practitioner concurred with the efficacy of Seroquel – evidenced by no psychosis, mania, or other major mood disturbance. Subsequent mental health evaluations, including the instant interview on 2/2/16 observed stable mood and mental state since 7/1/15 – with Mr. Widing self-reporting continued adherence with Seroquel and no cannabis or other substance use.

Consequently, it was my opinion that due to Brief Psychotic Disorder Mr. Widing's mind was affected to such an extent he was unable to tell right from wrong with reference to the particular acts charged – Assault in the First Degree and Assault in the Second Degree – due to delusional beliefs that his assaultive actions would bestow everlasting life to the alleged victim, his wife.

As explained in the Diagnostic Impression section on page 14, it will be up to the trier of fact to determine if the brief psychotic episode was primarily due to Cannabis Induced Psychosis (i.e. voluntary intoxication typically does not meet the insanity standard of "mental disease or defect"); or Unspecified Bipolar or Other Related Disorder, Manic episode, with mood congruent psychotic features; and/or [Psychotic Disorder Due to Another Medical Condition as offered by Dr. Larsen in his 9/3/15 report].

Specific Intent Analysis:

The court order requested evaluation of Mr. Widing's capacity to have particular states of mind which are elements of the offense charged. The court order did not identify specific mental states. My research identified the capacity to form the mental state of intent for both charges at the time of the offense. I.e. - Assault-1 'intent to kill, and Assault-2 'intent to cause significant bodily harm'.

Mr. Widing's self-report regarding his mental state and behaviors leading up to and including the date of the instant offense indicated he was capable of acting with purpose and knowledge – even within the context of growing mania and eventual brief episode of severe psychosis. Through March to June 9, 2015 Mr. Widing continued his routine schedule of commuting to and attending work. While he was self-aware of "changes" in his "brain", he was initially selective with whom and when he shared about his "fascinating" brain power phenomena. As other symptoms of mania gradually increased

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 25

through May and early June – he continued to function at a demanding job, did necessary shopping, handled finding and purchasing two homes, planned moves with his wife and ex-wife, in May returned to Puyallup on weekends – and continued regular cannabis use in the evenings as an outlet to relax. His wife apparently had growing concerns about her husband's mental state, which she attributed to his regular marijuana use, and she changed the move of their Puyallup household to Battle Ground a week earlier than planned – i.e. 6/5/15. Mr. Widing reported he packed and drove the U-Haul truck; deferred to his wife to handle the "locked house" problem in Battle Ground to avoid heated confrontation with the realtor; participated in unloading; and on 6/7/15 was still unloading boxes and "tinkering" at the new house. He "probably" smoked or vaped marijuana after the family left to return to Puyallup; and slept "OK that night probably – nothing remarkable yet."

On Monday to Tuesday 6/8 to 6/9, he reported self-awareness that his mind "started to move" and had even better ability to process information. He described grandiosity and elevated, expansive mood – e.g. "I'll be a billionaire"; he expansively called friends about the "huge business opportunity" which was "not normal for me to do"; and his regular job duties were ignored believing this opportunity was so great he could quit his job. That week he was only eating fast food dinners, losing 15 pounds; sleeping only two hours daily; and still had "tons of energy". He intentionally skipped smoking marijuana some night(s) because he was "on fire", "feeling awesome", and "didn't need to enhance" by using marijuana. He missed work Wednesday and Thursday. At home he kept working on his new business plans – while his grandiose and increasingly bizarre delusions increased to encompass ability to analyze "down to an atom"; and comprehension of mystical love on the molecular and universal levels. He nevertheless could purposefully "wrangle" and "aim" his thinking to get his "mind back to reality". Since Tuesday to Thursday he'd been "reaching out to my family" with the purpose of explaining to them and trying to understand "what's going on with my mind" – particularly with his brother-in-law who was a psychiatrist. Family advised him to stop using marijuana.

On Saturday, 6/13/15, he woke up with his "mind racing about software, trying to keep mind normal" and slowing down his speech. He attended a movie and cooked barbeque, but "dialing it down" to concentrate and appear normal to their guests and children took greater effort. Small decisions were atypically difficult and/or impulsive – i.e. impulsively purchased \$300 sunglasses; went to the store for ice cream and returned with soda. He smoked pot prior to the afternoon movie, but it did not slow or calm him. Per her report, due to her concerns, at some point he "handed over" his plant based marijuana to his wife at her request. His mood continued expansive and elated – "super happy". He couldn't sleep and was downstairs on the couch on his phone, "Googling every idea into my head, getting revelatory answers" – wondering if aliens or God was inserting thoughts or giving him messages. He finally fell asleep.

On Sunday, 6/14/15, Mr. Widing woke up four to five hours later at 6:00 a.m. with thoughts of having the ability to understand "everything had underlying deeper secondary meaning" – including translating IKEA curtain words into symbolic meanings from God.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 26

He found it confusing, but his mood was "happy" to receive information from God and his purpose was to understand "these messages from God sent to me". He was interacting with his wife in their bedroom about the IKEA curtain symbols. She sent him to shower hoping he would "straighten up". Within his now severe psychotic delusions, the shower became a ritual transforming him to God or a god.

He wished to transform his wife, Athena, into God or a goddess and bestow immortal life. He came to believe a ritual of choking her to unconsciousness would satisfy a "baptism" or death requirement -- so that she could be reborn as God or a goddess with immortal life. He referenced "mixed martial arts" technique with the purpose to achieve choking her to unconsciousness. "It doesn't take much to have someone black out and come to. I don't know anything about mixed martial arts -- I thought it didn't take much for martial arts -- just cut off consciousness through this other means. Before I was trying to take her to the tub I had running." This also indicated he also purposefully considered another approach.

His actions were consistent with his stated purpose -- and quit choking her when he saw her go unconscious. After the instant offense he continued with purposeful behavior within the context of his delusional beliefs. His wife reported he forced her to vape marijuana with the intended purpose she could share the mind expanding changes that he'd experienced. He wished to include the children in vaping as well -- and purposefully allowed his wife to leave to bring them to him. After his wife left the house with the children; and when the police found Mr. Widing in the yard with only a swimsuit on; he was able to recognize the police. His eating dirt and repeated requests to police to "kill me" were intended to allow him to die in order to directly speak with God to avoid the end of the earth.

Even within the context of a severe Brief Psychotic Disorder episode with mania, Mr. Widing showed capacity for purposeful and knowledgeable behavior including ability to contain and direct his actions to achieve the outcomes he intended. He showed similar capacity for purposeful and knowledgeable behavior both leading up to and following the instant offense.

While, cannabis use, in addition to possibly contributing to his psychosis may have further reduced Mr. Widing's judgment; and increased thought disorganization and impulsive actions; he also consistently demonstrated capacity for purposeful and intentional actions as outlined above.

Consequently, it was my opinion that Mr. Widing did have the capacity to form the mental state of intent for the charges of Assault-1 and Assault-2.

It is up to the trier of fact to determine if the mental elements of intent were, in fact, present.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 27

DANGER TO OTHERS & LIKELIHOOD OF COMMITTING FUTURE OFFENSES:

It should be noted that, given the limitations inherent in assessing dangerousness (future risk), including the incomplete historical and other data available in these types of statutorily and administratively time-limited assessments, mental health professionals can best assist the court by attempting to identify the presence of risk factors related to mental disorder in the currently available information and by providing a clinical formulation (average, low, medium, high risk) of the extent to which these factors may affect the defendant. A complete risk assessment is beyond the scope of the imposed time limitations. Also, this assessment is concerned with risk, not prediction, as a result of herein diagnosed mental disorder in the community and not in institutions, which have separate but overlapping risk factors. Risk levels may change with future events impacting the individual or the environment. Currently unavailable information or risk factors may affect actual risk levels.

Available Criminal History:

NCIC report showed no convictions. There were two arrests – the instant offense and for two counts Child Molestation-1 on 7/23/03 with outcome of “acquitted” on 12/22/03. There was an active protection order protecting A.M. until 2025.

In general, Mr. Widing’s risk as the result of the above diagnosed mental conditions is as follows. Use of the HCR-20 suggests Mr. Widing’s risk of offenses against persons is low to medium.

Criminal history and clinical assessment suggest Mr. Widing’s risk of offenses against public safety/security was regarded as low.

Risk of offending against persons or public safety/security for other reasons was regarded as low.

Identified moderators (positive or negative) included these negative moderators that could increase above risk levels: 1) current life destabilizers such as separation and uncertainty about marital relationship, and consequences associated with resolving his legal situation; 2) long-standing substance use (alcohol and cannabis) disorders since 2003 – possibly in context of self-treating underlying undiagnosed mood disorder – increases risk of substance use relapse; 3) lack of current knowledge and insight about the specific nature of the mental disorder leading to the instant offense – in part related to uncertain commitment to regular psychiatric and/or medical diagnostic treatment in order to gain insight and knowledge – Mr. Widing may be avoidant to acknowledge the presence of a life-long significant mental disorder.

Positive moderators included self-reported commitment to maintain regular treatment for the instant psychotic disorder and abstinence from substances of abuse; high personal support from extended family; history of stable employment; at least average intelligence and cognitive abilities when symptoms are stabilized; and no prior history of violence.

The confidence level was regarded as fair certainty.

Forensic Mental Health Report
Rodman Widing

04/11/16
Page 28

DMHP RECOMMENDATION:

An opinion is required as to whether or not the Widing should receive an RCW 71.05 civil commitment evaluation by a DMHP. 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.

Considering the current clinical and historical data available, Mr. Widing DID NOT demonstrate a current need for an evaluation by a DMHP for civil commitment under RCW 71.05. However if he were to discontinue treatment or resume substances of abuse – his manic and psychotic symptoms could return and functioning decline to the point of requiring such evaluation.

If I can be of any further assistance, please feel free to contact me.

Patricia Gribble, PhD

Patricia Gribble, Ph.D.
Licensed Psychologist
Center for Forensic Services
Western State Hospital
(253) 761-7540
patricia.gribble@dshs.wa.gov

Cc: Presiding Judge, Clark County Superior Court
Luka Vitasovic, Prosecuting Attorney
Steven Thayer, Defense Counsel
Marlene Burrows, Clark County DMHP

ATTACHMENT C

WILLAMETTE VALLEY FAMILY CENTER, LLC

610 Jefferson Street Oregon City, Oregon 97015

Phone: (503) 657-7235 Fax: (503) 657-7676

Email: office@wvfc.net

Sept 3, 2015

Mr. Steven W Thayer
Attorney at Law
112 W 11th St
Suite 200
Vancouver, WA 98660-3359
Phone #360-694-8290

RE: Rodman Alfred Widing

Dear Mr. Thayer:

At your kind request, in my private office on July 7, 2015, I conducted a psychiatric evaluation of Rodman Alfred Widing.

As part of and in preparation for this evaluation, I reviewed records including but not limited to:

- Superior Court, State of Washington for Clark County alleging Rodman Alfred Widing, on or about June 14th, with intent to inflict great bodily harm assaulted another person, to wit Athena EM Meisenheimer.
 - o Assault in the First Degree – Domestic Violence
 - o Count 2: Assault in the Second Degree - Domestic Violence
 - o Occurring on or about June 14, 2015
- Clark County Pre-Book Probable Cause Sheet, handwritten was reviewed
- Athena and Rodman had been married for 3 years. They were in the process of moving Puyallup, Washington to Clark County for a new job opportunity. Athena had stayed in Puyallup such that the children could finish school but had been visiting on weekends. On 6/14/15, at 12:27 hours and again at 12:29

hours, Athena called 911, hung up, called 911 back, and asked for help. Police arrived and Athena reported that her husband Rodman was running around naked except for underpants, looking for the kids. Rodman was located and the officer states "appeared to be high on some type of drug." Rodman then observed Deputy Marler running toward the officer saying "Kill me. Kill me." He then ran back to the house, started eating dirt and grass on his hands and knees and declaring he was God. "He was naked in his underpants. He then ran back to the house started eating dirt and grass on his hands and knees, and declaring he was God." Rodman continued to ask deputies to kill him. He was detained and transported to the hospital. Athena told police that Rodman had been acting manic. He was animated, rambled about things that "didn't make sense." She thought it was due to smoking Marijuana and later it was learned that he had been smoking liquid Marijuana. Athena went to check on Rodman and found that he was smoking what he said was liquid Marijuana out of a Vape Pen. She stated that she'd never seen him this way. She remembers he was kissing her and then believes she passed out, awakened, and then went along with Rodman. He grabbed her, tried to force her to smoke from the Vape Pen. She refused. He then forced the pen into her mouth. She was on her back. He straddled her, grabbed her throat with both hands, and started squeezing; restricting her ability to breath or talk. "She remembers him kissing her and then believes she passed out, awakened, and then went along with Rodman." Rodman however vomited in the toilet, pulled the blinds off the bathroom window. Rodman had tied some form of clothing to Athena's wrist. Rodman let Athena go to the bathroom and that's when she called 911. Athena had scratches and red marks, bruising on her neck. The residence was searched, blood was found on the edge of the bed, and Athena (when I interviewed her by telephone) stated that she had a bloody nose Rodman was taken to Legacy Hospital and when released was transferred to Clark County Jail.

Laboratory Studies were reviewed and of concern was a creatinine elevated at 2.08. Evidence of kidney problems, SGPT/ALT elevated at 40, related to possible liver illness, kidney disease, or trauma. Blood Alcohol was less than 10mg/dL, assumed negative. Salicylate was unremarkable as was Acetaminophen level. Chloride was elevated at 113. BUN was 26, again related to kidney disease. Creatinine 3.24 with an SGOT/AST elevated at 57, again perhaps related to liver or other organ disease. Urine drug screen was negative for Amphetamine, Barbiturates, Cocaine, Heroin, MDMA, Methadone, Opiates, Oxycodone, PCP, TCA "with a drug test disclaimer ED presumptive", Benzodiazepines presumpt detect ng/mL flagged A, Cannabinoids presumpt detect ng/mL flagged A. The UA was yellow, cloudy, and negative for glucose, bilirubin, and ketones. Specific gravity greater than 1.030 was flagged A, Blood was 3+, Urine pH was 6.5, Albumen 2+, RBC per high powered field greater than 100 with rare bacteria, CK was abnormal, high at 4930 U/L. Addition BUN studies 21, elevated, Creatinine levels

elevated at 2.48, CK again was abnormal, follow up at 5635. Blood cultures revealed no growth and Hepatitis C studies were negative. Phosphorus was elevated at 5.5, Magnesium level was elevated at 2.9, and again blood cultures reveal no growth. Blood glucose on 06/15/15 was low at 43 and CK component on the same date remained elevated at 3354. Addition CK evaluation was 2963. The Hemoglobin was low at 11.7 on 06/15; as was the Hematocrit at 11.7. While Creatinine remained elevated at 3.44 and then a blood glucose elevated at 136. Respiratory specimen with gram stain revealed mixed morphotypes with two organisms identified: Serratia Fonticola and Bacillus Cerus Group. On 06/16, the BUN returned to normal range at 20mg/dL, Creatinine however remained elevated at 2.78mg/dL. CK component remained elevated 6/16/15 at 23:00 hours at 3192. Potassium remained low at 3.2. On 6/17/15 the CK component had decrease to 904, still above the normal range. Total Protein, Albumin, and SGPT/ALT were unremarkable. On 06/18, CK component had fallen to 315 U/L, Copper was elevated at 208, and the Creatinine per day was elevated at 2850mg/delusion with a collected volume of 5480ml.

- Dr. Christopher Burke offers a diagnosis of Altered Level of Consciousness. multiaxial 5mm images of the head without contrast, appear to be unremarkable as was the chest x-ray. MRI of the brain was unremarkable.
- Psychiatric problem was identified in this 37-year-old male with no known history of problems reported by EMS or police. He was extremely combative, requiring four-point restraints. He was given 5mg of Versed to calm him and permit evaluation in the hospital. He received a endotracheal intubation, was placed on critical care. The attending physician makes a diagnosis of: Agitation, Underlying Acute Renal Failure with Rhabdomyolysis delusions; condition was critical. The doctor notes that the patient presented with psychosis at Peace Health Southwest Hospital.
- Nephrology consult was conducted by Joshua Nelson, MD, *CK-Creatinine Kinase AKI -Acute Kidney Injury*. The nephrologist expresses concern as to Acute Infectious Nephritis with Rhabdo component with some case reports related to the use of Synthetic Marijuana. The doctor states "...is making urine at this point and hopeful that this will recover" dated 06/15/15. Follow up care and treatment was established through Kaiser Outpatient Program.
- I have received an Email from Athena which she received from her husband, Rod, which is entitled "Help me figure out my Brain " "Well, maybe but I think you are correct in your idea that weed causes priming effect which can in some people, depending upon their biology and brain structure, causes some kind of dialog between various parts of the brain. By some means there is an electrical/chemical reaction that is taking place between the two sides of the brain. This is where people sometimes get inspiration and why people think pot just makes you stupid. The inspired folks in our society Lot's People, Carl Sagan to name the most prominent of many. So think there is relationship here with data processing and how it interacts with the conclusion

you can draw. Here is how my brain has been working the past 5 days or so. It's scary, crazy, and fun. I need a functional MRI to see what's going on. There all my coworkers have noticed a huge spike in my cognitive abilities. This has been how my brain has been working basically all data I receive via my senses fits into a context. We all do this but this how it works with me. I'll explain in terms we both can picture." He goes on and on, rambling in a manner that makes no logical sense.

An Email from Rod Widing's younger sister was forwarded to me and Katie Rees states on June 30, 2015, "My name is Katie Rees and I am Rod Widing's younger sister. I live just outside Boise, Idaho. I'm writing this letter to give you some insight into conversations, text messages, and emails I received from my brother, Rod Widing on Thursday, June 11th, Friday, June 12th, and Saturday, June 13th." On Thursday at 9:56pm, she received a video of Rod doing a brain workout from the Memory foundation. There were different colored blocks and he was supposed to quickly say aloud the colors of blocks. He seemed slow and was struggling. On Friday morning, she got a call from Rod at 8 or 9am and "talking my ear off, talking a mile a minute and was not making very much sense." He wanted to ask her husband who is a psychiatrist in the United States Air Force to get his take on what was going on inside his head. He wanted to see if he could get an MRI because his brain was processing so much data, he's so much more creative. He was using the F word frequently and apologized twice. She had later called her mother who stated that she got a similar call from Rod. On Friday afternoon, she received another call, when he seemed calm and normal at first. He started off by talking about his idea for data center software. He then started talking about weird things again. Later she asked her husband to read the email that Rod had sent and he said "That was written by a manic mind." On Saturday, he was sending text messages trying to figure out why his brain was processing so much more information and at such a high speed. She goes on to state this whole situation is honestly the strangest thing and stated "feel free to call me." Katie states that her brother Michael was talking to Rod, asking what he was on. Rod said he used Marijuana and then denied the use of any other drug.

FAMILY HISTORY

Rod Widing is a 37-year-old, married Caucasian male, born March 8, 1978 in Tacoma, Washington. He has a brother, Mike, 25-years of age, single, working as a lineman for the power company in New Mexico. He's single with no children and lives in Roswell, New Mexico. His younger sister, Lauren, is 28-years of age, lives in Utah, married with two children. His sister, Katie, is married, living in Idaho with her three children. Elizabeth, who is 35, lives in Idaho and is married with four children. All of the siblings have remained close and no history mental disease or defect. None have abused alcohol or illicit drugs. He adds that they are all devout Mormons.

Rod's mother, Leslie is 60-years of age, born in the state of Washington. She's a Mormon and attends church regularly and is a high school graduate. She then attended college and has since been a homemaker. She has never abused alcohol or illicit drugs. no unusual emotional problems and she was never abusive to her children. She has two sisters, one of whom is a "alcoholic train wreck," the other has led a stable life. The maternal grandmother died of Lung Cancer in her 70s. The grandfather, Roger died of unknown cause in his 70s. Both were alcoholic and both smoked cigarettes.

Rod's father, Rodney is 62-years of age, born in Eugene and has a high school education. He worked as diesel mechanic and provided a stable environment for his family. He provided for their basic needs and was never abusive. He was a Bishop in the Mormon Church and the family regularly attended church in Puyallup, Washington. He's described however as emotionally quite distant. He was generally involved in work and church. He fished on occasion but was never close to the family but also never abusive. He was a Scout leader and led a stable life; free of mental disease or defect. The paternal grandfather died in the 90s and he was a strict, demanding alcoholic. The grandmother, a chronic smoker, died in her 70s.

DEVELOPMENTAL HISTORY

Rod believes that he was product of an uncomplicated pregnancy and delivery, weighing 6 pounds 8 ounces at birth. He met expected developmental milestones. He entered grade school, repeated pre-school and then entered 1st grade at the age of 7. In public school, he passed from grade to grade and enjoyed baseball and soccer. He socially fit well with his peers. He reports no behavioral problems, no difficulties at school. He graduated Puyallup High School with excellent grades. However, he then adds that after the first year, he entered community college. He entered a local community college, finished his high school education and received two years college credit.

Before the age of 18, he did not run away from home, nor was he truant. He did not steal. He robbed from no one and was never arrested. He did not carry a weapon, nor was he a gang member. He was never vandalized property and was never suspended or expelled from school. He did not set fires, nor torture animals.

ADULT HISTORY

He completed community college with a "3.8GPA." He transferred to BYU after a two-year Mormon mission in Ukraine, from 97 to 99, and described "it was hard times." He returned, entered BYU, and studied political science intending to become an attorney. He, at that time married Rebecca, finished his degree but did not enter law school. Rebecca however was a very controlling, demanding, "strange" woman. She would hit, yell, kick, and Rod clearly states he never hit back. They have a child, Samantha, who is now 13.

who lives in Mt. Vernon, Washington with her mother. He has regular visitation but only sees her on occasion at her request. It was at this point that he began drinking alcohol. He recalls that he did once drink while in high school, used pot perhaps four times during his teenage years. but after a very difficult divorce, he began to drink more and more. He worked then as a mortgage broker, was single for three years. He then married Jennifer and this relationship lasted four years. They have a son Mason who is 8-years of age. He and Jennifer get along well but he says "She cheated and that caused the divorce." He has however assisted Jennifer to move to Southern Washington so that he can be close to his 8-year-old son, Mason.

From 2003 to 2015, he became a functional alcoholic. He would drink after work every night but would get up in the morning, go to work, and although at times fatigued, functioned reasonably well, was able to work, became an electrician and finally tired of drinking and said "I quit." He used Marijuana intermittently to help the detox from alcohol and then went into business with a friend. Most recently he has become a manger for a data center for T5, a facility in which he supervises five or more employees in a 6000sq ft. facility in Hillsboro. He says "I love the job." The T5 company contracts with a variety of internet users including Comcast. Some months ago, he began using Marijuana two to three times per week. He had met and married Athena, who was 35 years of age. She works in the HR department for a large hotel chain. He then began to decrease his Marijuana to $\frac{1}{8}$ th of an ounce per week, smoking in the garage in a home they were renting in Washington. He had worked with his friend Wayne who alerted him to the job at T5. He took the job with better pay and better opportunity for advancement. He came to Vancouver where he "flipped out" as will be described.

He and Athena, who is 35, were married on July 5, 2011. He used Marijuana, smoking the drug two to three times a week in the evening, "1 bowl each" and $\frac{1}{8}$ th of an ounce would last him an entire week, a very small amount. He would smoke in the garage and was certainly able maintain, care for himself, provide for his ADI.s and work full-time. The couple bought a house and was in the process of moving to Vancouver and as described above, Mason and his mother also moved to Vancouver with Rod's assistance and this was not a problem with Athena. Samantha however, Rod saw only on occasion. In the home were Athena's children, Ellie 14, Kate 10, and Easton 5. Their father is directly involved and sees the children on a regular basis. Rod worked as an electrician which led to his job for T5 as described. Interestingly, Athena had talked with Jennifer who described Rod as a "teddy bear and never violent." Rod reports that with Rebecca, he was never violent. He reports one scuffle as a teenager. He reports no prior arrests, no DUIs, a few speeding tickets, and no felonies of any type.

PAST MEDICAL HISTORY

Past medical history reveals no serious injury. He fractured one finger in years past. He's allergic to an antibiotic, the name of which he does not recall. I've encouraged him to

find out what this medicine is, write it down, such that he will not be subject to what may be a severe allergic reaction. He's been taking no over-the-counter medications, no alcohol, and no other health problems. There was a surgical repair when he lacerated his finger and in years past, he had a hernia repair.

MENTAL STATUS EXAMINATION

Rod Widing appeared in my office on time, casually dressed, well groomed, and proved oriented to time, date, place, and person. He places his mood at 4 to 5 and distinctly tells me that's related to his worry over the current legal problems. He denies any suicidal ideation, intent, plan, or past attempts. There were no hallucinations, delusions, or ideas of reference. When asked to subtract 69 cents from \$5, he quickly responds "\$4.31." When asked to subtract serial 7s, he responds '93, 86, 79, 72, 65, 58" and can complete the subtractions without difficulty. He remembers 3 of 3 unrelated words at 5 and 10 minutes without prompting. He can recall 6 to 7 digits forward and 5 to 6 in reverse. When asked to interpret "Even monkeys fall from trees," he states "Anybody can make a mistake." When asked to interpret "People who live in glass houses shouldn't throw stones," he says "Don't judge others." When asked to interpret "If wishes were horses beggars would ride," after long latency, he says "I guess I can't do that one." His sleep is reasonably good. His appetite is good. He had previously lost 20 pounds, has gained much of that back. He is healthy and a review of systems is unremarkable. He remained affectually appropriate and answered all of my questions without difficulty.

PSYCHOLOGICAL TESTING

A Slossen IQ score of 98 +/- 4 places him in the normal range of intelligence.

The DAST Drug Abuse Assessment is consistent with past history of Cannabis abuse. The MAST Alcohol Abuse Assessment was essentially unremarkable.

The REY 12-Item Test, expanded to 15, was reproduced with 3 errors not suggesting that this individual is feigning a mental defect.

The M-FAST, a test for malingering, resulted in a score of 0, not suggesting that he is feigning any form of mental illness.

The PAI (Personality Assessment Inventory) was completed and a valid profile was produced with no evidence to suggest that the respondent was motivated to portray himself in a more negative or pathological light than the clinical picture would warrant. The PAI clinical profile is entirely within normal limits. The client describes no significant problems with unusual thoughts, peculiar experiences, antisocial behavior, problems with empathy, suspiciousness, hostility, moodiness, impulsivity, unhappiness,

or marked anxiety. He displays a generally stable self-evaluation and describes approaching life with a sense of purpose and distinct convictions. He characterizes himself as warm, friendly, and sympathetic. His responses indicate that he has had few stressful events in the distant past and describes a number of individuals to whom he can turn to for support and need. There is no suggested Axis I or Axis II diagnoses.

Additional testing was not indicated.

[Regarding Cannabis, there are readily available 25 different varieties of Cannabis that can be legally procured and used. The various types vary in the concentration of THC, CBN, and CBD: the active hallucinogenic components of the drug. The bud or leaf when ingested, can vary in potency to 20%. However, the oil, which now is by law tested by independent laboratories, contains 80% of the active drug. A Synthetic Cannabis mimics the effects of the organic substance which contains several psychoactive, artificial Cannabinoid-like drugs. Often they are procured under the name: K2, SPICE, and other such substances which went on sale in the early 2000s. They were achieved through a mixture of natural herbs but a laboratory analysis in 2008 showed that this was not the case. They were in fact synthetic cannabinoids that act on the body in a similar way to natural cannabinoids and contain a complex variety of synthetic substances (Rollin Murcher, Todd Burke Synthetic Marijuana, July 2012; Fake Drug, Real Weed causing Hallucinations, Live Science, November 2010; Hurst, Loeffler, McClay Psychosis associated with Synthetic Cannabinoid a Case Series, American Journal of Psychiatry, 168(10-1119))]

Rod Widing remained actively psychotic in the hospital for an extended period of time, much longer than one would expect from the direct effects of Cannabis alone and we must assume that he obviously was not ingesting any Cannabis substances while hospitalized.

In reviewing the Urinalysis from Legacy Salmon Creek Medical Center at 360-487-1000, the lab personal tell me that the Benzodiazepine screen was presumptively positive and the A refers to abnormal. It also indicates through the practitioner that a confirmation through thin layer chromatography or gas chromatography can be requested. The presumptive positive for Cannabinoids also has an A, which means essentially that the findings are abnormal and that again confirmation tests can be ordered. They do not however present any information to suggest the blood level of these drugs, nor does it provide any information regarding when these substances might have been taken. It must be remembered that Cannabinoids/Pot can stay in the system for one to three weeks and Benzodiazepines, depending upon the type, can be detected up to three weeks.

Renal failure may be related to hypovolemia (blood loss), dehydration, vomiting, diarrhea, sweating, and fever. It may also be related to a poor intake of fluids, certain medicines such as diuretics may cause renal failure, as can infection, various medicines like non-steroidal anti-inflammatories can cause such problems, as can Gentamicin and

(psychosis secondary to renal failure) and as a result was unable to distinguish right from wrong, believing he was rebirthing Athena to become a goddess so she could achieve immortality and she could live with him forever. As a result, he did not see himself as committing a crime but instead as bestowing a gift of everlasting life on his wife. In his psychotic state, it is evidence that Rod Widing did not intend to kill his wife but instead intended to bestow upon her everlasting life. As such the psychosis rendered him incapable of realizing he was actually committing a crime when he strangled Athena as his ability to appreciate the criminality of his conduct was obliterated by his delusional psychosis.

Rod Widing was admitted to the hospital late 06/14 or early in the morning 06/15. He was delusional, pressured, manic, agitated, and could not be controlled. He was sedated with Versed and tells me that they kept him sedated. He does remember seeing the psychiatrist but had no understanding as to what had happened or why he was in the hospital. He was kept there until the following Friday, during which time, he had racing thoughts, agitation, confusion as to why he was there. He remembered at that time only bits and pieces of what had happened. He was at one point treated with Seroquel which is an atypical antipsychotic. Upon discharged from the hospital, he was transported to jail where he was continued on Seroquel. Once released from jail, he followed up with a psychiatric nurse practitioner at Kaiser who continued the Seroquel. He, shortly thereafter, noted that his mind was racing but he was not behaving in any bazaar fashion. He called the nurse practitioner and the Seroquel was increased to 150mg at bedtime which he now continues to take on a daily basis. In the jail, again he could not understand why he was there. It was only over a period of time that he learned about the alleged event. One might incorrectly assume that his psychotic symptoms were caused by Cannabis. It must be remembered that the Cannabis plant contains more than 421 chemicals of which Cannabinoids consist of 61 compounds. THC is a highly lipophilic substance distributed through the adipose tissue. The drug is rapidly metabolized and excreted through the urine. The drug, after inhalation or ingestion, is rapidly absorbed and the peak blood concentration is obtained in 3 to 10 minutes, maximum drug concentration has been observed at 8 minutes and the concentration rapidly decreases at 1-4nanograms per cc within a 3-4 hour period, essentially becoming inactive after 4 hours as reported by (Huestis and Cone in the Journal of Analytic Toxicology, 1992, 6:276-282 and Lemberger and Kopin, Metabolism and Disposition of Delta-9 Tetrahydrocannabinol, Pharmacological Review, 1971; 23:371-380). A study in 1976 indicated that doses of 100mg per kg per day of THC did not produce any significant toxicity other than anorexia and some local skin irritation. (Sofia, Erikson; Journal of Toxicity and Environmental Health. 1976) It is therefore obvious that THC, in and of itself, would not be responsible for Rod Widing's psychotic state which lasted for days nor did it account, by itself, of his manic, bazaar behavior for the days prior to the alleged event.

In my medical psychiatric opinion and in the opinion of the nephrologist and psychiatrist, his psychotic state was secondary to Renal Failure and as such, due to the described

Tobramycin, Lithium and Iodine-containing medications. Rhabdomyolysis is a situation where there is a significant muscle breakdown in the body which in turn cause clogging of the filtering system of the kidneys and may be caused by trauma, medications to treat high cholesterol, illnesses such as Lupus, Erythematosus, and Multiple Myeloma. Kidney stones may be implicated, as can Diabetes, poorly controlled high blood pressure, Polycystic Kidney Disease, Prostate Disease which can cause weakness, shortness of breath, lethargy, fatigue, congestive failure, metabolic acidosis, hyperkalemia, heart arrhythmias, and due to the escalating toxins in the bloodstream, may cause psychosis characterized by paranoia, hallucinations, delusions, and/or ideas of reference. (Medicine Net. 2015).

I interviewed Athena by telephone. She reported that her husband become increasingly manic several days before the alleged altercation. He would call her all hours of the day and night, repeating the same things over and over and over again. He developed some idea that everything in the universe would be connected and that he would be able to create a software program that would connect all of the Cloud at "one zero carbon point." He was indeed paranoid. He was afraid that others were going to steal his idea. He had talked with former coworker, now CEO of his own company, who later expressed concern that Rod was acting strangely. Katie wrote a letter regarding her concerns. On Saturday, the family had gone to see Jurassic World and Rod could not quit talking about his software and how it would connect the world. They went home and Athena came into the bedroom, found him on the bed watching a documentary on Einstein's Brain and him stating that he was like Einstein. He had not been sleeping, had not eaten, taken little in the way of food or fluids, and again he began texting Athena and acted like he was both pressured and obsessed. He eventually laid down and Athena gave him two sleeping pills, over-the-counter sleep aids. An hour later, when she opened the door, he tossed or threw a debit card to her, wanting to buy more pot. He continued to be manic. Rod's version of events included choking her to rebirth her as a goddess so she could have immortality and live with him forever. He choked her till she passed out. She remembers him kissing her then she went blank. She awakened, was then cooperative, went to the bathroom and then called the police. She clearly tells me that he had never acted this way before. He had never been violent toward her or any other person to her knowledge. She would like very much to reconcile. She had even talked to Rod's ex-wife and she stated that he had never been physically violent in any way.

Rod Widing remembers choking Athena and believing he was god in some totally illogical manner, he believed that by choking her, she would be rebirthed as a goddess so she could have immortality and live with him forever.

Rod Alfred Widing is a 37-year-old, married, Caucasian male who displays no evidence of mental defect and no current evidence of a psychotic illness.

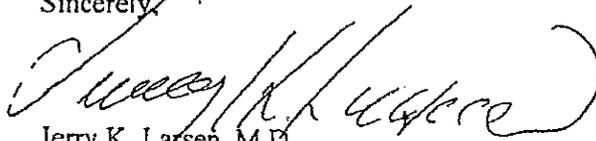
It is obvious, based on the patient report, on Athena's report, the records from the hospital and police records that Rod Widing was suffering from a mental disease

serious mental problem, he was unable to distinguish right from wrong, believing he was rebirthing Athena to become a goddess so she could achieve immortality and live with him forever. As a result, he did not perceive that he was engaging in any illegal activity but instead was bestowing the gift of ever-lasting life on his wife. (Obviously a bazaar psychotic thought.) It's also my opinion that Rod Widing never intended to kill his wife but in his delusional state was going to bestow upon her ever-lasting life. Therefore he was unable to realize that his behavior was illegal and he could not appreciate the criminality of his conduct which was obviously obliterated by his delusional psychosis.

He now displays no evidence of psychosis. I again interviewed on 09/02/2015. He is continuing to take Seroquel, 150mg at bedtime, an atypical antipsychotic/mood stabilizing agent, which he will continue indefinitely.

I thank you for the referral. If you have any 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 printed name and title.

Jerry K. Larsen, M.D.
Psychiatrist

THE TILLER LAW FIRM

November 15, 2017 - 4:48 PM

Transmittal Information

Filed with Court: Court of Appeals Division II
Appellate Court Case Number: 50467-7
Appellate Court Case Title: State of Washington, Respondent v. Rodman Widing, Appellant
Superior Court Case Number: 15-1-01156-1

The following documents have been uploaded:

- 7-504677_Briefs_20171115111504D2888701_0116.pdf
This File Contains:
Briefs - Appellants
The Original File Name was 20171115164118379 Brief.pdf

A copy of the uploaded files will be sent to:

- CntyPA.GeneralDelivery@clark.wa.gov
- rachael.probstfeld@clark.wa.gov

Comments:

Sender Name: Becca Leigh - Email: bleigh@tillerlaw.com

Filing on Behalf of: Peter B. Tiller - Email: ptiller@tillerlaw.com (Alternate Email: bleigh@tillerlaw.com)

Address:
PO Box 58
Centralia, WA, 98531
Phone: (360) 736-9301

Note: The Filing Id is 20171115111504D2888701